

ANNEX 1

Public

From: Trial Chamber V Communications
Sent: 29 September 2021 15:05
To: Trial Chamber V Communications; [REDACTED] D29 Yekatom Defence Team
 [REDACTED] D30 Ngaïssona Defence Team [REDACTED]
 LRV Team; OTP CAR IIB Case
Cc: Management; OTP CAR IIB Operations
 [REDACTED]; Chamber Decisions Communication; Associate
 Legal Officer-Court Officer
Subject: Decision on submitted materials for P-0801
Attachments: Yekatom Defence Documents to be submitted through P-0801; OTP List of the
 documents to be submitted through P-0801; D30 List of Documents to be
 submitted through P-0801 ; RE: OTP List of the documents to be submitted through
 P-0801; RE: OTP List of the documents to be submitted through P-0801; RE: OTP
 List of the documents to be submitted through P-0801; RE: OTP List of the
 documents to be submitted through P-0801

Dear Counsel, dear colleagues from the Registry,

The Chamber takes note of the emails on the submission of evidence following the examination of P-0801 by the Yekatom Defence (see attached email from the Yekatom Defence, 2 June 2021, at 16:05), the Prosecution (see attached email from the Prosecution, 2 June 2021, at 17:56), the Ngaïssona Defence (see attached email from the Ngaïssona Defence, 2 June 2021, at 19:23); as well as of the responses by the Defence teams (the 'Defence') to the Prosecution's email (see attached email from the Ngaïssona Defence, 4 June 2021, at 18:12; email from the Yekatom Defence, 7 June 2021, at 17:43), and the Prosecution's responses thereto (see attached emails from the Prosecution, 04 June 2021, at 21:49 and 8 June 2021, at 21:53).

At the outset, the Chamber notes that a number of items listed in the participants' emails have already been introduced under Rule 68(3) of the Rules and that the Chamber has subsequently confirmed that the requirements of Rule 68(3) of the Rules have been met for these items. This concerns the following items:

- CAR-OTP-2101-9735 and CAR-OTP-2127-4238 (Second Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-2012, P-0801, P-2027 and P-2841, 22 April 2021, ICC-01/14-01/18-964-Conf (hereinafter: 'Decision 964'), para. 35, p. 14; and Decision on Submitted Materials for P-2841, email from the Chamber, 2 July 2021, at 14:07).
- CAR-OTP-2039-0031 (Corrected version of 'Third Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-2673 and P-2251', 19 May 2021, ICC-01/14-01/18-998-Conf-Corr, para. 20, p. 10; and Decision on submitted materials for P-2251, email from the Chamber, 1 July 2021, at 14:17).
- CAR-OTP-2001-0835 and CAR-OTP-2023-0032 (Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-2926, P-2927, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926's Evidence, 10 March 2021, ICC-01/14-01/18-907-Conf, para. 85, p. 32; and Decision on Submitted Materials for P-0287, email from the Chamber, 14 June 2021, at 12:20).

Similarly, the Chamber notes that a number of items included in the participants' emails have already been recognised as formally submitted in its decisions on submitted materials requests following the testimony of other witnesses in this case. This concerns the following items:

- CAR-D29-0002-0013, CAR-D29-0002-0023, CAR-OTP-2001-3372, CAR-OTP-2055-2610, an CAR-OTP-2107-6906 (Decision on Submitted Materials for P-2926, email from the Chamber, 9 June 2021, at 14:12)
- CAR-OTP-2024-0447 (Decision on Submitted Materials for P-2027, email from the Chamber, 19 July 2021, at 11:37)

- CAR-OTP-2069-3544 and CAR-OTP-2124-0852 (Decision on Submitted Materials for P-1847, email from the Chamber, 14 June 2021, at 12:24)

- CAR-OTP-2060-0799 (Decision on Submitted Materials for P-1577, email from the Chamber, 21 June 2021, at 16:56).

In relation to these items, the Chamber recalls that it is not necessary to re-submit items that have already been submitted.

Regarding items CAR-OTP-2101-8599, CAR-OTP-2102-2520, CAR-OTP-2102-6348, CAR-OTP-2100-4498 and CAR-OTP-2100-6685, consisting of Facebook conversations, the Chamber notes the Defence's objections to the submission of those pages containing messages not shown to nor discussed with the witness. In light of the nature and scope of these items, compared to the extent to which they were used during P-0801's questioning, the Chamber is of the view that it would be more appropriate to seek their formal submission through a bar table application. Therefore, without prejudice to its ruling on any bar table request, the Chamber rejects the Prosecution's request to formally submit these items via email through P-0801 (*see also* decisions on submitted materials for P-2841, P-2027 and P-2673: emails from the Chamber, 2 July 2021, at 14:07, 19 July 2021, at 11:37, and 27 August 2021, at 08:10, respectively).

Concerning items CAR-OTP-2074-2065, CAR-OTP-2074-2120 and CAR-OTP-2074-2234, consisting of the witness's written statements, the Chamber notes the Presiding Judge's direction that '[e]vidence which is testimonial in nature is [...] inadmissible [...] when not elicited orally or when the conditions for the introduction of the prior recorded testimony specifically provided for in the Court's applicable law are not met' (Initial Directions on the Conduct of the Proceedings, 28 August 2020, ICC-01/14-01/18-631, para. 56). It further recalls that in Decision ICC-01/14-01/18-964, it found that these conditions were not met in relation to these items. Absent any new facts or circumstances warranting reconsideration of its previous decision, the Prosecution's request to submit these items is rejected.

In this regard, the Chamber notes that items CAR-OTP-0080-0021, CAR-OTP-0085-0673 and CAR-OTP-0094-0035, submitted by the Ngaïssona Defence and not opposed by the other participants, constitute witness statements of other witnesses. In line with the aforementioned direction on the admissibility of testimonial evidence, and noting that the conditions under Rule 68(3) of the Rules are not met for these items, the Chamber rejects the Ngaïssona Defence's request to consider these documents as formally submitted.

Lastly, the Chamber notes the Yekatom Defence's objection to the submission of item 13 on the Prosecution's first list (CAR-OTP-2030-0280) on the basis that the Prosecution did not establish the *prima facie* relevance and probative value of the document during the testimony of the witness, laid no foundation for its admission through P-0801 and that the document does not contain sufficient indicia of reliability (email from the Yekatom Defence, 7 June 2021, at 17:43). In this regard, 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 also does not appear to be any procedural bars, obstacles or preconditions in relation to item CAR-OTP-2030-0280 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-D29-0001-0081
 CAR-D29-0001-0087
 CAR-D29-0011-0001
 CAR-OTP-2001-3811
 CAR-OTP-2004-1180
 CAR-OTP-2042-3464
 CAR-OTP-2126-2719
 CAR-OTP-2087-9027
 CAR-OTP-2094-0295

CAR-OTP-2127-4501
CAR-OTP-2127-4589
CAR-OTP-2066-5310
CAR-OTP-2100-1699
CAR-OTP-2084-1222

CAR-OTP-2001-4464
CAR-OTP-2001-4601
CAR-OTP-2001-4818
CAR-OTP-2001-6105
CAR-OTP-2001-6708
CAR-OTP-2001-6924
CAR-OTP-2004-1530
CAR-OTP-2025-0380
CAR-OTP-2030-0280
CAR-OTP-2030-0984
CAR-OTP-2064-1015
CAR-OTP-2065-0175
CAR-OTP-2069-3557
CAR-OTP-2069-3560
CAR-OTP-2073-0870
CAR-OTP-2089-0840
CAR-OTP-2089-0936
CAR-OTP-2091-0476
CAR-OTP-2091-1725
CAR-OTP-2092-1738
CAR-OTP-2099-0154
CAR-OTP-2107-1583
CAR-OTP-2107-1596
CAR-OTP-2117-0696
CAR-OTP-2081-0235
CAR-OTP-2088-2034
CAR-OTP-2084-1327
CAR-OTP-2088-2934

CAR-D30-0006-0004
CAR-D30-0006-0005
CAR-D30-0006-0010
CAR-D30-0006-0016
CAR-D30-0006-0019
CAR-D30-0006-0021
CAR-D30-0006-0022
CAR-OTP-2012-0436
CAR-OTP-2084-1219
CAR-OTP-2084-1229
CAR-OTP-2087-9271
CAR-OTP-2100-1773
CAR-OTP-2100-1778
CAR-OTP-2127-4453

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: Vanderpuye, Kweku
Sent: 08 June 2021 21:53
To: [REDACTED] Trial Chamber V Communications
Cc: [REDACTED] a 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
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear All,

Please note the correction below in **red**. Please excuse the error. Thank you.

