

ANNEX 1

PUBLIC

From: Trial Chamber V Communications
Sent: 11 March 2022 17:32
To: OTP CAR IIB Case Management; OTP CAR IIB Operations; D29 Yekatom Defence Team; D30 Ngaïssona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team
Cc: Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Decision on Submitted Materials for P-0306
Attachments: OTP List of the documents to be submitted through P-0306; Ngaïssona Defence submission of evidence through P-0306

Dear Counsel, dear colleagues from the Registry,

The Chamber takes note of the emails on the submission of evidence following the examination of P-0306 by the Prosecution (see attached email from the Prosecution, 30 September 2021, at 10:19) and the Ngaïssona Defence (see attached email from the Ngaïssona Defence, 4 October 2021, at 12:52).

With regard to item **CAR-OTP-2032-0179**, the Chamber notes that the Ngaïssona Defence ‘only requests the submission of the relevant excerpts [...], i.e. (i) pages 0276-0279 which are non-testimonial in nature and (ii) pages 0297-0303 which were discussed with P-0306 and which submission is indispensable to the comprehension of the witness’ testimony’. As regards **pages 0276-0279**, the Chamber notes that, in the meantime, it recognised pages 0278-0279 as formally submitted in connection with witness P-0965 (see email decision, 21 February 2022, at 08:42). As regards pages 0276-0277, the Chamber notes that they are part of the report which has been partially recognised as formally submitted in connection with P-0965. The Chamber therefore recognises pages 0276-0277 of item CAR-OTP-2032-0179 as formally submitted.

As regards **pages 0297-0303**, the Chamber notes that they are part of the transcript of an interview [REDACTED] and are therefore testimonial in nature. In this regard, the Chamber recalls 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). The Chamber therefore rejects the Ngaïssona Defence’s request to consider pages 0297-0303 of item CAR-OTP-2032-0179 as formally submitted. It notes, however, that the Ngaïssona Defence elicited the information contained in pages 0297-0303 orally (see transcript of hearing, 28 January 2022, ICC-01/14-01/18-T-068-CONF-ENG, p. 12, line 11 to p. 14, line 13; p. 19, lines 7-8; p. 30, line 12 to p. 32, line 4), which will be available for the Chamber during its deliberations.

Regarding item **CAR-OTP-2030-0518**, also submitted by the Ngaïssona Defence and unopposed by the other participants, the Chamber notes that it consists of the transcript of an interview conducted by the French judiciary police with an individual in the framework of an ‘*enquête préliminaire*’. In line with the aforementioned direction regarding testimonial evidence, and noting that the conditions under Rule 68(3) of the Rules are not met for this document, the Chamber rejects the Ngaïssona Defence’s request to consider item CAR-OTP-2030-0518 as formally submitted.

In light of the above, the Chamber recognises as formally submitted the following items submitted by the Prosecution and the Ngaïssona Defence:

CAR-OTP-2051-0100
 CAR-OTP-2099-0262
 CAR-OTP-2120-0598
 CAR-OTP-2120-0599
 CAR-OTP-2120-0600
 CAR-OTP-2120-0601

CAR-OTP-2030-0403

CAR-OTP-2030-0988

CAR-OTP-2032-0179, limited to pages 0276-0277

CAR-OTP-2092-1334

CAR-OTP-2124-0949

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: 30 September 2021 10:19
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; [REDACTED]
Subject: OTP List of the documents to be submitted through P-0306

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-0306. The submitted documents were discussed with the witness during the course of his direct examination. The Prosecution, therefore, requests that they be recognised as formally submitted.

Please note that, as indicate below, video CAR-OTP-2049-0141 and its translation CAR-OTP-2074-1958 were already formally submitted via P-2251.

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

Count	Doc ID	WIT - Used through	Type	EVD - Date	EVD - Participant Tendering	Request Submission
1	CAR-OTP-2049-0141	CAR-OTP-P-0306 CAR-OTP-P-2251	Audio / Video Material	8-Jun-2021 28-Sep-2021	OTP	Already submitted
2	CAR-OTP-2051-0100	CAR-OTP-P-0306	Photograph/s	28-Sep-2021	OTP	YES
3	CAR-OTP-2074-1958	CAR-OTP-P-0306 CAR-OTP-P-2251	Translation - FRA	8-Jun-2021 28-Sep-2021	OTP	Already submitted
4	CAR-OTP-2099-0262	CAR-OTP-P-0306	Photograph/s	28-Sep-2021	OTP	YES
5	CAR-OTP-2120-0598	CAR-OTP-P-0306	Non ICC Statement (Note / Screening / Transcript)	28-Sep-2021 29-Sep-2021	OTP	YES
6	CAR-OTP-2120-0599	CAR-OTP-P-0306	Non ICC Statement (Note / Screening / Transcript)	29-Sep-2021	OTP	YES
7	CAR-OTP-2120-0600	CAR-OTP-P-0306	List / table	29-Sep-2021	OTP	YES

8	CAR- OTP- 2120- 0601	CAR- OTP-P- 0306	Non ICC Statement (Note / Screening / Transcript)	29- Sep- 2021	OTP	YES
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Kind regards,
On behalf of OTP Trial Team

From: [REDACTED]
Sent: 04 October 2021 12:52
To: Trial Chamber V Communications
Cc: D30 Ngaïssona Defence Team; D29 Yekatom Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Managers
Subject: Ngaïssona Defence submission of evidence through P-0306

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 of Mr. Ngaïssona respectfully requests the submission of the following items used during P-0306's cross-examination. In respect of document CAR-OTP-2032-0179, the Defence only requests the submission of the relevant excerpts identified in the table below, *i.e.* (i) pages 0276-0279 which are non-testimonial in nature and (ii) pages 0297-0303 which were discussed with P-0306 and which submission is indispensable to the comprehension of the witness' testimony:

Tab	Doc ID	Title	EVD - Date Used	Relevant passage
1	CAR-OTP-2030-0403	PROCES VERBAL DE SYNTHÈSE No. PV [REDACTED]	1-Oct-2021	Entire document
2	CAR-OTP-2030-0518	PROCES VERBAL D'AUDITION / [REDACTED]	1-Oct-2021	Entire document
3	CAR-OTP-2030-0988	[REDACTED]	1-Oct-2021	Entire document
4	CAR-OTP-2032-0179	Dossier	1-Oct-2021	at 0276-0279, 0297-0303
5	CAR-OTP-2092-1334	BULLETIN DE RENSEIGNEMENT SPECIAL	1-Oct-2021	Entire document
6	CAR-OTP-2124-0949	NGAISSONA/EDOUAR D PATRICE MR 07DEC2013 DLA CDG	1-Oct-2021	Entire document

Kind regards,

[REDACTED]

Legal Assistant – Ngaïssona Defence

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