

ANNEX 1

PUBLIC

From: Trial Chamber V Communications
Sent: 01 October 2021 12:31
To: [REDACTED]; Trial Chamber V Communications
Cc: D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Operations; Associate Legal Officer-Court Officer; [REDACTED]
Subject: [REDACTED] Chamber Decisions Communication
Attachments: Decision on Submitted Materials for P-0291
 Ngaissona Defence List of documents to be submitted through P-0291; Yekatom Defence submission of evidence following the examination of P-0291

Dear Counsel, dear colleagues from the Registry,

The Chamber takes note of the emails on the submission of evidence following the examination of P-0291 by the Prosecution (see below email from the Prosecution, 15 July 2021, at 11:11), the Ngaissona Defence (see attached email from the Ngaissona Defence, 15 July 2021, at 14:15) and the Yekatom Defence (see attached email from the Yekatom Defence, 15 July 2021, at 16:58); as well as the Ngaissona Defence's response to the Prosecution's email (see below email from the Ngaissona Defence, 15 July 2021, at 17:08) and the Prosecution's reply thereto (see below email from the Prosecution, 16 July 2021, at 09:50).

At the outset, the Chamber notes that item CAR-D29-0006-0005 requested for submission by the Yekatom Defence has already been recognised as formally submitted in the Chamber's Decision on Submitted Materials for P-2926 (email from the Chamber, 9 June 2021, at 14:12). In this regard, the Chamber recalls that it is not necessary to re-submit items that have already been submitted.

Turning to the Ngaissona Defence's objection to the submission of items CAR-OTP-2024-0062, CAR-OTP-2024-0063 and CAR-OTP-2024-0064, the Chamber recalls that these items have also already been introduced under Rule 68(3) of the Rules (see ICC-01/14-01/18-1040-ConfT-051, p. 8, line 22 to p. 9, line 2). Accordingly, the Chamber will not further address the Ngaissona Defence's arguments on these items. As regards the Ngaissona Defence's arguments that item CAR-OTP-2009-3472 lacks reliability and authenticity, and has no probative value, the Chamber reiterates that it 'will assess the standard evidentiary criteria (namely the relevance, probative value and potential prejudice) of each item as part of its holistic assessment when deliberating its judgment pursuant to Article 74(2) of the Statute' (see Initial Directions on the Conduct of the Proceedings, ICC-01/14-01/18-631, para. 53). The Chamber further notes that there does not appear to be any procedural bars, obstacles or preconditions in relation to these items which would require the Chamber to rule on the admissibility of these items at this stage (see Initial Directions on the Conduct of the Proceedings, ICC-01/14-01/18-631, para. 54).

In light of the above, the Chamber recognises as formally submitted the following items submitted by the participants (see emails referenced above):

CAR-OTP-2000-0603
 CAR-OTP-2000-0655
 CAR-OTP-2009-3472
 CAR-OTP-2023-1548
 CAR-OTP-2034-0002
 CAR-OTP-2045-0696
 CAR-OTP-2054-1346
 CAR-OTP-2060-0616
 CAR-OTP-2060-0663
 CAR-OTP-2066-5308
 CAR-OTP-2075-0906
 CAR-OTP-2075-0933

CAR-OTP-2075-1001
 CAR-OTP-2079-1004
 CAR-OTP-2088-2542
 CAR-OTP-2100-1790
 CAR-OTP-2101-1848
 CAR-OTP-2101-1895
 CAR-OTP-2101-3086
 CAR-OTP-2107-6935
 CAR-OTP-2122-2307
 CAR-OTP-2130-1069
 CAR-OTP-2130-1099
 CAR-D30-0007-0177
 CAR-D30-0007-0679