Kind regards,

Kweku Vanderpuye

From: Vanderpuye, Kweku
Sent: 08 June 2021 21:49
To: [REDACTED]; Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team
 [REDACTED] V44 LRV Team OPCV [REDACTED]; V44 LRV Team
 <V44LRVTeam [REDACTED] V45 LRV Team [REDACTED] OTP CAR IIB Case Management
 [REDACTED] OTP CAR IIB Operation [REDACTED] Associate
 Legal Officer-Court Officer [REDACTED]
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

The objections advanced by the **Yekatom** Defence should be rejected.

First, with respect to Item #13, the mere fact that the witness recognised the document as that shown to him during the course of his interview and from which he drew certain conclusions then, and again during the course of his testimony, together with his familiarity with the individuals who appear in the document and their roles in FROCCA and the Anti-Balaka is manifestly a sufficient foundation for the formal submission of the document.

Second, with respect to items #22-24 (transcripts), to the extent these were used with the witness – and they were – their submission is appropriate under article 69(4) as relevant and probative. Moreover, their formal submission is not unduly prejudicial to the Defence, since the Defence has been aware of and in possession them for a substantial period of time and the witness was present in Court to be fully cross-examined on anything contained within the transcripts, as well as confronted on anything elicited by the Prosecution. In respect of the ‘additional’ criteria concerning the transcripts’ admissibility, the Prosecution refers to the conditions under rule 68(3). These were manifestly met through the witness’s appearance, availability for examination, and attestation to the contents of his prior statement and implicit consent to their use and acceptance as evidence by the Chamber in these proceedings. Rule 68(3) does not require that a witness agree to the use of their prior written testimony, but rather, that they do not oppose or object to the same. In addition, nothing in the rule prohibits a witness from expressing their lack of objection either implicitly or tacitly. The objections to which the Defence refers regarding the use of the transcripts did not originate with the *witness*, but rather arose from the *form* of its use. Thus, the Defence position is erroneous.

Third, as the Prosecution has already addressed the issue concerning scope of Facebook records tendered in its response to the **Ngaissona** Defence’s position, it will not repeat them here. Thank you.

Kind regards,

Kweku Vanderpuye

From: [REDACTED]
Sent: 07 June 2021 17:43
To: Vanderpuye, Kweku [REDACTED]; [REDACTED]; [REDACTED]
 [REDACTED] >; Trial Chamber V Communications [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]
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

The Defence of Mr Yekatom hereby responds to the Prosecution's email sent on 2 June 2021 seeking the formal submission of 58 documents in relation to P-0801.

As a preliminary matter, the Defence refers to and incorporates relevant prior submissions in the interests of judicial economy, as specified below. However should the Chamber prefer that such submissions be set out in full, the Defence will do so in future.

The Defence respectfully opposes the submission of the following documents listed by the Prosecution:

- **Item #13 of the first list (CAR-OTP-2030-0280)**

The Prosecution did not establish the *prima facie* relevance and probative value of the document during the testimony of the witness. No foundation for its admission through this witness has been laid, as P-0801 stated that he had never seen the document before his interview in Bangui with the Office of the Prosecution (see, T-034, p. 79).

Further the document does not contain sufficient indicia of reliability: it is undated, unsigned, and the logo of the Anti-Balaka is not affixed. It is also incomplete – for instance, as is evident from the appearance of the words 'à préciser', and a last name appears to be missing from the list. Moreover, the name of Mr BANOUKEPA is misspelled on the top of the document and he is incorrectly designated as the general coordinator of the Anti-Balaka.

- **Items #22 to #24 of the first list (CAR-OTP-2074-2065-R01; CAR-OTP-2074-2120-R01 and CAR-OTP-2074-2234-R01)**

In accordance with paragraph 56 of the *Initial Directions on the Conduct of the Proceedings* (ICC-01/14-01/18-631), the Defence strongly opposes the submission of P-0801's transcribed statement. The Trial Chamber has already ruled on and rejected the Prosecution application to introduce the prior recorded testimony of P-0801 (ICC-01/14-01/18-964-Conf) and the Prosecution cannot utilize the in-court testimony of P-0801 as an opportunity to bypass the Chamber's decision.

With respect, the Prosecution's reliance on the use of the statements during the evidence of P-0801 is misplaced (see, Prosecution email of 4 June 2021 at 21:49). If the witness was indeed 'tested' on the material in his prior recorded testimony, the portions to which he was taken would necessarily be part of his transcript. If he was not taken to those portions, then it would be contrary to basic fairness to tender them without

having given the witness the opportunity to have explained or commented on any purported inconsistencies; nor would any purported inconsistencies be probative in the absence of such opportunities. Furthermore, the Defence notes in relation to Item #24 (CAR-OTP-2074-2234-R01) that the use of this prior recorded statement was specifically objected to on both occasions that Prosecution Counsel sought to do so, and that these objections were sustained (see, T-035, pp 79-80; and T-036, pp 21-23).

Moreover, the suggestion that ‘additional criteria’ for admission of P-0801’s statement were met is vague and unsubstantiated and should be denied on that basis. However, to the extent that the Prosecution is suggesting that criteria under Article 69(4) and/or Rule 68 are met, this suggestion is without merit. In this regard, the Defence respectfully refers the Chamber to the Yekatom Defence email of 4 April 2021 at 19:13 and incorporates the submissions made therein *mutatis mutandis*.

- **Items #34 to #37 of the first list (CAR-OTP-2101-8599; CAR-OTP-2101-9735; CAR-OTP-2102-2520; CAR-OTP-2102-6348) and #6 and #7 of the third list (CAR-OTP-2100-4498 and CAR-OTP-2100-6685)**

The Defence opposes the submissions of those items to the extent that the Prosecution seeks submission of these documents in their entirety. In the interests of judicial economy, the Defence respectfully refers the Chamber to the Yekatom Defence email sent on 18 May 2021 at 20:26 – specifically, to the submissions made in opposition to the Prosecution’s request for wholesale submission of Facebook messenger conversations following the evidence of P-2841 – and incorporates those submissions *mutatis mutandis*.

The Defence does not oppose formal submission of the specific pages presented to the witness and upon which he gave evidence.

Lastly, the Defence notes that the Prosecution has withdrawn its request for formal submission of Item #3 of the third list (CAR-OTP-2099-0165-R03), which the Defence would otherwise have opposed, in its email of 4 June.

Kind regards,



Legal Assistant, Yekatom Defence

From: Vanderpuye, Kweku [Redacted]

Sent: 04 June 2021 21:49

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

Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

Dear All,

The Prosecution notes that CAR-OTP-2099-0165-R03 should be excluded, as erroneous. In all other respects, the list is accurate. The Prosecution disagrees with the Defence that the tendered transcripts circumvent the Chamber’s rule 68(3) ruling. *First*, the witness was tested on such material in open Court, and *second*, the witness effectively met the additional criteria required for the admission of his statement (or parts thereof) in the course of his testimony in any event. Thus, there is neither a circumvention of the Chamber’s ruling since it allowed the use of the transcripts during the witness’s examination appropriately, nor any violation of the conditions of the rule, since all additional criteria were otherwise met expressly and impliedly as concerns the specific parts of the prior statement used.

