

Annex 1

Public Redacted

From: Trial Chamber I Communications
Sent: 21 May 2024 14:48
To: Abd Al Rahman Prosecution Team; 'D31 Abd-Al-Rahman Defence Team'; 'V47 Abd Al Rahman LRV Team'
Cc: FS Items Communication; Associate Legal Officer-Court Officer; Trial Chamber I Communications
Subject: Decision on the submission of evidence through D-0035
Attachments: Defence list of material for submission for D-0035; D-35 - Prosecution's List of Material for submission; Re: D-35 - Prosecution's List of Material for submission; RE: D-35 - Prosecution's List of Material for submission

Dear counsel,
 Dear colleagues,

Following the testimony of D-0035, the Chamber notes the Defence's email referring to the introduction into evidence of D-0035's statement, DAR-D31-00000274, under Rule 68(3) of the Rules of Procedures and Evidence (the 'Rules') and indicating that the Defence does not request the submission of additional documents (see attached email of 24 April 2024, at 18:22). The Chamber also notes the submission of 2 items by the Prosecution (see attached email of 25 April 2024 at 12:07).

The Prosecution further submits that item DAR-D31-00000267, although not used with the witness during the hearings, was analysed by him in para. 21 of his Rule 68(3) statement and is an associated material. The Prosecution thus argues that, for the completeness of the record and to ensure D-0035's statement can be properly understood, this item and its translation, DAR-D31-00000268, should be submitted into evidence (see attached email of 25 April 2024 at 12:07). The Defence opposes the submission of these items and argues that it did not include item DAR-D31-00000267 for submission because it does not rely on the document. As both parties accept that the document is not authentic, the Defence avers that there is therefore no basis to seek submission of the document (see attached email of 25 April 2024, at 14:02). The Prosecution replies that the Defence showed the item to the witness during his witness preparation session and that the Defence also include the item on D-0035's List of Material. The Prosecution further submits that, '[g]iven that it was discussed in his statement, and on the above understanding, the Prosecution chose not to use its limited cross examination time to further explore DAR-D31-00000267 with D-0035' (see attached email of 25 April 2024, at 16:36). Finally, the Prosecution contends that the item may also be relevant to the Prosecution's future investigations into possible efforts to manufacture a false alibi in this case.

The Chamber notes that the content of this contested item is discussed by D-0035 in his Rule 68(3) statement. On that basis, the Chamber accepts the Prosecution's argument that this item should be submitted into evidence for the completeness of the record and accordingly recognises item DAR-D31-00000267, and its translation, DAR-D31-00000268, as formally submitted. The Chamber reiterates its previous rulings, pursuant to the submission system adopted in this trial, that any issue on the weight and reliability of these items raised by the Defence will be considered by the Chamber in the context of its Article 74 judgment.

Noting that the other items tendered were used and discussed with D-0035, and that their submission is unopposed, the Chamber hereby recognises the items as formally submitted.

The Registry is therefore directed to proceed in accordance with paragraph 31(iv) of the Directions on the conduct of the proceedings (filing 478).

Kind regards,


 (on behalf of Trial Chamber I)

[REDACTED]

From: Jeremy, Edward
Sent: 25 April 2024 16:36
To: Edwards, Iain; Tognini Saba, Diana; Trial Chamber I Communications; D31 Abd-Al-Rahman Defence Team; V47 Abd Al Rahman LRV Team
Cc: Abd Al Rahman Prosecution Team; Associate Legal Officer-Court Officer
Subject: RE: D-35 - Prosecution's List of Material for submission

[ICC] RESTRICTED

Dear Trial Chamber,
Dear colleagues,

As the Defence is aware, the Prosecution previously expressed concerns about document DAR-D31-00000267, after the Defence showed it to D-0032 during a witness preparation session and included it on the list of material for that witness (see e.g. T-140, p. 5-8). The item was not used with D-0032 during his testimony only after the Prosecution objected.

At no stage did the Defence give any indication when making its rule 68(3) application for D-0035, which the Prosecution did not oppose, that it intended to depart from established practice and not submit DAR-D31-00000267 as an associated exhibit.

To the contrary, the Defence chose to show the witness DAR-D31-00000267 during his witness preparation session and the witness, once again, confirmed it was not authentic. The Defence also chose to include this item on D-0035's list of material.

