

Annex 1

Public Redacted

From: Trial Chamber VI Communications
Sent: 12 January 2023 15:05
To: OTP CAR IIA Communications; D33 Said Defence Team; Said LRV Team OPCV; FS Items Communication; [REDACTED]
Cc: Trial Chamber VI Communications
Subject: Decision on Submitted Materials for P-0787
Attachments: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-0787; RE: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-0787; 221116 - Request for formal submission of evidence used in the Prosecution's examination of P-0787

Dear Parties and participants,
 Dear Registry,

On 16 November 2022, the Prosecution requested that the Chamber recognise 32 items as formally submitted (Email from the Prosecution to the Chamber, at 12:02).

On 16 November 2022, the Defence requested that the Chamber recognise 22 items as formally submitted (Email from the Defence, at 14:07).

On 18 November 2022, the Prosecution objected to the Defence's submission of item 7 of the Defence's List (Email from Prosecution, at 12:17).

On 18 November 2022, the Defence replied to the Prosecution's objection to the submission of item 7 of the Defence's List (Email from the Defence, at 16:31).

Items Requested by the Prosecution

The Chamber notes that on 11 October 2022 it granted the Prosecution's request to introduce the prior recorded testimony and associated material of P-0787 pursuant to rule 68(3) of the Rules (ICC-01/14-01/21-499-Conf). In an oral decision on 14 November 2022, the Chamber also granted the introduction of the annex to P-0787's preparation log under Rule 68(3) of the Rules (ICC-01/14-01/21-T-037-CONF-ENG, p. 6, line 20 - p. 8, line 22). The Chamber notes that 24 of the items the Prosecution seeks formal submission of are contained in the annex to P-0787's witness preparation log. The Prosecution requests the Chamber's guidance as to whether, in light of the decision of the Chamber dated 5 December 2022 at 11:50, it needs to seek formal recognition of these items separately in the formal submission process following the testimony of a witness.

First, the Chamber notes the annex to a witness's preparation log is deemed recognised as formally submitted during the fulfilment of the rule 68(3) requirements in court – see Email decision of the Chamber dated 1 December 2022 at 10:11. In respect of the items mentioned within the body of the annex itself, the Chamber considers said items as requested for formal submission unless stated otherwise by the calling party (this presumption does not apply to other prior recorded testimony that may be referred to during witness preparation). The Chamber will therefore not rule on these items separately, unless there is an objection from the opposing party. The Chamber notes, however, that these items are not separately listed and therefore, in order to facilitate the updating of the metadata of formally submitted items on e-Court by the Court Officer, the Chamber orders the Prosecution to still list these items in an email following the conclusion of the testimony of the witness, even if it does not have to formally request their formal submission.

Accordingly, to ensure that the parties and the Court Officer are completely clear on the process, the Chamber hereby provides the following guidance on the updating of the metadata for a 68(3) witness following completion of a witness's testimony. The Court Officer should have regard to:

- The original 68(3) decision and note which items the Chamber authorised introduction of for that particular witness. She should liaise with the Prosecution in this regard, should it assist her in collating the relevant ERN numbers;
- The witness preparation log (should the Chamber have allowed its introduction during the hearing);
- The email decision following the email requests from the parties seeking formal submission of evidence, which will include any new items discussed by the parties during the testimony of the witness, plus any items discussed during the witness preparation session.

In light of the above, the Chamber notes that all of the Prosecution's items have already been deemed formally submitted and there is no need to rule on them again. However, as noted above, for the Court Officer's ease of

reference, the items in the annex that had not been formally submitted through other decisions/means are still noted in the respective table below.

The Chamber observes that the Prosecution and the Defence both requested the formal submission CAR-OTP-2004-0439 and that the Defence does not oppose any of the items requested by the Prosecution to be submitted.

With regard to the items submitted by the Prosecution, the Chamber notes that all items were discussed in one form or another during the witness's testimony. Accordingly, the Chamber recognises all items in the Prosecution's email dated 16 November 2022 at 12:02 as formally submitted with the exception of the abovementioned items submitted through rule 68(3) of the Rules (both through the original request as well as through the in-court introduction of the annex to P-0787's preparation log) that the Chamber previously deemed as formally submitted through other witnesses/means.