As regards the references to Facebook conversations, the Prosecution will take the Chamber's guidance on the matter. Principally, the Prosecution tenders the specific pages indicated in its List of Materials and those referenced in the Parties' respective lists to the extent the Prosecution intends to tender those items, as indicated. However, the Chamber may consider that submission of the whole of the document may be necessary to place such conversations in context.

Should you have any questions or concerns, please let us know. Thank you.

Kind regards,

Kweku Vanderpuye

From: [REDACTED]
Sent: 04 June 2021 18:12
To: [REDACTED] Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]; D30 Ngaïssona 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: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

The Defence for Mr Ngaïssona ('Defence') respectfully opposes the wholesale submission of the facebook conversations, as listed in the Prosecution's first list (items #34-37) and third list (items #6-7) as it concerns Witness P-0801. The Defence would not oppose the submission of those pages containing messages on which Witness P-0801 specifically gave evidence during oral testimony; however, the *prima facie* relevance and reliability of the messages upon which the witness was not given an opportunity to comment have not been established by the Prosecution. In this regard, the Defence incorporates by reference its previous objections to the formal submissions of entire facebook conversations in relation to Witness P-2841 (see email dated 19 May 2021, 10:55 and email from the Defence team of Mr Yekatom dated 18 May at 20:25).

Furthermore, the Defence respectfully opposes the submission of the transcripts of P-0801's 2018 interview with the Prosecution (items #22-24 on the 1st list), as their submission would amount to a circumvention of Chamber's decision ICC-01/14-01/18-964-Conf, which explicitly rejected the Prosecution's rule 68(3) request.

Lastly, the Defence opposes the submission of the statement of another live Prosecution witness (P-2328, item #3 on the 3rd list), who has yet to testify and for which there is no rule 68 request by the Prosecution.

Respectfully yours,

[REDACTED]
Case manager- Ngaïssona Defence

From: [REDACTED]
Sent: 02 June 2021 17:56
To: Trial Chamber V Communications
Cc: D29 Yekatom Defence Team; D30 Ngaïssona 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
Subject: OTP List of the documents to be submitted through P-0801

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-0801. The Prosecution requests that they be recognised as formally submitted.

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

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-D29-0001-0087	CAR-OTP-P-0801	Legal, Administration and Court document - non ICC	27-May-2021
2	CAR-OTP-2001-0835	CAR-OTP-P-0801	Report	27-May-2021
3	CAR-OTP-2001-3372	CAR-OTP-P-0801	Media / press article	27-May-2021
4	CAR-OTP-2001-4464	CAR-OTP-P-0801	Media / press article	27-May-2021
5	CAR-OTP-2001-4601	CAR-OTP-P-0801	Media / press article	26-May-2021
6	CAR-OTP-2001-4818	CAR-OTP-P-0801	Media / press article	27-May-2021
7	CAR-OTP-2001-6105	CAR-OTP-P-0801	Media / press article	26-May-2021
8	CAR-OTP-2001-6708	CAR-OTP-P-0801	Media / press article	27-May-2021
9	CAR-OTP-2001-6924	CAR-OTP-P-0801	List / table	27-May-2021
10	CAR-OTP-2004-1530	CAR-OTP-P-0801	Legislation / government instruction / public guidelines	24-May-2021
11	CAR-OTP-2023-0032	CAR-OTP-P-0801	Report	28-May-2021
12	CAR-OTP-2025-0380	CAR-OTP-P-0801	Media / press article	26-May-2021
13	CAR-OTP-2030-0280	CAR-OTP-P-0801	Organisation diagram	25-May-2021
14	CAR-OTP-2030-0984	CAR-OTP-P-0801	Report	26-May-2021
15	CAR-OTP-2055-2610	CAR-OTP-P-0801	Audio / Video Material	26-May-2021
16	CAR-OTP-2064-1015	CAR-OTP-P-0801	Media / press article	27-May-2021
17	CAR-OTP-2065-0175	CAR-OTP-P-0801	Audio / Video Material	25-May-2021
18	CAR-OTP-2069-3544-R01	CAR-OTP-P-0801	Correspondence - Letter	25-May-2021
19	CAR-OTP-2069-3557	CAR-OTP-P-0801	Media / press article	27-May-2021
20	CAR-OTP-2069-3560	CAR-OTP-P-0801	List / table	27-May-2021
21	CAR-OTP-2073-0870	CAR-OTP-P-0801	Audio / Video Material	27-May-2021
22	CAR-OTP-2074-2065-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	25-May-2021 28-May-2021
23	CAR-OTP-2074-2120-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	26-May-2021
24	CAR-OTP-2074-2234-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	26-May-2021 27-May-2021
25	CAR-OTP-2084-1222	CAR-OTP-P-0801	Correspondence - Letter	25-May-2021 26-May-2021 28-May-2021
26	CAR-OTP-2084-1229	CAR-OTP-P-0801	Media / press article	26-May-2021 28-May-2021
27	CAR-OTP-2089-0840	CAR-OTP-P-0801	Correspondence - Letter	24-May-2021
28	CAR-OTP-2089-0936	CAR-OTP-P-0801	Internal guidelines / instruction / orders	24-May-2021

29	CAR-OTP-2091-0476	CAR-OTP-P-0801	Communication - E-message	25-May-2021
30	CAR-OTP-2091-1725	CAR-OTP-P-0801	Media / press article	26-May-2021
31	CAR-OTP-2092-1738-R01	CAR-OTP-P-0801	Correspondence - Letter	26-May-2021
32	CAR-OTP-2099-0154	CAR-OTP-P-0801	Media / press article	26-May-2021
33	CAR-OTP-2100-1699	CAR-OTP-P-0801	Internal guidelines / instruction / orders	27-May-2021 28-May-2021
34	CAR-OTP-2101-8599	CAR-OTP-P-0801	Communication - E-message	25-May-2021 31-May-2021
35	CAR-OTP-2101-9735	CAR-OTP-P-0801	Communication - E-message	31-May-2021
36	CAR-OTP-2102-2520	CAR-OTP-P-0801	Communication - E-message	31-May-2021
37	CAR-OTP-2102-6348	CAR-OTP-P-0801	Communication - E-message	25-May-2021
38	CAR-OTP-2107-1583	CAR-OTP-P-0801	Transcript	27-May-2021
39	CAR-OTP-2107-1596	CAR-OTP-P-0801	Transcript	25-May-2021
40	CAR-OTP-2107-6906	CAR-OTP-P-0801	Transcript	26-May-2021
41	CAR-OTP-2117-0696	CAR-OTP-P-0801	Media / press article	26-May-2021
42	CAR-OTP-2124-0852	CAR-OTP-P-0801	Contract / Agreement	25-May-2021
43	CAR-OTP-2127-4238-R01	CAR-OTP-P-0801	ICC Statement - General	31-May-2021
44	CAR-OTP-2081-0235	CAR-OTP-P-0801	Media / press article	25-May-2021
45	CAR-OTP-2088-2034	CAR-OTP-P-0801	Audio / Video Material	25-May-2021

(ii) The Prosecution seeks to submit the following items used during the course of YEKATOM's cross-examination of witness P-0801, to the extent that these items are not submitted by the YEKATOM Defence:

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2039-0031-R01	CAR-OTP-P-0801	List / table	28-May-2021
2	CAR-OTP-2042-3464	CAR-OTP-P-0801	Audio / Video Material	28-May-2021
3	CAR-OTP-2060-0799	CAR-OTP-P-0801	Media / press article	28-May-2021
4	CAR-OTP-2066-5310	CAR-OTP-P-0801	Audio / Video Material	28-May-2021
5	CAR-OTP-2084-1327	CAR-OTP-P-0801	Audio / Video Material	27-May-2021
6	CAR-OTP-2087-9027	CAR-OTP-P-0801	List / table	27-May-2021

(iii) The Prosecution seeks to submit the following items used during the course of NGAISSONA's cross-examination of witness P-0801, to the extent that these items are not submitted by the NGAISSONA Defence:

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2087-9271	CAR-OTP-P-0801	Minutes of meetings	31-May-2021
2	CAR-OTP-2088-2934	CAR-OTP-P-0801	Media / press article	31-May-2021
3	CAR-OTP-2099-0165-R03	CAR-OTP-P-0801	ICC Statement—General	31-May-2021
4	CAR-OTP-2100-1773	CAR-OTP-P-0801	Correspondence - Letter	31-May-2021
5	CAR-OTP-2100-1778	CAR-OTP-P-0801	Correspondence - Letter	31-May-2021
6	CAR-OTP-2100-4498	CAR-OTP-P-0801	Communication - E-message	31-May-2021
7	CAR-OTP-2100-6685	CAR-OTP-P-0801	Communication - E-message	31-May-2021

Kind regards,


OTP Case Manager

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Les informations contenues dans ce message peuvent être confidentielles ou soumises au secret

From: Vanderpuye, Kweku
Sent: 08 June 2021 21:49
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
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

The objections advanced by the Ngaissona Defence should be rejected.