CAR-D29-0002-0041
 CAR-D29-0002-0049
 CAR-D29-0006-0053
 CAR-D29-0006-0056
 CAR-D29-0006-0087
 CAR-D29-0006-0090
 CAR-D29-0006-0103
 CAR-D29-0006-0221
 CAR-D29-0012-0011
 CAR-D30-0007-0029
 CAR-OTP-2001-3936
 CAR-OTP-2023-2085
 CAR-OTP-2023-2764
 CAR-OTP-2042-3464
 CAR-OTP-2042-4040
 CAR-OTP-2065-1300
 CAR-OTP-2065-1568
 CAR-OTP-2065-6204
 CAR-OTP-2065-6338
 CAR-OTP-2100-1792
 CAR-OTP-2100-1796
 CAR-OTP-2101-3413
 CAR-OTP-2120-0303
 CAR-OTP-2122-9433

Further, the Chamber confirms that the requirements of Rule 68(3) of the Rules have been met for the following items:

CAR-OTP-2024-0036
 CAR-OTP-2024-0060
 CAR-OTP-2024-0062
 CAR-OTP-2024-0063
 CAR-OTP-2024-0064
 CAR-OTP-2024-0070
 CAR-OTP-2024-0076
 CAR-OTP-2024-0094
 CAR-OTP-2024-0100
 CAR-OTP-2057-0223
 CAR-OTP-2034-0104

The Registry is directed to proceed in accordance with paragraph 63(v) of the Initial Directions, ICC-01/14-01/18-631.

Kind regards, TC V

From: [REDACTED]
Sent: 16 July 2021 09:50
To: Trial Chamber V Communication [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team
 <[REDACTED]> V44 LRV Team OPCV [REDACTED]; V44 LRV Team
 [REDACTED] V45 LRV Team [REDACTED] OTP CAR IIB Case Management
 [REDACTED]; OTP CAR IIB Operations [REDACTED]; Associate
 Legal Officer-Court Officer [REDACTED]; [REDACTED]
 [REDACTED]
Subject: RE: OTP List of the documents to be submitted through P-0291

Dear Trial Chamber V,

The submission of the four items below has already been litigated. The Chamber provisionally granted the related Rule 68(3) motion, and the remaining conditions for the formal submission of P-0291's prior statement and annexes were met. P-0291's discussion of the annexes goes to their weight and probative value, not to whether they should be deemed submitted. The Ngaissona Defence's arguments seem to confuse the submission and admission regimes, and should be rejected.

Best regards,

On behalf of OTP Trial Team

From: [REDACTED]
Sent: 15 July 2021 17:08
To: [REDACTED] Trial Chamber V Communications
Cc: D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Operations; Associate Legal Officer-Court Officer; [REDACTED]
Subject: RE: OTP List of the documents to be submitted through P-0291

Dear Trial Chamber V,

Pursuant to para. 63(ii) of the Initial Directions (ICC-01/14-01/18-631), the Defence for Mr Ngaissona ("the Defence") respectfully objects to the Prosecution's list of documents to be submitted through P-0291 and more specifically to the submission of the following items:

1. CAR-OTP-2009-3472;
2. CAR-OTP-2024-0062;
3. CAR-OTP-2024-0063;
4. CAR-OTP-2024-0064.

Materials to be submitted need to be authentic, relevant and have probative value; criteria that the aforementioned documents do not fulfil, as became apparent during the witness's direct and cross-examination by the parties.

First, all four documents do not comport sufficient indicia of reliability to be admitted since the witness could not answer any question relating to their source, date of creation, date of acquisition, purpose, or content (ICC-01/14-01/18-T-053-ENG, page 28, Ins 9-22).

Second, even though the documents were handed by the witness to the OTP investigators during his interviews, these documents were either never mentioned in the witness's statement (with regard to CAR-OTP-2009-3472), or

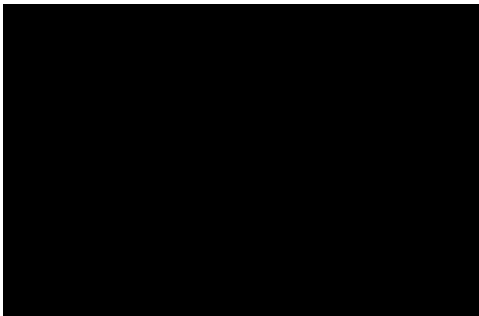
only mentioned superficially, meaning that they were never discussed in any meaningful way. This is confirmed by the witness himself during his testimony before the Chamber (ICC-01/14-01/18-T-053-ENG, page 30, lns 10-18).