Items Requested by the Defence

With regard to the items submitted by the Defence, the Chamber notes that all items were discussed in one form or another during the witness's testimony. Similarly, the Chamber observes that, other than its objection to CAR-D33-0014-0009, the Prosecution does not oppose any of the items requested by the Defence to be submitted.

Accordingly, the Chamber recognises all items in the Defence's email dated 16 November 2022 at 14:07 as formally submitted with the exception of the abovementioned items submitted through rule 68(3) of the Rules and 5 items (Items 3, 5, 7, 9, and 11) that the Chamber previously deemed as formally submitted through other witnesses/means.

Objections

The Prosecution objects to the Defence's submission of item CAR-D33-0014-0009 (Item 7 of the Defence's list). This document is an intermediary contract signed by Witness P-0838. The Prosecution submits that the 'item does not require to be introduced into evidence' because as 'explained previously during P-0787's cross-examination, the document is irrelevant and it was not authored or recognized by the witness'. (Email from Prosecution on 18 November 2022, at 12:17). The Chamber notes that the item to which the Prosecution objects has already been formally submitted into evidence (see Email from Trial Chamber VI Communications sent on 5 December 2022 at 11:50). As a result, the Chamber considers the Prosecution's objection to be moot at this stage.

Conclusion

In summary, the Chamber recognises the following items as formally submitted (*see tables below*).

Kind Regards,

Trial Chamber VI

Items submitted by the Prosecution

ERN
CAR-OTP-2004-0439
CAR-OTP-2081-0067
CAR-OTP-2018-0571
CAR-OTP-2069-2180

Items submitted by the Defence

ERN
CAR-REG-0002-0093
CAR-OTP-2004-0439
CAR-OTP-2036-0452
CAR-REG-0002-0094
CAR-D33-0014-0010
CAR-OTP-2004-1385
CAR-OTP-2034-2081
CAR-OTP-2036-0451-R01
CAR-OTP-2036-0451
CAR-OTP-2130-0893-R01
CAR-OTP-2130-0893-R02
CAR-OTP-2130-0893-R03
CAR-OTP-2130-4041-R01
CAR-OTP-2130-4041-R02
CAR-OTP-2130-6568-R01
CAR-OTP-2130-6568-R02
CAR-REG-0002-0095

[REDACTED]

From: [REDACTED]
Sent: 18 November 2022 16:31
To: Trial Chamber VI Communications
Cc: OTP CAR IIA Communications; Said LRV Team OPCV; D33 Said Defence Team;
Associate Legal Officer-Court Officer
Subject: RE: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-0787

Chère Chambre de première instance VI,

En application du paragraphe 22(ii) de la décision sur la conduite des débats du 9 mars 2022 (ICC-01/14-01/21-251), la Défense soumet la réponse suivante aux observations formulées par email par l'Accusation dans son email du 18 novembre 2022.

Concernant l'élément CAR-D33-0014-0009, il s'agit d'une version expurgée du document CAR-OTP-2027-2428 divulgué à la Défense par l'Accusation le 20 août 2021 (Rule 77 package 005), à la demande de la Défense. Pour la Défense, dans la mesure où ce document a été présenté à P-0787 et discuté avec lui en audience dans le cadre de son contre-interrogatoire, ce document entre bien dans la catégorie des « items used during a hearing » en application du paragraphe 22(i) de la décision ICC-01/14-01/21-251 et peut donc être formellement soumis au dossier de l'affaire.