First, with respect to Item #13, the mere fact that the witness recognised the document as that shown to him during the course of his interview and from which he drew certain conclusions then, and again during the course of his testimony, together with his familiarity with the individuals who appear in the document and their roles in FROCCA and the Anti-Balaka is manifestly a sufficient foundation for the formal submission of the document.

Second, with respect to items #22-24 (transcripts), to the extent these were used with the witness – and they were – their submission is appropriate under article 69(4) as relevant and probative. Moreover, their formal submission is not unduly prejudicial to the Defence, since the Defence has been aware of and in possession them for a substantial period of time and the witness was present in Court to be fully cross-examined on anything contained within the transcripts, as well as confronted on anything elicited by the Prosecution. In respect of the ‘additional’ criteria concerning the transcripts’ admissibility, the Prosecution refers to the conditions under rule 68(3). These were manifestly met through the witness’s appearance, availability for examination, and attestation to the contents of his prior statement and implicit consent to their use and acceptance as evidence by the Chamber in these proceedings. Rule 68(3) does not require that a witness agree to the use of their prior written testimony, but rather, that they do not oppose or object to the same. In addition, nothing in the rule prohibits a witness from expressing their lack of objection either implicitly or tacitly. The objections to which the Defence refers regarding the use of the transcripts did not originate with the *witness*, but rather arose from the *form* of its use. Thus, the Defence position is erroneous.

Third, as the Prosecution has already addressed the issue concerning scope of Facebook records tendered in its response to the Yekatom Defence’s position, it will not repeat them here. Thank you.

Kind regards,

Kweku Vanderpuye

From: [REDACTED]
Sent: 07 June 2021 17:43
To: Vanderpuye, Kweku [REDACTED] Mostfa, Yassin
[REDACTED] Trial Chamber V Communications [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]
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

The Defence of Mr Yekatom hereby responds to the Prosecution’s email sent on 2 June 2021 seeking the formal submission of 58 documents in relation to P-0801.

As a preliminary matter, the Defence refers to and incorporates relevant prior submissions in the interests of judicial economy, as specified below. However should the Chamber prefer that such submissions be set out in full, the Defence will do so in future.

The Defence respectfully opposes the submission of the following documents listed by the Prosecution:

- **Item #13 of the first list (CAR-OTP-2030-0280)**

The Prosecution did not establish the *prima facie* relevance and probative value of the document during the testimony of the witness. No foundation for its admission through this witness has been laid, as P-0801 stated that he had never seen the document before his interview in Bangui with the Office of the Prosecution (see, T-034, p. 79).

Further the document does not contain sufficient indicia of reliability: it is undated, unsigned, and the logo of the Anti-Balaka is not affixed. It is also incomplete – for instance, as is evident from the appearance of the words ‘à préciser’, and a last name appears to be missing from the list. Moreover, the name of Mr BANOUKEPA is misspelled on the top of the document and he is incorrectly designated as the general coordinator of the Anti-Balaka.

- **Items #22 to #24 of the first list (CAR-OTP-2074-2065-R01; CAR-OTP-2074-2120-R01 and CAR-OTP-2074-2234-R01)**

In accordance with paragraph 56 of the *Initial Directions on the Conduct of the Proceedings* (ICC-01/14-01/18-631), the Defence strongly opposes the submission of P-0801’s transcribed statement. The Trial Chamber has already ruled on and rejected the Prosecution application to introduce the prior recorded testimony of P-0801 (ICC-01/14-01/18-964-Conf) and the Prosecution cannot utilize the in-court testimony of P-0801 as an opportunity to bypass the Chamber’s decision.

With respect, the Prosecution’s reliance on the use of the statements during the evidence of P-0801 is misplaced (see, Prosecution email of 4 June 2021 at 21:49). If the witness was indeed ‘tested’ on the material in his prior recorded testimony, the portions to which he was taken would necessarily be part of his transcript. If he was not taken to those portions, then it would be contrary to basic fairness to tender them without having given the witness the opportunity to have explained or commented on any purported inconsistencies; nor would any purported inconsistencies be probative in the absence of such opportunities. Furthermore, the Defence notes in relation to Item #24 (CAR-OTP-2074-2234-R01) that the use of this prior recorded statement was specifically objected to on both occasions that Prosecution Counsel sought to do so, and that these objections were sustained (see, T-035, pp 79-80; and T-036, pp 21-23).

Moreover, the suggestion that ‘additional criteria’ for admission of P-0801’s statement were met is vague and unsubstantiated and should be denied on that basis. However, to the extent that the Prosecution is suggesting that criteria under Article 69(4) and/or Rule 68 are met, this suggestion is without merit. In this regard, the Defence respectfully refers the Chamber to the Yekatom Defence email of 4 April 2021 at 19:13 and incorporates the submissions made therein *mutatis mutandis*.

- **Items #34 to #37 of the first list (CAR-OTP-2101-8599; CAR-OTP-2101-9735; CAR-OTP-2102-2520; CAR-OTP-2102-6348) and #6 and #7 of the third list (CAR-OTP-2100-4498 and CAR-OTP-2100-6685)**

The Defence opposes the submissions of those items to the extent that the Prosecution seeks submission of these documents in their entirety. In the interests of judicial economy, the Defence respectfully refers the

Chamber to the Yekatom Defence email sent on 18 May 2021 at 20:26 – specifically, to the submissions made in opposition to the Prosecution’s request for wholesale submission of Facebook messenger conversations following the evidence of P-2841 – and incorporates those submissions *mutatis mutandis*.

The Defence does not oppose formal submission of the specific pages presented to the witness and upon which he gave evidence.

Lastly, the Defence notes that the Prosecution has withdrawn its request for formal submission of Item #3 of the third list (CAR-OTP-2099-0165-R03), which the Defence would otherwise have opposed, in its email of 4 June.

Kind regards,

[REDACTED]
Legal Assistant, Yekatom Defence

From: Vanderpuye, Kweku [REDACTED]
Sent: 04 June 2021 21:49
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
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

Dear All,

The Prosecution notes that CAR-OTP-2099-0165-R03 should be excluded, as erroneous. In all other respects, the list is accurate. The Prosecution disagrees with the Defence that the tendered transcripts circumvent the Chamber’s rule 68(3) ruling. *First*, the witness was tested on such material in open Court, and *second*, the witness effectively met the additional criteria required for the admission of his statement (or parts thereof) in the course of his testimony in any event. Thus, there is neither a circumvention of the Chamber’s ruling since it allowed the use of the transcripts during the witness’s examination appropriately, nor any violation of the conditions of the rule, since all additional criteria were otherwise met expressly and impliedly as concerns the specific parts of the prior statement used.