Third, as far as document CAR-OTP-2009-3472 is concerned, the witness testified that only a copy (as opposed to an original) was given to the OTP investigators (ICC-01/14-01/18-T-053-ENG, page 29, lns 10-14), raising issues regarding its authenticity.

Lastly, the witness himself mentioned during his testimony that there were, and still are, multiple fake intelligence reports circulating in CAR (ICC-01/14-01/18-T-053-ENG, page 18, lns 19-25 to page 19, lns 1-20).

In light of the above, the Defence submits that the documents lack any of the indicators of reliability and authenticity, and that they have no probative value. Their submission into the case record would cause prejudice to the Ngaissona defence, and any benefit resulting from their submission is substantially outweighed by the need to ensure a fair trial. For this reason, the Defence opposes their submission through P-0291.

Kind regards,



From: [REDACTED]
Sent: 15 July 2021 11:11
To: Trial Chamber V Communications <[REDACTED]>; D30 Ngaissona Defence Team
Cc: D29 Yekatom Defence Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V44 LRV Team [REDACTED]
 V45 LRV Team [REDACTED]; OTP CAR IIB Case Management [REDACTED]; OTP CAR IIB Operations [REDACTED]; Associate
 Legal Officer-Court Officer [REDACTED]
Subject: OTP List of the documents to be submitted through P-0291

Dear Trial Chamber V,

In accordance with paragraph 63(i) of the *Initial Directions on the Conduct of the Proceedings* (ICC-01/14-01/18-631), the Prosecution submits the documents listed below relating to the testimony of witness P-0291. Per paragraph 64 of the same *Directions*, the Prosecution seeks submission of the transcripts and translations of audio-visual materials. The Prosecution requests that these documents be recognised as formally submitted.

(i) Documents discussed with the witness during the course of his examination by the Prosecution:

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2000-0603	CAR-OTP-P-0291	Audio / Video Material	12-Jul-21
2	CAR-OTP-2000-0655	CAR-OTP-P-0291	Audio / Video Material	12-Jul-21
3	CAR-OTP-2009-3472	CAR-OTP-P-0291	List / table	12-Jul-21

4	CAR-OTP-2023-1548	CAR-OTP-P-0291	Audio / Video Material	12-Jul-21
5	CAR-OTP-2034-0002	CAR-OTP-P-0291	ICC Investigation notes / report / correspondence	12-Jul-21
6	CAR-OTP-2034-0104	CAR-OTP-P-0291	ICC Statement - Translation - ENG	12-Jul-21
7	CAR-OTP-2045-0696	CAR-OTP-P-0291	Non ICC Statement (Note / Screening / Transcript)	12-Jul-21
8	CAR-OTP-2054-1346	CAR-OTP-P-0291	Contract / Agreement	12-Jul-21
9	CAR-OTP-2060-0616	CAR-OTP-P-0291	Transcript	12-Jul-21
10	CAR-OTP-2060-0663	CAR-OTP-P-0291	Translation - FRA	12-Jul-21
11	CAR-OTP-2066-5308	CAR-OTP-P-0291	Audio / Video Material	12-Jul-21
12	CAR-OTP-2075-0906	CAR-OTP-P-0291	Correspondence - Letter	12-Jul-21
13	CAR-OTP-2075-0933	CAR-OTP-P-0291	Report	12-Jul-21
14	CAR-OTP-2075-1001	CAR-OTP-P-0291	Report	12-Jul-21
15	CAR-OTP-2079-1004	CAR-OTP-P-0291	Report	12-Jul-21
16	CAR-OTP-2088-2542	CAR-OTP-P-0291	Media / press article	12-Jul-21
17	CAR-OTP-2100-1790	CAR-OTP-P-0291	Media / press article	12-Jul-21
18	CAR-OTP-2101-1848	CAR-OTP-P-0291	Presentation	12-Jul-21
19	CAR-OTP-2101-1895	CAR-OTP-P-0291	Legislation / government instruction / public guidelines	12-Jul-21
20	CAR-OTP-2101-3086	CAR-OTP-P-0291	Dossier	12-Jul-21
21	CAR-OTP-2107-6935	CAR-OTP-P-0291	Transcript	12-Jul-21
22	CAR-OTP-2122-2307	CAR-OTP-P-0291	Translation - FRA	12-Jul-21
23	CAR-OTP-2130-1069	CAR-OTP-P-0291	Transcript	12-Jul-21
24	CAR-OTP-2130-1099	CAR-OTP-P-0291	Translation - FRA	12-Jul-21
25	CAR-D30-0007-0177	CAR-OTP-P-0291	Presentation	14-Jul-21

