

ANNEX XIII

PUBLIC

From: [REDACTED]
Sent: 05 October 2017 17:26
To: [REDACTED] Trial Chamber IX Communications; [REDACTED]
Subject: RE: PROS Submission of Materials for P-0081

Dear Trial Chamber IX,

Pursuant to para. 28(ii) of Decision ICC-02/04-01/15-497, the Defence raises issue related to the submission of Tab 2, UGA-OTP-0209-0229 ('Report'). The Defence submissions are related to relevance. The Defence does not argue against the admissibility of the Report.

During the Prosecution's examination-in-chief, the Prosecution questioned P-0081 on the noted discrepancies between his statement and the corrections made in the Report (see ICC-02/04-01/15-T-118-CONF-ENG ET, pp. 7-15) and the Defence discussed issues with paragraph 36 (see ICC-02/04-01/15-T-118-CONF-ENG- ET, p. 56-57).

The Defence notes T-118, p. 6, lines 12-17, and that the purpose of the exercise referred to above was to place the material from the Report on the record.

Thus, as the material contained within the Report has been testified to live by the witness, the relevance of the document is extremely low.

Very best,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday, October 04, 2017 4:34 PM
To: [REDACTED] Trial Chamber IX Communications; [REDACTED]
Subject: FW: PROS Submission of Materials for P-0081

[REDACTED] may well be right about the moment of submission of the statement, but I think it is probably helpful to have written record of the submitted materials (in email form) .

In addition, although it is not covered by rule 68(3) (not strictly speaking previous 'testimony'), the Prosecution proposes for formal submission the 'Investigators Notes' listing the clarifications and corrections made in 2007, since this was used in the questioning of the witness by the Prosecution.

Tab	ERN (E-Court)	Description	Confidentiality	Rule 68(3)
1.	UGA-OTP-0070-0029	ICC witness statement of P-0081 (including sketch	Confidential	Yes

		plan)		
2.	UGA-OTP-0201-0229	Investigator's notes of meeting where P-0081 indicated correction to be made to statement UGA-OTP-0070-0029	Confidential	No

Regards,

Ben Gumpert

Dévouement - Intégrité - Respect

Dedication - Integrity - Respect

From: [REDACTED]

Sent: 04 October 2017 15:20

To: Trial Chamber IX Communications; [REDACTED]

Subject: DEF Submission of Materials for P-0081

Dear Trial Chamber IX, Prosecution and Legal Representatives,

As P-0081's statement was submitted *via* Rule 68(3), the Defence does not submit any items through this witness.

Very best,

[REDACTED]

Dévouement - Intégrité - Respect

Dedication - Integrity - Respect

[REDACTED]

From: Trial Chamber IX Communications
Sent: 13 October 2017 15:08
To: [REDACTED]
Cc: Trial Chamber IX Communications; [REDACTED]
Subject: Decision on Submitted Materials for P-81
Attachments: FW: PROS Submission of Materials for P-0081; DEF Submission of Materials for P-0081;
RE: PROS Submission of Materials for P-0081

Dear Counsel and Registry:

For P-81, the Chamber recognises as formally submitted the items submitted by the Prosecution (Email from the Prosecution, 4 October 2017 at 16:34), confirming that the witness's statement is introduced by virtue of the procedural pre-requisites of Rule 68(3) of the Rules being satisfied.

The Defence challenges the relevance of the submission of an investigative report (UGA-OTP-0201-0229) by the Prosecution on grounds that its contents are addressed by the live witness testimony (Email from the Defence, 5 October 2017 at 17:26). The Defence does not 'argue against the admissibility of the [r]eport' and, pursuant to its general approach, the Chamber defers the Defence's relevance arguments until deliberating its judgment.

It is also noted that the Defence does not formally submit any items of evidence following this witness's testimony (Email from the Defence, 4 October 2017 at 15:20).

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