L'Accusation affirme que ce document ne serait pas pertinent. Tout d'abord, la Défense relève que l'Accusation ne motive pas sa position, au-delà de l'affirmer. Par ailleurs, le fait que le témoin ait indiqué ne pas avoir signé un tel document est, contrairement à ce qu'affirme l'Accusation, en soi une information pertinente, puisqu'il est ressorti du contre-interrogatoire que P-0787 avait coopéré avec l'Accusation dans ses enquêtes, notamment pour obtenir des informations sur des témoins potentiels. En d'autres termes, P-0787 semble bien avoir agi comme un *de facto* intermédiaire pour le bureau du Procureur, ce qui permet donc à la Défense de comprendre comment certaines personnes sont devenues des témoins mais lui permet aussi de comprendre les rapports entre des témoins retenus, information essentielle dans le cadre de ses enquêtes. En d'autres termes, pour la Défense, comme elle l'a déjà expliqué (ICC-01/14-01/21-483-Conf), il est important de pouvoir explorer les rapports entre les témoins et le Bureau du Procureur et en particulier comment des personnes ont pu être utilisées comme des intermédiaires, ce qui éclaire en retour d'éventuels liens entre les témoins, point essentiel dans l'évaluation globale de la crédibilité des témoins. Il s'agit d'un exercice dynamique qui se construit au fur et à mesure du cas de l'Accusation et des enquêtes de la Défense.

Concernant l'ERN du document correspondant à l'élément « AUTORISATION D'AUDITION » (pièce n°15 de sa liste), il s'agit effectivement d'une coquille. La Défense joint par conséquent une version corrigée de sa liste d'éléments de preuve montrés au témoin P-0787 et dont elle demande la soumission formelle au dossier de l'affaire.

Bien à vous,

[REDACTED]

From: [REDACTED]
Sent: 18 November 2022 12:17
To: Trial Chamber VI Communications [REDACTED]
Cc: OTP CAR IIA Communications [REDACTED] Said LRV Team OPCV [REDACTED]
 [REDACTED] D33 Said Defence Team [REDACTED] Associate Legal Officer-Court
 Officer [REDACTED]
Subject: RE: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-0787

Dear Trial Chamber VI,

The Prosecution objects to the Defence's submission of CAR-D33-0014-0009 (item 7 of the Defence's list), which is an intermediary contract signed by Witness P-0838 in 2016.

The Prosecution submits that this item does not require to be introduced into evidence. As explained previously during P-0787's cross-examination, the document is irrelevant and it was not authored or recognized by the witness.

The Prosecution further notes that there seems to be a typo in the ERN of items # 15, 16 and 17 (the submitted ERN corresponds to lesser redacted versions of the French translation of P-0787 statement). The description of the document and page shown (p. 0951), however, corresponds to CAR-OTP-2054-0950. The document CAR-OTP-2054-0950 was shown to the witness and the Prosecution has no objection to its introduction into evidence.

Kind regards,

[REDACTED]

From: [REDACTED]
Sent: 16 November 2022 14:07
To: Trial Chamber VI Communications [REDACTED]
Cc: OTP CAR IIA Communications [REDACTED] Said LRV Team OPCV [REDACTED]
 [REDACTED] D33 Said Defence Team [REDACTED] Associate Legal Officer-Court
 Officer [REDACTED]
Subject: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-0787

Chère Chambre de première instance VI,

En application du paragraphe 22 de la décision ICC-01/14-01/21-251 sur la conduite des débats, la Défense de Monsieur Said demande respectueusement à ce que soient formellement versés au dossier de l'affaire les éléments soumis par le truchement du témoin P-0787 en audience tels qu'indiqués dans la liste en pièce jointe.

Bien à vous,

[REDACTED]

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From: [REDACTED]
Sent: 16 November 2022 12:02
To: Trial Chamber VI Communications
Cc: OTP CAR IIA Communications; D33 Said Defence Team; Said LRV Team OPCV; Associate Legal Officer-Court Officer
Subject: 221116 - Request for formal submission of evidence used in the Prosecution's examination of P-0787

Dear Trial Chamber VI,
Dear all,

In line with the procedure outlined in paragraph 22 of the Directions on the Conduct of Proceedings (ICC-01/14-01/21-251), the Prosecution requests the formal submission of the evidence used in its examination of Witness P-0787, as well as the items that the Trial Chamber has allowed to be introduced into evidence pursuant to rule 68(3) of the Rules of Procedure and Evidence in the respective decisions (ICC-01/14-01/21-499-Conf, para. 60 and ICC-01/14-01/21-T-037-CONF-ENG ET, p. 6, l. 20 – p. 8, l. 22) having met the procedural prerequisites of rule 68(3).