As regards the references to Facebook conversations, the Prosecution will take the Chamber’s guidance on the matter. Principally, the Prosecution tenders the specific pages indicated in its List of Materials and those referenced in the Parties’ respective lists to the extent the Prosecution intends to tender those items, as indicated. However, the Chamber may consider that submission of the whole of the document may be necessary to place such conversations in context.

Should you have any questions or concerns, please let us know. Thank you.

Kind regards,

Kweku Vanderpuye

From: [REDACTED]
Sent: 04 June 2021 18:12
To: [REDACTED] Trial Chamber V Communications [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

OTP CAR IIB Operations

; Associate

Legal Officer-Court Officer

Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

The Defence for Mr Ngaïssona (‘Defence’) respectfully opposes the wholesale submission of the facebook conversations, as listed in the Prosecution’s first list (items #34-37) and third list (items #6-7) as it concerns Witness P-0801. The Defence would not oppose the submission of those pages containing messages on which Witness P-0801 specifically gave evidence during oral testimony; however, the *prima facie* relevance and reliability of the messages upon which the witness was not given an opportunity to comment have not been established by the Prosecution. In this regard, the Defence incorporates by reference its previous objections to the formal submissions of entire facebook conversations in relation to Witness P-2841 (see email dated 19 May 2021, 10:55 and email from the Defence team of Mr Yekatom dated 18 May at 20:25).

Furthermore, the Defence respectfully opposes the submission of the transcripts of P-0801's 2018 interview with the Prosecution (items #22-24 on the 1st list), as their submission would amount to a circumvention of Chamber's decision ICC-01/14-01/18-964-Conf, which explicitly rejected the Prosecution's rule 68(3) request.

Lastly, the Defence opposes the submission of the statement of another live Prosecution witness (P-2328, item #3 on the 3rd list), who has yet to testify and for which there is no rule 68 request by the Prosecution.

Respectfully yours,

Case manager- Ngaïssona Defence

From: Mostfa, Yassin

Sent: 02 June 2021 17:56

To: 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

Subject: OTP List of the documents to be submitted through P-0801

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-0801. The Prosecution requests that they be recognised as formally submitted.

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

Count	Doc ID	WIT - Used through	Type	EVD - Date	
1	CAR-D29-0001-0087	CAR-OTP-P-0801	Legal, Administration and Court document - non ICC	27-May-2021	
2	CAR-OTP-2001-0835	CAR-OTP-P-0801	Report	27-May-2021	
3	CAR-OTP-2001-3372	CAR-OTP-P-0801	Media / press article	27-May-2021	
4	CAR-OTP-2001-4464	CAR-OTP-P-0801	Media / press article	27-May-2021	
5	CAR-OTP-2001-4601	CAR-OTP-P-0801	Media / press article	26-May-2021	
6	CAR-OTP-2001-4818	CAR-OTP-P-0801	Media / press article	27-May-2021	
7	CAR-OTP-2001-6105	CAR-OTP-P-0801	Media / press article	26-May-2021	

8	CAR-OTP-2001-6708	CAR-OTP-P-0801	Media / press article	27-May-2021
9	CAR-OTP-2001-6924	CAR-OTP-P-0801	List / table	27-May-2021
10	CAR-OTP-2004-1530	CAR-OTP-P-0801	Legislation / government instruction / public guidelines	24-May-2021
11	CAR-OTP-2023-0032	CAR-OTP-P-0801	Report	28-May-2021
12	CAR-OTP-2025-0380	CAR-OTP-P-0801	Media / press article	26-May-2021
13	CAR-OTP-2030-0280	CAR-OTP-P-0801	Organisation diagram	25-May-2021
14	CAR-OTP-2030-0984	CAR-OTP-P-0801	Report	26-May-2021
15	CAR-OTP-2055-2610	CAR-OTP-P-0801	Audio / Video Material	26-May-2021
16	CAR-OTP-2064-1015	CAR-OTP-P-0801	Media / press article	27-May-2021
17	CAR-OTP-2065-0175	CAR-OTP-P-0801	Audio / Video Material	25-May-2021
18	CAR-OTP-2069-3544-R01	CAR-OTP-P-0801	Correspondence - Letter	25-May-2021
19	CAR-OTP-2069-3557	CAR-OTP-P-0801	Media / press article	27-May-2021
20	CAR-OTP-2069-3560	CAR-OTP-P-0801	List / table	27-May-2021
21	CAR-OTP-2073-0870	CAR-OTP-P-0801	Audio / Video Material	27-May-2021
22	CAR-OTP-2074-2065-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	25-May-2021 28-May-2021
23	CAR-OTP-2074-2120-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	26-May-2021
24	CAR-OTP-2074-2234-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	26-May-2021 27-May-2021
25	CAR-OTP-2084-1222	CAR-OTP-P-0801	Correspondence - Letter	25-May-2021 26-May-2021 28-May-2021
26	CAR-OTP-2084-1229	CAR-OTP-P-0801	Media / press article	26-May-2021 28-May-2021
27	CAR-OTP-2089-0840	CAR-OTP-P-0801	Correspondence - Letter	24-May-2021
28	CAR-OTP-2089-0936	CAR-OTP-P-0801	Internal guidelines / instruction / orders	24-May-2021
29	CAR-OTP-2091-0476	CAR-OTP-P-0801	Communication - E-message	25-May-2021
30	CAR-OTP-2091-1725	CAR-OTP-P-0801	Media / press article	26-May-2021
31	CAR-OTP-2092-1738-R01	CAR-OTP-P-0801	Correspondence - Letter	26-May-2021
32	CAR-OTP-2099-0154	CAR-OTP-P-0801	Media / press article	26-May-2021
33	CAR-OTP-2100-1699	CAR-OTP-P-0801	Internal guidelines / instruction / orders	27-May-2021 28-May-2021
34	CAR-OTP-2101-8599	CAR-OTP-P-0801	Communication - E-message	25-May-2021 31-May-2021
35	CAR-OTP-2101-9735	CAR-OTP-P-0801	Communication - E-message	31-May-2021
36	CAR-OTP-2102-2520	CAR-OTP-P-0801	Communication - E-message	31-May-2021
37	CAR-OTP-2102-6348	CAR-OTP-P-0801	Communication - E-message	25-May-2021
38	CAR-OTP-2107-1583	CAR-OTP-P-0801	Transcript	27-May-2021

39	CAR-OTP-2107-1596	CAR-OTP-P-0801	Transcript	25-May-2021
40	CAR-OTP-2107-6906	CAR-OTP-P-0801	Transcript	26-May-2021
41	CAR-OTP-2117-0696	CAR-OTP-P-0801	Media / press article	26-May-2021
42	CAR-OTP-2124-0852	CAR-OTP-P-0801	Contract / Agreement	25-May-2021
43	CAR-OTP-2127-4238-R01	CAR-OTP-P-0801	ICC Statement - General	31-May-2021
44	CAR-OTP-2081-0235	CAR-OTP-P-0801	Media / press article	25-May-2021
45	CAR-OTP-2088-2034	CAR-OTP-P-0801	Audio / Video Material	25-May-2021

(ii) The Prosecution seeks to submit the following items used during the course of YEKATOM's cross-examination of witness P-0801, to the extent that these items are not submitted by the YEKATOM Defence:

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2039-0031-R01	CAR-OTP-P-0801	List / table	28-May-2021
2	CAR-OTP-2042-3464	CAR-OTP-P-0801	Audio / Video Material	28-May-2021
3	CAR-OTP-2060-0799	CAR-OTP-P-0801	Media / press article	28-May-2021
4	CAR-OTP-2066-5310	CAR-OTP-P-0801	Audio / Video Material	28-May-2021
5	CAR-OTP-2084-1327	CAR-OTP-P-0801	Audio / Video Material	27-May-2021
6	CAR-OTP-2087-9027	CAR-OTP-P-0801	List / table	27-May-2021

(iii) The Prosecution seeks to submit the following items used during the course of NGAISSONA's cross-examination of witness P-0801, to the extent that these items are not submitted by the NGAISSONA Defence:

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2087-9271	CAR-OTP-P-0801	Minutes of meetings	31-May-2021
2	CAR-OTP-2088-2934	CAR-OTP-P-0801	Media / press article	31-May-2021
3	CAR-OTP-2099-0165-R03	CAR-OTP-P-0801	ICC Statement - General	31-May-2021
4	CAR-OTP-2100-1773	CAR-OTP-P-0801	Correspondence - Letter	31-May-2021
5	CAR-OTP-2100-1778	CAR-OTP-P-0801	Correspondence - Letter	31-May-2021
6	CAR-OTP-2100-4498	CAR-OTP-P-0801	Communication - E-message	31-May-2021
7	CAR-OTP-2100-6685	CAR-OTP-P-0801	Communication - E-message	31-May-2021

Kind regards,



OTP Case Manager

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From: [REDACTED]
Sent: 07 June 2021 17:43
To: Vanderpuye, Kweku; [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
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

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Further the document does not contain sufficient indicia of reliability: it is undated, unsigned, and the logo of the Anti-Balaka is not affixed. It is also incomplete – for instance, as is evident from the appearance of the words 'à préciser', and a last name appears to be missing from the list. Moreover, the name of Mr BANOUKEPA is misspelled on the top of the document and he is incorrectly designated as the general coordinator of the Anti-Balaka.

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With respect, the Prosecution's reliance on the use of the statements during the evidence of P-0801 is misplaced (see, Prosecution email of 4 June 2021 at 21:49). If the witness was indeed 'tested' on the material in his prior recorded testimony, the portions to which he was taken would necessarily be part of his transcript. If he was not taken to those portions, then it would be contrary to basic fairness to tender them without having given the witness the opportunity to have explained or commented on any purported inconsistencies; nor would any purported inconsistencies be probative in the absence of such opportunities. Furthermore, the

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The Defence opposes the submissions of those items to the extent that the Prosecution seeks submission of these documents in their entirety. In the interests of judicial economy, the Defence respectfully refers the Chamber to the Yekatom Defence email sent on 18 May 2021 at 20:26 – specifically, to the submissions made in opposition to the Prosecution's request for wholesale submission of Facebook messenger conversations following the evidence of P-2841 – and incorporates those submissions *mutatis mutandis*.

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Lastly, the Defence notes that the Prosecution has withdrawn its request for formal submission of Item #3 of the third list (CAR-OTP-2099-0165-R03), which the Defence would otherwise have opposed, in its email of 4 June.

Kind regards,



Legal Assistant, Yekatom Defence

From: Vanderpuye, Kweku 

Sent: 04 June 2021 21:49

To:  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

Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

Dear All,

The Prosecution notes that CAR-OTP-2099-0165-R03 should be excluded, as erroneous. In all other respects, the list is accurate. The Prosecution disagrees with the Defence that the tendered transcripts circumvent the Chamber's rule 68(3) ruling. *First*, the witness was tested on such material in open Court, and *second*, the witness effectively met the additional criteria required for the admission of his statement (or parts thereof) in the course of his testimony in any event. Thus, there is neither a circumvention of the Chamber's ruling since it allowed the use of the transcripts during the witness's examination appropriately, nor any violation of the conditions of the rule, since all additional criteria were otherwise met expressly and impliedly as concerns the specific parts of the prior statement used.

As regards the references to Facebook conversations, the Prosecution will take the Chamber's guidance on the matter. Principally, the Prosecution tenders the specific pages indicated in its List of Materials and those referenced in the Parties' respective lists to the extent the Prosecution intends to tender those items, as indicated. However, the Chamber may consider that submission of the whole of the document may be necessary to place such conversations in context.

Should you have any questions or concerns, please let us know. Thank you.

Kind regards,

Kweku Vanderpuye

From: [REDACTED]
Sent: 04 June 2021 18:12
To: [REDACTED] Trial Chamber V Communications [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]
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

The Defence for Mr Ngaissona ('Defence') respectfully opposes the wholesale submission of the facebook conversations, as listed in the Prosecution's first list (items #34-37) and third list (items #6-7) as it concerns Witness P-0801. The Defence would not oppose the submission of those pages containing messages on which Witness P-0801 specifically gave evidence during oral testimony; however, the *prima facie* relevance and reliability of the messages upon which the witness was not given an opportunity to comment have not been established by the Prosecution. In this regard, the Defence incorporates by reference its previous objections to the formal submissions of entire facebook conversations in relation to Witness P-2841 (see email dated 19 May 2021, 10:55 and email from the Defence team of Mr Yekatom dated 18 May at 20:25).

Furthermore, the Defence respectfully opposes the submission of the transcripts of P-0801's 2018 interview with the Prosecution (items #22-24 on the 1st list), as their submission would amount to a circumvention of Chamber's decision ICC-01/14-01/18-964-Conf, which explicitly rejected the Prosecution's rule 68(3) request.

Lastly, the Defence opposes the submission of the statement of another live Prosecution witness (P-2328, item #3 on the 3rd list), who has yet to testify and for which there is no rule 68 request by the Prosecution.

Respectfully yours,

[REDACTED]
Case manager- Ngaissona Defence

From: [REDACTED]
Sent: 02 June 2021 17:56
To: 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
Subject: OTP List of the documents to be submitted through P-0801

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-0801. The Prosecution requests that they be recognised as formally submitted.

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

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-D29-0001-0087	CAR-OTP-P-0801	Legal, Administration and Court document - non ICC	27-May-2021
2	CAR-OTP-2001-0835	CAR-OTP-P-0801	Report	27-May-2021
3	CAR-OTP-2001-3372	CAR-OTP-P-0801	Media / press article	27-May-2021
4	CAR-OTP-2001-4464	CAR-OTP-P-0801	Media / press article	27-May-2021
5	CAR-OTP-2001-4601	CAR-OTP-P-0801	Media / press article	26-May-2021
6	CAR-OTP-2001-4818	CAR-OTP-P-0801	Media / press article	27-May-2021
7	CAR-OTP-2001-6105	CAR-OTP-P-0801	Media / press article	26-May-2021
8	CAR-OTP-2001-6708	CAR-OTP-P-0801	Media / press article	27-May-2021
9	CAR-OTP-2001-6924	CAR-OTP-P-0801	List / table	27-May-2021
10	CAR-OTP-2004-1530	CAR-OTP-P-0801	Legislation / government instruction / public guidelines	24-May-2021
11	CAR-OTP-2023-0032	CAR-OTP-P-0801	Report	28-May-2021
12	CAR-OTP-2025-0380	CAR-OTP-P-0801	Media / press article	26-May-2021
13	CAR-OTP-2030-0280	CAR-OTP-P-0801	Organisation diagram	25-May-2021
14	CAR-OTP-2030-0984	CAR-OTP-P-0801	Report	26-May-2021
15	CAR-OTP-2055-2610	CAR-OTP-P-0801	Audio / Video Material	26-May-2021
16	CAR-OTP-2064-1015	CAR-OTP-P-0801	Media / press article	27-May-2021
17	CAR-OTP-2065-0175	CAR-OTP-P-0801	Audio / Video Material	25-May-2021
18	CAR-OTP-2069-3544-R01	CAR-OTP-P-0801	Correspondence - Letter	25-May-2021
19	CAR-OTP-2069-3557	CAR-OTP-P-0801	Media / press article	27-May-2021
20	CAR-OTP-2069-3560	CAR-OTP-P-0801	List / table	27-May-2021
21	CAR-OTP-2073-0870	CAR-OTP-P-0801	Audio / Video Material	27-May-2021
22	CAR-OTP-2074-2065-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	25-May-2021 28-May-2021