(ii) 10 items submitted under Rule 68(3) at the start of P-0291's testimony (ICC-01/14-01/18-1040-Conf, pp. 9-10, para. 19; ICC-01/14-01/18-T-051-CONF ENG RT, p. 9, l. 12-p. 10, l. 20) :

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2024-0036-R04	CAR-OTP-P-0291	ICC Statement - General	12-Jul-21
2	CAR-OTP-2024-0060	CAR-OTP-P-0291	Complaint	12-Jul-21
3	CAR-OTP-2024-0062	CAR-OTP-P-0291	List / table	12-Jul-21
4	CAR-OTP-2024-0063	CAR-OTP-P-0291	List / table	12-Jul-21
5	CAR-OTP-2024-0064	CAR-OTP-P-0291	Notes (other)	12-Jul-21
6	CAR-OTP-2024-0070	CAR-OTP-P-0291	Personal data	12-Jul-21
7	CAR-OTP-2024-0076	CAR-OTP-P-0291	Identifying document	12-Jul-21
8	CAR-OTP-2024-0094	CAR-OTP-P-0291	Media / press article	12-Jul-21
9	CAR-OTP-2024-0100	CAR-OTP-P-0291	Media / press article	12-Jul-21
10	CAR-OTP-2057-0223	CAR-OTP-P-0291	Translation - ENG	12-Jul-21

Best regards,

OTP Case Manager

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From: [REDACTED]
Sent: 15 July 2021 16:58
To: Trial Chamber V Communications
Cc: OTP CAR IIB Case Management; OTP CAR IIB Operations; D30 Ngaissona Defence Team; D29 Yekatom Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Associate Legal Officer-Court Officer
Subject: Yekatom Defence submission of evidence following the examination of P-0291

Dear Trial Chamber V,

In accordance with paragraph 63(i) of the Initial Directions of the Conduct of the Proceedings (ICC-01/14-01/18-631) and following the conclusion of the examination of P-0291 by all the participants, the Defence of Mr. Yekatom requests the submission of the following items used during the hearing as evidence:

