

ANNEX I

PUBLIC

From: [REDACTED]
Sent: 16 August 2017 21:02
To: Trial Chamber IX Communications
Cc: [REDACTED]

Subject: Submission of evidence used in the cross examination of P-0189

Dear Trial Chamber IX,

In accordance with Decision Nos. 497 and 621, the Defence formally submits the following items of evidence used during the cross examination of witness P-0189 (Tingira Irumba Omero) which concluded on 15 August, 2017:

Tab	ERN	Description	Pages
1	UGA-OTP-0260-0121	P-0189 Statement	12
11	UGA-OTP-0260-0148	Photograph	1
12	UGA-OTP-0191-0285	UPDF Extract Report	3
13	UGA-OTP-0192-0688	UPDF Extract Report	8
14	UGA-OTP-0192-0002	Diary Entries	67
15	UGA-OTP-0232-0093	Exhumation Mission Report	22

Very best,

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 17 August 2017 09:56
To: Trial Chamber IX Communications
Cc: [REDACTED]
Subject: RE: Submission of evidence used during prosecution questioning of P-0189

Dear All,
 The CLR has similarly no objection.
 Kind regards,
 Paolina Massidda

From: [REDACTED]
Sent: 17 August 2017 09:54
To: [REDACTED] Trial Chamber IX Communications
Cc: [REDACTED]
Subject: RE: Submission of evidence used during prosecution questioning of P-0189

Dear Trial Chamber IX,

The Defence does not object to the "late submission" by the Prosecution. I write late submission in quotations for the following reason:

Earlier on during the presentation of the evidence, the Defence approached the Prosecution about the interpretation of paragraph 28(i) of Decision 497. All parties interpreted it to mean that the Parties would have 1 full working day to review the testimony to decide which items to submit and that the list for submission would be due the following business day, which comports to the process used for filing responses with the Court.

Hence, the Defence does not consider the Prosecution's submission as being late.

If the Parties have interpreted this paragraph incorrectly, the Parties kindly request the Chamber's guidance.

The Defence has spoken to the Prosecution this morning about this and it is content with this email.

Very best,

[REDACTED]

From: [REDACTED]
Sent: 17 August 2017 09:13
To: Trial Chamber IX Communications
Cc: [REDACTED]

Subject: Submission of evidence used during prosecution questioning of P-0189

I am at fault in respect of the items used in the questioning of P-0189 whose evidence finished on Tuesday 12 September.

I apologise for their late submission and ask for the Chamber's indulgence in respect thereof.

All items were submitted in open session.

The items are:

Tab	ERN	Description
1	UGA-OTP-0260-0121	P-0189 Statement
2	UGA-OTP-0260-0139	Map Annex B
3	UGA-OTP-0191-0140	Photograph Annex C
4	UGA-OTP-0192-0141	Photograph Annex D
5	UGA-OTP-0192-0142	Photograph Annex E
6	UGA-OTP-0192-0143	Photograph Annex F
7	UGA-OTP-0192-0144	Photograph Annex G
8	UGA-OTP-0192-0145	Photograph Annex H
9	UGA-OTP-0192-0146	Photograph Annex I
10	UGA-OTP-0192-0147	Photograph Annex J
11	UGA-OTP-0192-0148	Photograph Annex K

Regards

Ben Gumpert

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From: Trial Chamber IX Communications
Sent: 05 September 2017 09:45
To: [REDACTED]
Cc: Trial Chamber IX Communications; [REDACTED]
Subject: Addendum to Decision on Submitted Materials for P-189
Record Number: OTP2017/024838

Dear Counsel and Registry:

For P-189, and following the Chamber's decision on submitted materials (Email from the Chamber, 23 August 2017, at 15:16), the Prosecution informed the Chamber that the ERNs it submitted did not match the documents it intended to submit. The Prosecution sent a corrected list of ERNs. (Email from the Prosecution, 30 August 2017 at 16:14).

Noting that the Prosecution's new ERNs match documents used through P-189 and correspond with the 'Description' column from the Prosecution's original email submission (Email from the Prosecution, 17 August 2017 at 09:13), the Chamber is satisfied that the corrected list contains the items the Prosecution in fact intended to submit. Despite the corrected list being sent after the expiry of the applicable deadlines set in Decision 497, it is accepted on this occasion.