Tab	ERN (E-Court)	Registration number of the version marked by the witness	Description	Confidentiality
1.	CAR-OTP-2036-0410-R03	CAR-REG-0002-0088 CAR-REG-0002-0089	Witness Statement of P-0787 signed and dated at 0410 and 0437.	Confidential
2.	CAR-OTP-2130-0893-R03		French translation of witness P-0787's statement	Confidential
3.	CAR-OTP-2036-0439	CAR-REG-0002-0091.	Annex 1: List of Seleka elements at the OCRB during 2013 [REDACTED]	Confidential
4.	CAR-OTP-2036-0440	CAR-REG-0002-0090	Annex 2: Sketch of the OCRB compound made by P-0787 and signed by the witness	Confidential
5.	CAR-OTP-2036-0441	CAR-REG-0002-0092	Annex 3: Sketch made by P-0787 [REDACTED] signed by the witness	Confidential
6.	CAR-OTP-2004-0814		JOURNAL OFFICIEL DE LA REPUBLIQUE CENTRAFRICAINE / EDITION ORDINAIRE / Vol 1 / JORCA/EO No. 11 Septembre 2014 [REDACTED]	Confidential
7.	CAR-OTP-2004-0439		JOURNAL OFFICIEL DE LA REPUBLIQUE CENTRAFRICAINE / EDITION ORDINAIRE /	Confidential

			JORCA/EO No. 09 Juin 2014	
8.	CAR-OTP-2082-0458		Liste Generale Elements OCRB Central	Confidential
9.	CAR-OTP-2023-0646-R02		Liste des elements comite extraordinaire pour la defense des acquis démocratiques (CEDAD) identifies	Confidential
10.	CAR-OTP-2081-0067		Photo depicting [REDACTED]	Confidential
11.	CAR-OTP-2069-3228		OCRB handover ceremony	Confidential
12.	CAR-OTP-2069-3225		OCRB handover ceremony	Confidential
13.	CAR-OTP-2069-3226		OCRB handover ceremony	Confidential
14.	CAR-OTP-2018-0571 at p. 0575		[REDACTED]	Confidential
15.	CAR-OTP-2069-2180		Photo of [REDACTED]	Confidential
16.	CAR-OTP-2069-2179		Photo depicting [REDACTED]	Confidential
17.	CAR-OTP-2069-3245		P8301200.JPG. Photograph dated 30 th August 2013.	Confidential
18.	CAR-OTP-2069-2328		Photo depicting [REDACTED]	Confidential
19.	CAR-OTP-2064-0791		Photo at OCRB courtyard [REDACTED]	Confidential
20.	CAR-OTP-2069-1056		Photo depicting [REDACTED]	Confidential
21.	CAR-OTP-2033-6871		Photo of OCRB – block A cell (Moov company view)	Confidential
22.	CAR-OTP-2033-7064		Photo of OCRB – block B cells	Confidential
23.	CAR-OTP-2033-6860		Photo of the OCRB - Courtyard	Confidential
24.	CAR-OTP-2033-6820		Photo of OCRB – inside compound	Confidential
25.	CAR-OTP-2033-7305		Photo - View of the office of the "CELLULE ENQUETES ET INVESTIGATIONS"	Confidential
26.	CAR-OTP-2033-7060		Photo of OCRB – the hole	Confidential
27.	CAR-OTP-2033-7056		Photo of OCRB – office with the hole	Confidential
28.	CAR-OTP-2033-7554		Photo of the OCRB – office with the hole	Confidential
29.	CAR-OTP-2118-3740 at p. 3761		FSS report: layout of the main building of the OCRB	Confidential
30.	CAR-OTP-2033-7041		Photo of OCRB – building	Confidential
31.	CAR-OTP-2033-7044		Photo of OCRB – building	Confidential
32.	CAR-OTP-00000594	CAR-OTP-00000594-00000008 - CAR-REG-0002-0093	Witness preparation log Annex A with corrections and clarifications	Confidential

Best regards,

[REDACTED]