Count	Doc ID	Title
1	CAR-D29-0002-0041	Un dernier hommage au ministre Souleymane Daouda
2	CAR-D29-0002-0049	Affaire Demafouth : Coup d'Etat en Centrafrique
3	CAR-D29-0006-0005	Transcript of video CAR-OTP-2120-0301
4	CAR-D29-0006-0053	Transcript of CAR-OTP-2042-3464
5	CAR-D29-0006-0056	Transcript of CAR-OTP-2120-0303
6	CAR-D29-0006-0087	Traduction de CAR-OTP-2065-1300
7	CAR-D29-0006-0090	Traduction de CAR-OTP-2065-1568
8	CAR-D29-0006-0103	Transcription de CAR-OTP-2023-2764
9	CAR-D29-0006-0221	Transcription of CAR-OTP-2023-2085
10	CAR-D29-0012-0011	Discours de Maitre Nicolas Tiangaye, premier ministre, à la 68e session ordinaire de l'Assemblée générale des Nations Unies
11	CAR-D30-0007-0029	Republique centrafricaine: Déjà-vu des accords pour la paix au détriment des victimes
12	CAR-OTP-2001-3936	Mapping conflict motives Central African Republic
13	CAR-OTP-2023-2085	COMMUNIQUE DE PRESSE CRPS FR.mpg
14	CAR-OTP-2023-2764	INVITE FR.mpg
15	CAR-OTP-2042-3464	Ext Kokaté 02 180314 Fr.mp3
16	CAR-OTP-2042-4040	Itw Moloto Kenguemba 01 250514 Fr.mp3
17	CAR-OTP-2065-1300	AA039101.MXF
18	CAR-OTP-2065-1568	AA045801.MXF
19	CAR-OTP-2065-6204	AA039101.MXF
20	CAR-OTP-2065-6338	AA002201.MXF
21	CAR-OTP-2100-1792	Declaration de son Excellence Maitre Nicolas Tiangaye Premier Ministre, Chef du Gouvernement d'Union Nationale de Transition Relative a la Situation Securitaire a BANGUI
22	CAR-OTP-2100-1796	Declaration de son Excellence Maitre Nicolas Tiangaye Premier Ministre, Chef du Gouvernement d'Union Nationale de Transition Relative aux evenements survenus dans le 4eme Arrondissement et au Quartier BOEING
23	CAR-OTP-2101-3413	L'Hirondelle No 3304
24	CAR-OTP-2120-0303	SJT 5H BANGUI DESARMEMENT COM5 1012 Sujet.mov
25	CAR-OTP-2122-9433	Transcription de document audio/vidéo / Itw Moloto Kenguemba 01 250514 Fr.mp3

In addition to the above mentioned list, the Defence also notes that the following items, which were used during the cross examination of P-0291, are already recognized as submitted by former Chamber's decisions :

Count	Doc ID	Title
1	CAR-D29-0002-0013	Forum de Bangui : un comité d'organisation dit de consensus sans J-J Demafouth
2	CAR-D29-0002-0023	Centrafrique : Confiance d'un membre de cabinet de Samba-Panza
3	CAR-D29-0006-0001	Transcript of video CAR-OTP-2074-0075
4	CAR-OTP-2055-2610	Centrafrique chefs de guerre et reconstruction - #Reporters.mp4
5	CAR-OTP-2074-0075	A Bangui, des chrétiens disent ne plus vouloir _accepter les musulmans ici.mp4
6	CAR-OTP-2107-6906	Transcription de document audio/vidéo / Centrafrique chefs de guerre et reconstruction - #Reporters.mp4
7	CAR-OTP-2120-0301	SJT 18H BANGUI MUSULMANS EVACUES 2912 Sujet.mov
8	CAR-OTP-2122-2271	Traduction / Transcription de document audio/vidéo / Centrafrique chefs de guerre et reconstruction - #Reporters.mp4

Unless informed otherwise by the Chamber and for future submissions, the Defence understands that there is no need to re-submit an item that has been formerly recognized as submitted by the Chamber.

Kind regards,


Legal Consultant
Yekatom Defence

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From: [REDACTED]
Sent: 15 July 2021 14:15
To: Trial Chamber V Communications
Cc: D29 Yekatom Defence Team; V45 LRV Team; V44 LRV Team OPCV; V44 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; Associate Legal Officer-Court Officer; D30 Ngaissona Defence Team
Subject: Ngaissona Defence List of documents to be submitted through P-0291

Dear Trial Chamber V,

Pursuant to paragraph 63(i) of the *Initial Directions of the Conduct of the Proceedings* (ICC-01/14-01/18-631), the Defence for Mr. Ngaissona requests the submission of the following item used during P-0291's cross-examination:

Count	Doc ID	Title	Relevant part(s) used during cross-examination	WIT – Used Through	Used By	EVD – Date Used	Request Submission
1	CAR-D30-0007-0679	Media / press article RCA: la COD-2020 et François Bozizé ont pu tenir meeting à Bangui, 25-Nov-2020	Entire document	CAR-OTP-P-0291	D30	14-Jul-2021	Yes

Kind regards,

Despoina Eleftheriou

[REDACTED]
Case Manager – [REDACTED]
Legal Consultant – [REDACTED]
[REDACTED]

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