Given that it was discussed in his statement, and on the above understanding, the Prosecution chose not to use its limited cross examination time to further explore DAR-D31-00000267 with D-0035.

Aside from the fact this exhibit is obviously an associated exhibit to the statement, it may also be relevant to the Prosecution's future investigations into possible efforts to manufacture a false alibi in this case.

Given the circumstances, the Prosecution maintains its request and respectfully requests the Chamber to reject the Defence's efforts to keep this exhibit out of the case record.

Kind regards,

Edward Jeremy

From: Edwards, Iain [REDACTED]
Sent: Thursday, April 25, 2024 2:02 PM
To: Tognini Saba, Diana [REDACTED] Trial Chamber I Communications
[REDACTED]; D31 Abd-Al-Rahman Defence Team
[REDACTED] V47 Abd Al Rahman LRV Team
[REDACTED]
Cc: Abd Al Rahman Prosecution Team [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
Subject: Re: D-35 - Prosecution's List of Material for submission

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Trial Chamber,
Dear colleagues,

The Defence did not include the false document DAR-D31-00000267 for submission because it does not rely on the document. Both Parties accept that the document is not authentic, and that it lacks any reliability and any probative value. There is therefore no basis to seek submission of the document.

Contrary to the OTP's submission, there is no difficulty in properly understanding D-35's statement in general, and paragraph 21 in particular, absent submission of the false document. The paragraph speaks for itself. D-35 was shown a document, concluded that it was not his signature, among other things, and declared it to be a fake. There is no mystery about the matter, and no need for the document to be submitted.

Kind regards,

Iain

From: Tognini Saba, Diana [REDACTED]
Sent: 25 April 2024 12:07
To: Trial Chamber I Communications [REDACTED]; D31 Abd-Al-Rahman Defence Team [REDACTED] V47 Abd Al Rahman LRV Team [REDACTED]
Cc: Abd Al Rahman Prosecution Team [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
Subject: D-35 - Prosecution's List of Material for submission

[ICC] RESTRICTED

Dear Trial Chamber I,
Dear colleagues,

In accordance with paragraph 31 of the "Directions on the conduct of proceedings" (ICC-02/05-01/20-478), the Prosecution respectfully requests the submission of the two items included in the attached list in relation to Witness D-0035.

The Prosecution further observes that item DAR-D31-00000267 is also an associated exhibit to the witness' statement, notwithstanding the witness' conclusion that it is "not authentic". Given the analysis of this document by D-0035 in paragraph 21 of his statement, the Prosecution did not explore this fake document during cross examination. Therefore, for completeness of the record (see e.g. Decision on submission of evidence through P-0120, email dated 10/05/2022, 14:18), and to ensure D-0035's statement can be properly understood, the Prosecution respectfully requests this item and its translation (DAR-D31-00000268) are also submitted into evidence.

Kind regards,
Diana

**Diana TOGNINI SABA**

Assistant Legal Officer | Pillar A
Office of the Prosecutor



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Prosecution's List of Material for Submission - Witness DAR-D31-P-0035

#	ERN (e-Court/JEM)	Type	Title	Transcript Reference/s
1.	DAR-OTP-00009405	Media / press article	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	T-148-ET , p. 12, l. 17-p. 16, l. 2, p. 19, l. 5-14
2.	DAR-OTP-00009721	Translation - ENG	Translation of DAR-OTP-00009405 - REVIEWED - ENG.DOCX	Same as above

[REDACTED]

From: Issa Abdel Badih, Ahmad [REDACTED]
Sent: 24 April 2024 18:22
To: Trial Chamber I Communications
Cc: Abd Al Rahman Prosecution Team; V47 Abd Al Rahman LRV Team; D31 Abd-Al-Rahman Defence Team; Associate Legal Officer-Court Officer
Subject: Defence list of material for submission for D-0035

[ICC] RESTRICTED

Dear TC I,

As per oral submissions during the hearing, D-0035's witness statement DAR-D31-00000274 was admitted into evidence under Rule 68(3) [See T-148-CONF-ENG ET at page 7, line 12 to page 8, line 18].

DAR-D31-0002-0003 and its translation has already been recognized as formally submitted through P-0883 and therefore it is not necessary to request their submission again.

No other documents are requested for submission in relation to this witness.

Kind regards,
Ahmad

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