

ANNEX 9

PUBLIC

From: Trial Chamber V Communications
Sent: 02 July 2021 13:46
To: [REDACTED] D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Trial Chamber V Communications; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Cc: OTP CAR IIB Operations; OTP CAR IIB Case Management; [REDACTED]
Subject: RE: Familiarisation Package for P-0291

Dear Counsel,

The Single Judge takes note of the below objection by the Ngaissona Defence to the inclusion of one item (CAR-OTP-2009-3472, 'Item 11') in the familiarisation package for P-0291, as well as the Prosecution's response thereto.

The Single Judge recalls that the Familiarisation Protocol provides that '[t]he VWU should provide the following documents to the witness to refresh his/her memory: (i) a copy of all the statements the witness has previously given. The term statement includes any signed statement and recorded interview (audio, video or both) and, (ii) any document or information generated or provided by the witness when giving any of his/her previous statements' (ICC-01/14-01/18-677-Anx1, para. 80).

Noting that the metadata of Item 11 in E-court, in the chain of custody, clearly indicates that the document was provided by P-0291 to the Prosecution on 22 June 2015, which corresponds to one of the days of his interview, the Single Judge is satisfied with the Prosecution's explanation that the absence of any reference to the document in the witness's statement is due to an investigator's oversight. He therefore finds that Item 11 may be included in P-0291's familiarisation package as a 'document [...] generated or provided by the witness when giving any of his/her previous statements' under the Familiarisation Protocol.

Kind regards, TC V

From: [REDACTED]
Sent: 01 July 2021 16:37
To: [REDACTED] D29 Yekatom Defence Team
[REDACTED] D30 Ngaissona Defence Team
[REDACTED]; V44 LRV Team OPCV [REDACTED] V44 LRV Team
[REDACTED]; V45 LRV Team [REDACTED] Trial Chamber V Communications
Cc: OTP CAR IIB Operations [REDACTED] OTP CAR IIB Case Management
[REDACTED]
Subject: RE: Familiarisation Package for P-0291

Dear Counsel,

Dear Trial Chamber V,

The Prosecution respectfully maintains that the one page handwritten document objected to by the Ngaissona Defence (CAR-OTP-2009-3472 : ANNEX 6 / LISTE DES PERSONNALITES QUE BOZIZE ET SES HOMMES CHERCHENT A ELIMINER PHYSIQUEMENT) should be included in P-0291's familiarisation package. Although it is not referenced as an annex in P-0291's statement due to an investigator oversight, P-0291 provided this document to the OTP in the course of his interview, on 22 June 2015. This fact is clear from the item's metadata in e-Court:

Main
Document ID CAR-OTP-2009-3472
Type List / table

Title ANNEX 6 / LISTE DES PERSONNALITES QUE BOZIZE ET SES HOMMES CHERCHENT A ELIMINER PHYSIQUEMENT

Extra Fields

Basis of Confidentiality 2. Protection of victims and witnesses - Article 68 and Rule 81(4)

Chain of Custody 2015-06-22 From: TIANGAYE Nicolas To: A.4 - 0004

Confidentiality Level Confidential

Date Filed 17-May-2019

Disclosures LRV Package 01 12 July 2019

Metadata Update 15 October 2019

Pre-Confirmation INCRIM package 07 17 May 2019

Language of the Item FRA - FRENCH

Participant OTP

Related to Witness CAR-OTP-P-0291

Search Limitations Handwritten Text

Source Identity TIANGAYE Nicolas

Accordingly, CAR-OTP-2009-3472 falls squarely within the witness familiarisation protocol and should be provided to P-0291 so that he can refresh his memory about the materials he provided to the OTP, especially in light of the fact that there is no witness preparation permitted in this case.

Kind regards,

[REDACTED]

OTP [REDACTED]

From: [REDACTED]

Sent: mardi 29 juin 2021 10:21

To: [REDACTED]; D29 Yekatom Defence Team

[REDACTED] D30 Ngaissona Defence Team

[REDACTED] V44 LRV Team OPCV [REDACTED] V44 LRV Team

[REDACTED]; V45 LRV Team [REDACTED]

Cc: OTP CAR IIB Operations [REDACTED] OTP CAR IIB Case Management

[REDACTED]

Subject: RE: Familiarisation Package for P-0291

Dear [REDACTED]

Thank you for transmitting the familiarisation package for P-0291.

The Defence for Mr Ngaissona objects to the transmission of Annex 6 (CAR-OTP-2009-3472) i.e. item no. 11 in the familiarisation list.

Despite the justification provided by the OTP, the document not only is not referenced in the statement, but also is not dated and not signed by the witness, making it unclear whether it was indeed generated by the witness. Its transmission would hence be contrary to the Familiarisation Protocol (ICC-01/14-01/18-677-Anx1, para. 80 and TC V's email decision of 25/06/2021, at 12.50).

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

www.icc-cpi.int

From: [REDACTED]
Sent: 28 June 2021 15:45
To: D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team
 [REDACTED] V44 LRV Team OPCV [REDACTED] V44 LRV Team
 [REDACTED] V45 LRV Team [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management
 [REDACTED]
Subject: Familiarisation Package for P-0291

Dear Counsel,

Dear all,

Please find attached the list of documents relating to P-0291, with 11 items.

The Prosecution provides the following explanation with regards the inclusion of documents CAR-OTP-2009-3472 and CAR-OTP-2034-0002:

- Although CAR-OTP-2009-3472 (ANNEX 6 / LISTE DES PERSONNALITES QUE BOZIZE ET SES HOMMES CHERCHENT A ELIMINER PHYSIQUEMENT) is not referenced as an annex in P-0291's statement (see CAR-OTP-2024-0036, at 0057, para.133), this document was provided by the witness in the course of his interview, on 22 June 2015. Its omission from the list of annexes is due to an oversight from the investigators.
- CAR-OTP-2034-0002, an investigator's report, provides corrections to paragraphs 67, 75, and 91 of the signed version of the statement, in order to rectify the inadvertent deletion of some text as the draft statement was being reviewed with the witness. Its inclusion in the familiarization package is necessary to enable a complete and accurate reading of his statement by P-0291.

If you have any comment, kindly communicate them within three days. After this date, the Prosecution will transmit these documents to the Victims and Witnesses Unit for the familiarization process of the above-mentioned witness.

Kind regards,

[REDACTED]
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