23	CAR-OTP-2074-2120-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	26-May-2021
24	CAR-OTP-2074-2234-R01	CAR-OTP-P-0801	ICC Statement - ICC transcribed statement	26-May-2021 27-May-2021
25	CAR-OTP-2084-1222	CAR-OTP-P-0801	Correspondence - Letter	25-May-2021 26-May-2021 28-May-2021
26	CAR-OTP-2084-1229	CAR-OTP-P-0801	Media / press article	26-May-2021 28-May-2021
27	CAR-OTP-2089-0840	CAR-OTP-P-0801	Correspondence - Letter	24-May-2021
28	CAR-OTP-2089-0936	CAR-OTP-P-0801	Internal guidelines / instruction / orders	24-May-2021
29	CAR-OTP-2091-0476	CAR-OTP-P-0801	Communication - E-message	25-May-2021
30	CAR-OTP-2091-1725	CAR-OTP-P-0801	Media / press article	26-May-2021
31	CAR-OTP-2092-1738-R01	CAR-OTP-P-0801	Correspondence - Letter	26-May-2021
32	CAR-OTP-2099-0154	CAR-OTP-P-0801	Media / press article	26-May-2021
33	CAR-OTP-2100-1699	CAR-OTP-P-0801	Internal guidelines / instruction / orders	27-May-2021 28-May-2021
34	CAR-OTP-2101-8599	CAR-OTP-P-0801	Communication - E-message	25-May-2021 31-May-2021
35	CAR-OTP-2101-9735	CAR-OTP-P-0801	Communication - E-message	31-May-2021
36	CAR-OTP-2102-2520	CAR-OTP-P-0801	Communication - E-message	31-May-2021
37	CAR-OTP-2102-6348	CAR-OTP-P-0801	Communication - E-message	25-May-2021
38	CAR-OTP-2107-1583	CAR-OTP-P-0801	Transcript	27-May-2021
39	CAR-OTP-2107-1596	CAR-OTP-P-0801	Transcript	25-May-2021
40	CAR-OTP-2107-6906	CAR-OTP-P-0801	Transcript	26-May-2021
41	CAR-OTP-2117-0696	CAR-OTP-P-0801	Media / press article	26-May-2021
42	CAR-OTP-2124-0852	CAR-OTP-P-0801	Contract / Agreement	25-May-2021
43	CAR-OTP-2127-4238-R01	CAR-OTP-P-0801	ICC Statement - General	31-May-2021
44	CAR-OTP-2081-0235	CAR-OTP-P-0801	Media / press article	25-May-2021
45	CAR-OTP-2088-2034	CAR-OTP-P-0801	Audio / Video Material	25-May-2021

- (ii) The Prosecution seeks to submit the following items used during the course of YEKATOM's cross-examination of witness P-0801, to the extent that these items are not submitted by the YEKATOM Defence:

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2039-0031-R01	CAR-OTP-P-0801	List / table	28-May-2021
2	CAR-OTP-2042-3464	CAR-OTP-P-0801	Audio / Video Material	28-May-2021
3	CAR-OTP-2060-0799	CAR-OTP-P-0801	Media / press article	28-May-2021
4	CAR-OTP-2066-5310	CAR-OTP-P-0801	Audio / Video Material	28-May-2021
5	CAR-OTP-2084-1327	CAR-OTP-P-0801	Audio / Video Material	27-May-2021
6	CAR-OTP-2087-9027	CAR-OTP-P-0801	List / table	27-May-2021

- (iii) The Prosecution seeks to submit the following items used during the course of NGAISSONA's cross-examination of witness P-0801, to the extent that these items are not submitted by the NGAISSONA Defence:

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2087-9271	CAR-OTP-P-0801	Minutes of meetings	31-May-2021
2	CAR-OTP-2088-2934	CAR-OTP-P-0801	Media / press article	31-May-2021
3	CAR-OTP-2099-0165-R03	CAR-OTP-P-0801	ICC Statement - General	31-May-2021
4	CAR-OTP-2100-1773	CAR-OTP-P-0801	Correspondence - Letter	31-May-2021
5	CAR-OTP-2100-1778	CAR-OTP-P-0801	Correspondence - Letter	31-May-2021
6	CAR-OTP-2100-4498	CAR-OTP-P-0801	Communication - E-message	31-May-2021
7	CAR-OTP-2100-6685	CAR-OTP-P-0801	Communication - E-message	31-May-2021

Kind regards,


OTP Case Manager

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From: [REDACTED]
Sent: [REDACTED] :12
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
Subject: RE: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

The Defence for Mr Ngaissona ('Defence') respectfully opposes the wholesale submission of the facebook conversations, as listed in the Prosecution's first list (items #34-37) and third list (items #6-7) as it concerns Witness P-0801. The Defence would not oppose the submission of those pages containing messages on which Witness P-0801 specifically gave evidence during oral testimony; however, the *prima facie* relevance and reliability of the messages upon which the witness was not given an opportunity to comment have not been established by the Prosecution. In this regard, the Defence incorporates by reference its previous objections to the formal submissions of entire facebook conversations in relation to Witness P-2841 (see email dated 19 May 2021, 10:55 and email from the Defence team of Mr Yekatom dated 18 May at 20:25).

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Lastly, the Defence opposes the submission of the statement of another live Prosecution witness (P-2328, item #3 on the 3rd list), who has yet to testify and for which there is no rule 68 request by the Prosecution.

Respectfully yours,

[REDACTED]
Ngaissona Defence

From: [REDACTED]
Sent: 02 June 2021 17:56
To: 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
Subject: OTP List of the documents to be submitted through P-0801

Dear Trial Chamber V,

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

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25	CAR-OTP-2084-1222	CAR-OTP-P-0801	Correspondence - Letter	25-May-2021 26-May-2021 28-May-2021
26	CAR-OTP-2084-1229	CAR-OTP-P-0801	Media / press article	26-May-2021 28-May-2021
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36	CAR-OTP-2102-2520	CAR-OTP-P-0801	Communication - E-message	31-May-2021
37	CAR-OTP-2102-6348	CAR-OTP-P-0801	Communication - E-message	25-May-2021
38	CAR-OTP-2107-1583	CAR-OTP-P-0801	Transcript	27-May-2021
39	CAR-OTP-2107-1596	CAR-OTP-P-0801	Transcript	25-May-2021
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45	CAR-OTP-2088-2034	CAR-OTP-P-0801	Audio / Video Material	25-May-2021

(ii) The Prosecution seeks to submit the following items used during the course of YEKATOM's cross-examination of witness P-0801, to the extent that these items are not submitted by the YEKATOM Defence:

Count	Doc ID	WIT - Used through	Type	EVD - Date
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3	CAR-OTP-2060-0799	CAR-OTP-P-0801	Media / press article	28-May-2021

4	CAR-OTP-2066-5310	CAR-OTP-P-0801	Audio / Video Material	28-May-2021
5	CAR-OTP-2084-1327	CAR-OTP-P-0801	Audio / Video Material	27-May-2021
6	CAR-OTP-2087-9027	CAR-OTP-P-0801	List / table	27-May-2021

(iii) The Prosecution seeks to submit the following items used during the course of NGAISSONA's cross-examination of witness P-0801, *to the extent that these items are not submitted by the NGAISSONA Defence*:

Count	Doc ID	WIT - Used through	Type	EVD - Date
1	CAR-OTP-2087-9271	CAR-OTP-P-0801	Minutes of meetings	31-May-2021
2	CAR-OTP-2088-2934	CAR-OTP-P-0801	Media / press article	31-May-2021
3	CAR-OTP-2099-0165-R03	CAR-OTP-P-0801	ICC Statement - General	31-May-2021
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5	CAR-OTP-2100-1778	CAR-OTP-P-0801	Correspondence - Letter	31-May-2021
6	CAR-OTP-2100-4498	CAR-OTP-P-0801	Communication - E-message	31-May-2021
7	CAR-OTP-2100-6685	CAR-OTP-P-0801	Communication - E-message	31-May-2021

Kind regards,



OTP Case Manager

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From: [REDACTED]
Sent: [REDACTED] :23
To: 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
Subject: D30 List of Documents to be submitted through P-0801