From: [REDACTED]
Sent: 16 November 2022 14:07
To: Trial Chamber VI Communications
Cc: OTP CAR IIA Communications; Said LRV Team OPCV; D33 Said Defence Team; Associate Legal Officer-Court Officer
Subject: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-0787
Attachments: Liste des éléments pour soumission formelle P-0787.docx

Chère Chambre de première instance VI,

En application du paragraphe 22 de la décision ICC-01/14-01/21-251 sur la conduite des débats, la Défense de Monsieur Said demande respectueusement à ce que soient formellement versés au dossier de l'affaire les éléments soumis par le truchement du témoin P-0787 en audience tels qu'indiqués dans la liste en pièce jointe.

Bien à vous,

[REDACTED]

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Affaire ICC-01/14-01/21**Le Procureur c. Monsieur Said Abdel Kani**

Liste des éléments soumis par le truchement du témoin P-0338 dans le cadre de son témoignage en audience et pour lesquels la Défense demande la soumission formelle au dossier de l'affaire en application du paragraphe 22 de la décision ICC-01/14-01/21-251.

N°	Id du Document	Titre	Demande la soumission de
1	CAR-REG-0002-0093	Version annotée de CAR-OTP-00000594	Tout le document
2	CAR-OTP-2004-0439	JOURNAL OFFICIEL DE LA REPUBLIQUE CENTRAFRICAINE / EDITION ORDINAIRE / JORCA/EO No. 09 Juin 2014	page 0450, 0454, 0455
3	CAR-OTP-2004-0814	JOURNAL OFFICIEL DE LA REPUBLIQUE CENTRAFRICAINE / EDITION ORDINAIRE / Vol 1 / JORCA/EO No. 11 Septembre 2014	page 0823, 0825, 0827, 0838, 0842
4	CAR-OTP-2036-0452	No. Passeport [REDACTED]	Tout le document
5	CAR-OTP-2064-0791	11605_452846208134378_1341657810_n.jpg	Tout le document

6	CAR-REG-0002-0094	CAR-OTP-2064-0791	Tout le document
7	CAR-D33-0014-0009	Formulaire CPI intermédiaire	Tout le document
8	CAR-D33-0014-0010	Version amendée du document "P-0787 Attribution and CST Annex.xlsx" CAR-OTP-2135-4326	Tout le document
9	CAR-OTP-2004-1003	JOURNAL OFFICIEL DE LA REPUBLIQUE CENTRAFRICAINE / EDITION DE SEPTEMBRE 2013 / JORCA/EO No. 1	page 1020
10	CAR-OTP-2004-1385	DECRET	page 1402
11	CAR-OTP-2004-1597	DECRET	page 1605, 1607, 1608
12	CAR-OTP-2034-2081	PROCES VERBAL DE PASSATION DE SERVICE / [REDACTED]	page 2081
13	CAR-OTP-2036-0451-R01	No. Passeport [REDACTED]	Tout le document
14	CAR-OTP-2036-0451	No. Passeport [REDACTED]	Tout le document

15	CAR-OTP-2130-0893-R01	AUTORISATION D'AUDITION / [REDACTED] [REDACTED] [REDACTED] [REDACTED]	page 0951
16	CAR-OTP-2130-0893-R02	AUTORISATION D'AUDITION / [REDACTED] [REDACTED] [REDACTED] [REDACTED]	page 0951
17	CAR-OTP-2130-0893-R03	AUTORISATION D'AUDITION / [REDACTED] [REDACTED] [REDACTED] [REDACTED]	page 0951
18	CAR-OTP-2130-4041-R01	INVESTIGATION REPORT / CAR II A Investigation / Additional Information on Witness P-0787	Tout le document
19	CAR-OTP-2130-4041-R02	INVESTIGATION REPORT / CAR II A Investigation / Additional Information on Witness P-0787	Tout le document
20	CAR-OTP-2130-6568-R01	Bonjour	Tout le document

21	<u>CAR-OTP-2130-6568-R02</u>	Bonjour	Tout le document
22	<u>CAR-REG-0002-0095</u>	Sketch drawn by P-0787 on 15.11.2022 during the Defence questioning	Tout le document