

ANNEX 1

PUBLIC

From: Trial Chamber V Communications
Sent: 25 May 2022 09:33
To: OTP CAR IIB Case Management; OTP CAR IIB Operations; D29 Yekatom Defence Team; D30 Ngaïssona Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team
Cc: Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Decision on Submitted Materials for P-0876
Attachments: Ngaïssona Defence List of documents to be submitted through P-0876; Yekatom Defence documents to be submitted through P-0876

Dear Counsel, dear colleagues from the Registry,

The Chamber takes note of the emails on the submission of evidence following the examination of P-0876 by the Prosecution (*see* email below), the Ngaïssona Defence and the Yekatom Defence (*see* emails attached), as well as the Ngaïssona Defence's objections to the Prosecution's email (*see* email below).

At the outset, the Chamber notes that the Ngaïssona Defence 'opposes the wholesale submission of Call Data Records (CDR), as listed in the first Prosecution's list (items #8-10)', referring to items CAR-OTP-2054-1480, CAR-OTP-2054-1481 and CAR-OTP-2054-1482. Noting that the Prosecution indicates in its email that it does *not* request the submission of these three items, the Chamber considers the Ngaïssona Defence's objections to be moot.

With regard to item CAR-OTP-2081-0496, included in the Ngaïssona Defence's email and unopposed by the other participants, the Chamber notes that it contains letters, 'statements' and other kind of documents which are 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 item CAR-OTP-2081-0496 as formally submitted.

With regard to items CAR-OTP-2042-4966 and CAR-OTP-2042-4970, included in the Yekatom Defence's email and also unopposed by the other participants, the Chamber notes that these items consist of the transcription of the recording of the screening interview of P-0876 with the Prosecution. Noting that they are testimonial in nature, and considering the findings recalled above, the Chamber rejects the Yekatom Defence's request to consider items CAR-OTP-2042-4966 and CAR-OTP-2042-4970 as formally submitted.

With regard to item CAR-D29-0004-0023, the Chamber notes that it includes the call data records of the phone contact between two individuals. In light of the nature and scope of this item, compared to the extent to which it was used during P-0876's questioning, the Chamber is of the view that it would be more appropriate to seek its formal submission through a bar table application. Therefore, without prejudice to its ruling on any bar table request, the Chamber rejects the Yekatom Defence's request to formally submit item CAR-D29-0004-0023 by email through P-0876.

In light of the above, the Chamber recognises as formally submitted the following items:

CAR-OTP-0080-0840	CAR-OTP-2084-0608
CAR-OTP-2001-4867	CAR-OTP-2087-9176
CAR-OTP-2014-0755	CAR-D29-0008-0007
CAR-OTP-2029-0629	CAR-D29-0006-1090
CAR-OTP-2063-0075	CAR-OTP-2099-0265
CAR-OTP-2084-0605	CAR-OTP-2023-1757
CAR-OTP-2084-0912	CAR-OTP-2122-7375

CAR-OTP-2084-0958	CAR-D29-0008-0009
CAR-OTP-2084-1003	CAR-D29-0006-1169
CAR-OTP-2084-1005	CAR-OTP-2065-0396
CAR-OTP-2084-1008	CAR-OTP-2122-2284
CAR-OTP-2084-1010	CAR-OTP-2084-0606
CAR-OTP-2084-1015	CAR-OTP-2124-0516
CAR-OTP-2084-1025	CAR-D29-0016-0051
CAR-OTP-2084-1032	CAR-OTP-2084-0049
CAR-OTP-2084-1045	CAR-OTP-2084-1323
CAR-OTP-2084-1046	CAR-OTP-2107-1580
CAR-OTP-2084-1319	CAR-D29-0016-0052
CAR-OTP-2107-1577	CAR-OTP-2023-1990
CAR-OTP-2122-7370	CAR-OTP-2122-9420
CAR-D30-0003-0008	CAR-OTP-2046-0633
CAR-D30-0008-0086	CAR-OTP-2084-1084
CAR-OTP-2079-0050	CAR-OTP-2084-1085

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

CAR-OTP-2035-0061
 CAR-OTP-2035-0064
 CAR-OTP-2046-0247
 CAR-OTP-2046-0249
 CAR-OTP-2046-0267
 CAR-OTP-2046-0295
 CAR-OTP-2046-0324
 CAR-OTP-2046-0346
 CAR-OTP-2046-0370
 CAR-OTP-2046-0380
 CAR-OTP-2046-0407
 CAR-OTP-2046-0427
 CAR-OTP-2046-0455
 CAR-OTP-2046-0473
 CAR-OTP-2046-0500
 CAR-OTP-2046-0530
 CAR-OTP-2046-0562
 CAR-OTP-2135-1449

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: 17 December 2021 21:35
To: 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]
 [REDACTED] Associate Legal Officer-
 Court Officer [REDACTED]
 [REDACTED]
Subject: RE: Prosecution Submission of evidence following the examination of P-0876

Dear Trial Chamber,

The Defence for Mr Ngaïssona respectfully opposes the wholesale submission of Call Data Records (CDR), as listed in the first Prosecution's list (items #8-10).