As an addendum to its prior decision, and pursuant to Regulation 29(1) of the Regulations of the Court, the Chamber recognises as formally submitted only the items on the Prosecution's corrected list and on the list previously submitted by the Defence (Email from the Defence, 16 August 2017 at 21:02). The Registry is accordingly directed to proceed in accordance with paragraph 28(v) of the Initial Directions on the Conduct of the Proceedings, 13 July 2016, ICC-02/04-01/15-497.

Best,

Trial Chamber IX

From: [REDACTED]
Sent: 30 August 2017 16:14
To: Trial Chamber IX Communications; [REDACTED]
 [REDACTED]
 [REDACTED]

Subject: RE: HPRM: Decision on Submitted Materials for P-189

I have given the wrong numbers in the first four digit group of the ERNs for tabs 3-11 (items in relation to witness P-0189).

Below, I have added a third column to the table I originally submitted with the **correct** first four digits highlighted.

I apologise for this inefficiency.

I ask the Chamber to confirm that these are indeed the documents which are recognised as formally submitted.

Tab	Given ERN	Corrected ERNs	Description
1	UGA-OTP-0260-0121		P-0189 Statement
2	UGA-OTP-0260-0139		Map Annex B
3	UGA-OTP-0191-0140	UGA-OTP-0260-0140	Photograph Annex C
4	UGA-OTP-0192-0141	UGA-OTP-0260-0141	Photograph Annex D
5	UGA-OTP-0192-0142	UGA-OTP-0260-0142	Photograph Annex E
6	UGA-OTP-0192-0143	UGA-OTP-0260-0143	Photograph Annex F
7	UGA-OTP-0192-0144	UGA-OTP-0260-0144	Photograph Annex G
8	UGA-OTP-0192-0145	UGA-OTP-0260-0145	Photograph Annex H
9	UGA-OTP-0192-0146	UGA-OTP-0260-0146	Photograph Annex I
10	UGA-OTP-0192-0147	UGA-OTP-0260-0147	Photograph Annex J
11	UGA-OTP-0192-0148	UGA-OTP-0260-0148	Photograph Annex K

Ben Gumpert

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From: Trial Chamber IX Communications

Sent: 23 August 2017 15:16

To: Trial Chamber IX Communications; [REDACTED]

Cc: Trial Chamber IX Communications; [REDACTED]

Subject: HPRM: Decision on Submitted Materials for P-189

Dear Counsel and Registry:

For P-189, the Chamber recognises as formally submitted all items submitted by the Prosecution (Email from the Prosecution, 17 August 2017 at 09:13, *commented on in* Email from the Defence, 17 August 2017 at 09:54, Email from the OPCV, 17 August 2017 at 09:56) and Defence (Email from the Defence, 16 August 2017 at 21:02). The Registry is accordingly directed to proceed in accordance with paragraph 28(v) of the Initial Directions on the Conduct of the Proceedings, 13 July 2016, ICC-02/04-01/15-497.

Although no objections are raised to the submission of any items, the parties request guidance on the applicable deadline for submitting email materials. Paragraph 28(i) of Decision 497 provides as follows:

When the tendering participant wishes to formally submit items used during a hearing, it is to send an email clearly identifying these items in copy to all other participants, the Chamber and the Court Officer. These emails must be sent no later than one working day after the conclusion of the examination of the relevant witness by all participants.

P-189 concluded his testimony on Tuesday, 15 August 2017 (ICC-02/04-01/15-T-96-ENG), and the Prosecution submitted its items on Thursday, 17 August 2017.

The email submission deadlines in Decision 497 are set pursuant to Regulation 34 of the Regulations of the Court. They are fixed by order of the Chamber and do not follow the standard calculation of time limits set out in Regulation 33(1) of the Regulations. This can be seen on the face of the procedure itself – the email submission procedure is based on ‘working days’, while Regulation 33(1)(a) counts days as ‘calendar days’. Notably, the Trial Chamber VII email submission procedure explicitly applied Regulation 33 of the Regulations (ICC-01/05-01/13-1423, para. 5. n. 11). No comparable direction is specified in Trial Chamber IX’s procedure.

The Prosecution’s submission was therefore late. Noting the request for guidance and the fact that no objection was raised to the late submission, it is nevertheless accepted (*see also* Decision on Submitted Materials for P-330, Email of 29 March 2017, at 10:59).

Best,

Trial Chamber IX

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