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 Defence respectfully requests the formal submission of the below documents, which were used during the course of P-0801's cross-examination:

Count	Doc ID	Title	Type	WIT - Used Through	EVD - Date Used	Tendering Party	Request Submission
1	CAR-D30-0006-0004	Decret N. 13-058	Legislation / government instruction / public guidelines	CAR-OTP-P-0801	31- May-2021	D30	Yes
2	CAR-D30-0006-0005	Decret N. 14-339	Legislation / government instruction / public guidelines	CAR-OTP-P-0801	31- May-2021	D30	Yes
3	CAR-D30-0006-0010	Centrafrique : Fin de l'ultimatum, voici le contenu de l'entretien entre Anicet Georges Dologuelé et Joachim Kokaté sur le supposé coup d'Etat	Media / press article	CAR-OTP-P-0801	31- May-2021	D30	Yes
4	CAR-D30-0006-0016	Decision N. 246/MDNAC/CAB	Legislation / government instruction / public guidelines	CAR-OTP-P-0801	31- May-2021 1- Jun-2021	D30	Yes
5	CAR-D30-0006-0019	Fiche de Position 87-2-1052	Identifying document	CAR-OTP-P-0801	1- Jun-2021	D30	Yes
6	CAR-D30-0006-0021	RCA: Deux ministres Anti-Balaka suspendent leurs activités au sein du gouvernement Kamoun	Media / press article	CAR-OTP-P-0801	31- May-2021	D30	Yes

7	CAR-D30-0006-0022	Centrafrique: instabilité et recrudescence des violences	Media / press article	CAR-OTP-P-0801	31-May-2021	D30	Yes
8	CAR-OTP-0080-0021-R01	Transcription de déposition / CAR-OTP-0078-0305 - Track 2 / Audio recorded interview / Day 1/2	ICC Statement - ICC transcribed statement	CAR-OTP-P-0801	31-May-2021	D30	Yes
9	CAR-OTP-0085-0673-R01	Transcription de déposition / Transcripts of CAR-OTP-0084-0135 - Tracks 1 to 7 Transcripts of CAR-OTP-0084-0136 / CAR-OTP-0084-0135- Track 3	ICC Statement - ICC transcribed statement	CAR-OTP-P-0801	31-May-2021	D30	Yes
10	CAR-OTP-0094-0035-R01	Transcript of Audio/Video Material / Audio Recording of Interview / CAR-OTP-0092-5501 - Track 1	ICC Statement - ICC transcribed statement	CAR-OTP-P-0801	1-Jun-2021	D30	Yes
11	CAR-OTP-2012-0436	Video 125 / LE TALK - JOACHIM KOKATE - Centrafrique - vidéo dailymotion	Audio / Video Material	CAR-OTP-P-0801	31-May-2021	D30	Yes
12	CAR-OTP-2084-1219-R02	KOKATE/JOACHIM MR 02JAN2014 CDG ADD	Communication - E-mail	CAR-OTP-P-0801	28-May-2021 31-May-2021	D30	Yes
13	CAR-OTP-2084-1222	MEMORANDUM POUR UN RETOUR A LA PAIX ET A LA STABILITE EN REPUBLIQUE CENTRAFRICAINE	Correspondence - Letter	CAR-OTP-P-0801	25-May-2021 26-May-2021 28-May-2021	D30	Yes
14	CAR-OTP-2084-1229	DECLARATION A LA TRES HAUTE ATTENTION DES CHEFS D'ETAT DE LA COMMUNAUTE ECONOMIQUE DES ETATS D'AFRIQUE CENTRALE (CEEAC) REUNIS EN SOMMET EXTRAORDINAIRE A NDJAMENA	Media / press article	CAR-OTP-P-0801	26-May-2021 28-May-2021	D30	Yes

15	CAR-OTP-2087-9271	Annexe 43 / COMPTE RENDU DES CONSULTATIONS DE LA JOURNEE DU 24 JANVIER 2014	Minutes of meetings	CAR-OTP-P-0801	31-May-2021	D30	Yes
16	CAR-OTP-2100-1773	Motif d l'Interpellation de sieur NGAIKOSSET Eugene et d'interdiction de sortie du Territoire National des messieurs KARIM MEKASSOUA et Joachim KOKATE / No. 180/MSPEI/DIRCAB/SP	Correspondence - Letter	CAR-OTP-P-0801	31-May-2021	D30	Yes
17	CAR-OTP-2100-1778	MESSAGE PORTE / No. 022/CAB/PP/TGI/BG	Correspondence - Letter	CAR-OTP-P-0801	31-May-2021	D30	Yes
18	CAR-OTP-2127-4453-R01	SCREENING NOTE	ICC Statement - ICC screening	CAR-OTP-P-0801	31-May-2021	D30	Yes

Respectfully yours,

 issona Defence

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From: [REDACTED]
Sent: 02 June 2021 16:05
To: Trial Chamber V Communications
Cc: D30 Ngaissona Defence Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; D29 Yekatom Defence Team
Subject: Yekatom Defence Documents to be submitted through P-0801

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-0801 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	Type
1	CAR-D29-0001-0081	Décision portant incorporation des jeunes recrues dans les FACA	Legal, Administration and Court document - non ICC
2	CAR-D29-0001-0087	Décision portant nomination du personnel non officier du bataillon provincial de la garde républicaine	Legal, Administration and Court document - non ICC
3	CAR-D29-0002-0013	Forum de Bangui : un comité d'organisation dit de consensus sans J-J Demafouth	Media / press article
4	CAR-D29-0002-0023	Centrafrique : Confiance d'un membre de cabinet de Samba-Panza	Media / press article
5	CAR-D29-0011-0001	Carte de visite de Joachim Kokate	Personal data
6	CAR-OTP-2001-3811	AFRICA CONFIDENTIAL / Vol 55 - N° 5	Media / press article
7	CAR-OTP-2004-1180	JOURNAL OFFICIEL DE LA REPUBLIQUE CENTRAFRICAINE / EDITION ORDINAIRE / JORCA/EO No. 2 Mars 2014	Legislation / government instruction / public guidelines
8	CAR-OTP-2024-0447	Wenezoui poses with his men at their base in the Boeing district of the Central African Republic's capital Bangui	Media / press article
9	CAR-OTP-2039-0031-R01	LISTE DES ANTIBALAKAS BANGUI - phase 1 / E	List / table
10	CAR-OTP-2042-3464	Ext Kokaté 02 180314 Fr.mp3	Audio / Video Material
11	CAR-OTP-2126-2719	LOCALISATION DES DIGNITAIRES DE DOTODJA	Map

12	CAR-OTP-2087-9027	Annexe 8	List/ table
13	CAR-OTP-2094-0295	Annexe 8 / DECRET N° 14.012 PORTANT NOMINATION OU CONFIRMATION DES MEMBRES DU GOUVERNEMENT DE TRANSITION	Legislation / government instruction / public guidelines
14	CAR-OTP-2127-4501	Transcription de document audio/vidéo / Anti-Balaka: Hand Over your Weapons or be Military Targets	Transcript
15	CAR-OTP-2127-4589	Traduction / Transcription de document audio/vidéo / Anti-Balaka: Hand Over your Weapons or be Military Targets	Translation - FRA
16	CAR-OTP-2066-5310	Anti-Balaka: Hand Over your Weapons or be Military Targets	Media / press article
17	CAR-OTP-2100-1699	Annexe 8 / DECRET N° 14.012 PORTANT NOMINATION OU CONFIRMATION DES MEMBRES DU GOUVERNEMENT DE TRANSITION	Legislation / government instruction / public guidelines
18	CAR-OTP-2084-1222	MEMORANDUM POUR UN RETOUR A LA PAIX ET A LA STABILITE EN REPUBLIQUE CENTRAFRICAINE	Correspondence - Letter

Best regards,


Case Manager
Yekatom Defence

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