First, CDR are very lengthy documents. Combined, the three documents used by the Prosecutor with Witness P-0876 amount to 1 210 592 Excel rows of data, spanning from 1 November 2013 to 30 June 2014. Only very limited parts of the CDR documents were mentioned during the examination in chief and therefore, the *prima facie* relevance and reliability of the remaining parts has not been established by the Prosecutor. In addition, the formal submission of the entire documents would put an undue burden on the Defence's resources.

Second, CDR are extremely technical documents containing raw data subject to interpretation and containing many unknowns such as the content of the call, the attribution of the number or the actual interlocutors (see objection raised in ICC-01/14-01/18-T-081-CONF-ENG, p. 60, lines 9-23). As CDR documents are not self-explanatory, when reference was made to CDR documents during the examination in chief, Witness P-0876 commented on the interpretation of those CDR by the Prosecution and not on the documents themselves (see ICC-01/14-01/18-T-085-CONF-ENG, pp 39-40, lines 17-12 ; p. 48, lines 13-21 ; pp 56-57, lines 1-10).

In light of the above, while the Defence would not object to the submission of those limited parts of CDR documents mentioned during the examination in chief, the Defence respectfully opposes to the submission of the wholesale CDR documents.

Kind regards,

From: [REDACTED]
Sent: 16 December 2021 10:29
To: 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: Prosecution Submission of evidence following the examination of P-0876

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-0876. Per paragraph 64 of the same *Directions*, the Prosecution seeks submission of the transcripts 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 used
1	CAR-OTP-0080-0821	CAR-OTP-P-0876	Report	7-Dec-2021
2	CAR-OTP-0080-0840	CAR-OTP-P-0876	Report	7-Dec-2021
3	CAR-OTP-2001-3372	CAR-OTP-P-0876	Media / press article	7-Dec-2021
4	CAR-OTP-2001-4867	CAR-OTP-P-0876	Media / press article	7-Dec-2021
5	CAR-OTP-2014-0755	CAR-OTP-P-0876	Audio / Video Material	7-Dec-2021

6	CAR-OTP-2029-0629	CAR-OTP-P-0876	Media / press article	7-Dec-2021
7	CAR-OTP-2030-0280	CAR-OTP-P-0876	Organisation diagram	7-Dec-2021
8	CAR-OTP-2054-1480	CAR-OTP-P-0876	Call Data Records (CDR)	7-Dec-2021
9	CAR-OTP-2054-1481	CAR-OTP-P-0876	Call Data Records (CDR)	7-Dec-2021
10	CAR-OTP-2054-1482	CAR-OTP-P-0876	Call Data Records (CDR)	7-Dec-2021
11	CAR-OTP-2063-0075	CAR-OTP-P-0876	Correspondence - Letter	7-Dec-2021
12	CAR-OTP-2084-0165	CAR-OTP-P-0876	Legal, Administration and Court document - non ICC	7-Dec-2021
13	CAR-OTP-2084-0605-R01	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
14	CAR-OTP-2084-0912-R01	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
15	CAR-OTP-2084-0958-R02	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
16	CAR-OTP-2084-1003-R01	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
17	CAR-OTP-2084-1005	CAR-OTP-P-0876	Presentation	7-Dec-2021
18	CAR-OTP-2084-1008-R01	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
19	CAR-OTP-2084-1010-R02	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
20	CAR-OTP-2084-1015-R02	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
21	CAR-OTP-2084-1025-R02	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
22	CAR-OTP-2084-1032-R02	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
23	CAR-OTP-2084-1045-R01	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
24	CAR-OTP-2084-1046-R01	CAR-OTP-P-0876	Communication - E-mail	7-Dec-2021
25	CAR-OTP-2084-1319	CAR-OTP-P-0876	Audio / Video Material	7-Dec-2021
26	CAR-OTP-2084-1327	CAR-OTP-P-0876	Audio / Video Material	7-Dec-2021
27	CAR-OTP-2087-9027	CAR-OTP-P-0876	List / table	7-Dec-2021
28	CAR-OTP-2107-1577	CAR-OTP-P-0876	Transcript	7-Dec-2021
29	CAR-OTP-2107-1583	CAR-OTP-P-0876	Transcript	7-Dec-2021
30	CAR-OTP-2122-7370	CAR-OTP-P-0876	Transcript	7-Dec-2021

- (ii) 18 items submitted under Rule 68(3) at the start of P-0876's testimony (ICC-01/14-01/18-1186-Conf, p. 12, para. 29; ICC-01/14-01/18-T-085-CONF ENG ET, p. 6, l. 17 to p. 7, l. 1) (including the corrections made by the witness to his transcribed statement, in the course of his familiarization (CAR-OTP-2135-1449)) :

Count	Doc ID	WIT - Used through	Type	EVD - Date used
1	CAR-OTP-2035-0061	CAR-OTP-P-0876	Media / press article	7-Dec-2021
2	CAR-OTP-2035-0064	CAR-OTP-P-0876	Media / press article	7-Dec-2021
3	CAR-OTP-2046-0247	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
4	CAR-OTP-2046-0249	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
5	CAR-OTP-2046-0267	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
6	CAR-OTP-2046-0295	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
7	CAR-OTP-2046-0324	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
8	CAR-OTP-2046-0346	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
9	CAR-OTP-2046-0370	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
10	CAR-OTP-2046-0380	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
11	CAR-OTP-2046-0407	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
12	CAR-OTP-2046-0427	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021

13	CAR-OTP-2046-0455	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
14	CAR-OTP-2046-0473	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
15	CAR-OTP-2046-0500	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
16	CAR-OTP-2046-0530	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
17	CAR-OTP-2046-0562	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021
18	CAR-OTP-2135-1449	CAR-OTP-P-0876	ICC Statement - ICC transcribed statement	7-Dec-2021

Kind regards,

On behalf of OTP Trial Team

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From: [REDACTED]
Sent: 16 December 2021 16:59
To: Trial Chamber V Communications
Cc: D30 Ngaissona Defence Team; D29 Yekatom Defence Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; Associate Legal Officer-Court Officer; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team
Subject: Yekatom Defence documents to be submitted through P-0876

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), the Defence for Mr Yekatom respectfully seeks the formal submission of the following documents used during its examination of witness of witness P-0876.

Count	Doc ID	Pages submitted	Title	EVD – Date Used
1.	CAR-D29-0008-0007	Entire item	Audio / Video Material Video Getty Image 462333253	9-Dec-2021
2.	CAR-D29-0006-1090	Entire item	Transcript Transcription of CAR-D29-0008-0007	9-Dec-2021
3.	CAR-OTP-2099-0265-R02	Entire item	Communication - E-mail Annexe 11 - Ensemble d'emails	9-Dec-2021
4.	CAR-OTP-2023-1757	Entire item	Audio / Video Material / RENION PRIMATURE ET ANTI BALAKA FR.mpg	9-Dec-2021
5.	CAR-OTP-2122-7375	Entire item	Transcript Transcription de document audio/vidéo / RENION PRIMATURE ET ANTI BALAKA FR.mpg	9-Dec-2021
6.	CAR-D29-0008-0009	Entire item	Audio / Video Material Centrafrique: deux musulmans lynchés à mort dans Bangui	9-Dec-2021
7.	CAR-D29-0006-1169	Entire item	Transcription de CAR-D29-0008-0009	9-Dec-2021
8.	CAR-OTP-2065-0396	Entire item	Audio / Video Material AA007001.MXF	9-Dec-2021
9.	CAR-OTP-2122-2284	Entire item	Translation – FRA Traduction / Transcription de document audio/vidéo / AA007001.MXF	9-Dec-2021
10.	CAR-OTP-2124-0516	Entire item	Correspondence – Letter Procès Verbal de la Réunion de concertation entre les Responsables du Mouvement des "Combattants de libération du Peuple Centrafricain" (CLPC) dénommé "Antibalaka" relative à la Session extraordinaire des Etats membres de la CEEAC / No. 02/CLPC/14	9-Dec-2021
11.	CAR-OTP-2063-0075	Entire item	Correspondence – Letter Annex B / [REDACTED] [REDACTED] [REDACTED]	7-Dec-2021 9-Dec-2021

12.	CAR-D29-0016-0051	Entire item	Communication - E-message Capture d'écran d'une publication Facebook Bonjour les compatriotes	9-Dec-2021
13.	CAR-OTP-2029-0629	Entire item	Media / press article A Bangui, la curée anti-musulmans	7-Dec-2021 9-Dec-2021
14.	CAR-OTP-2084-0049	Entire item	Media / press article DECLARATION des Combattants Antibalaka relative à la situation sécuritaire en République Centrafricaine / No. 15/CLPC/13	2-Dec-2021 9-Dec-2021
15.	CAR-OTP-2084-1319	Entire item	Audio / Video Material PB002001.mov	7-Dec-2021 9-Dec-2021
16.	CAR-OTP-2107-1577	Entire item	Transcript Transcription de document audio/vidéo / PB002001.mov	7-Dec-2021 9-Dec-2021
17.	CAR-OTP-2084-1323	Entire item	Audio / Video Material PB002002.mov	9-Dec-2021
18.	CAR-OTP-2107-1580	Entire item	Transcript Transcription de document audio/vidéo / PB002002.mov	9-Dec-2021
19.	CAR-OTP-2001-4867	Entire item	Media / press article Bangui : Les Anti-balaka se choisissent une nouvelle coordination générale	7-Dec-2021 10-Dec-2021
20.	CAR-OTP-2084-1010-R02	Entire item	Communication - E-mail Re: Re :	7-Dec-2021 10-Dec-2021
21.	CAR-D29-0004-0023	Entire item	Call Data Records (CDR) CST 2013-14 - Contact between [REDACTED]	10-Dec-2021
22.	CAR-D29-0016-0052	Entire item	Communication - E-message Capture d'écran d'une publication Facebook [REDACTED] [REDACTED]	10-Dec-2021
23.	CAR-OTP-2023-1990	Entire item	Audio / Video Material RENCONTRE MINI COM ANTI BALAKA FR.mpg	10-Dec-2021
24.	CAR-OTP-2122-9420	Entire item	Transcript Transcription de document audio / vidéo / RENCONTRE MINI COM ANTI BALAKA FR.mpg	10-Dec-2021
25.	CAR-OTP-2046-0633	Entire item	Map Annex E: Map of CAR with the areas circled where Anti-Balaka are established	10-Dec-2021
26.	CAR-OTP-2084-1084-R01	Entire item	Communication - E-mail Ton discours	9-Dec-2021
27.	CAR-OTP-2084-1085-	Entire item	Presentation Mesdame1.doc	9-Dec-2021
28.	CAR-OTP-2042-4966	Entire item	ICC Statement - ICC transcribed statement Transcription de déposition / CAR- OTP-P-0876 Screening / CAR-OTP- 2032-0176 - Track 1	9-Dec-2021
29.	CAR-OTP-2042-4970	Entire item	ICC Statement - ICC transcribed statement Transcription de déposition / CAR- OTP-P-0876 Screening / CAR-OTP- 2032-0176 - Track 1	9-Dec-2021

Best regards,

[REDACTED]

Case Manager, Yekatom Defence

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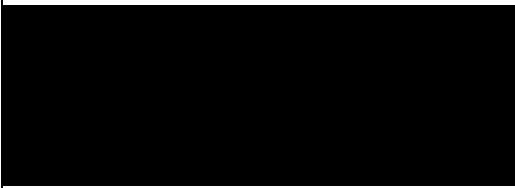
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From: [REDACTED]
Sent: 16 December 2021 12:32
To: Trial Chamber V Communications
Cc: D30 Ngaïssona Defence Team; D29 Yekatom Defence Team; V44 LRV Team OPCV; V45 LRV Team; V44 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; Associate Legal Officer-Court Officer
Subject: Ngaïssona Defence List of documents to be submitted through P-0876

Dear Trial Chamber,

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 Ngaïssona requests the submission of the following items used during P-0876's questioning by the non-calling party:

Count	Doc ID	Title	WIT - Used Through	Type	Used By	EVD - Date Used
1	CAR-D30-0003-0008	DECISION N°001 Portant nomination des Patriotes aux postes de responsabilités à la Coordination Générale	CAR-OTP-P-0876	Legal, Administration and Court document - non ICC	D30	14-Dec-2021
2	CAR-D30-0008-0086	Screenshot Google Maps	CAR-OTP-P-0876	Map	D30	14-Dec-2021
3	CAR-OTP-2001-4867	Bangui : Les Anti-balaka se choisissent une nouvelle coordination générale	CAR-OTP-P-0876	Media / press article	D29 D30 OTP	7-Dec-2021 10-Dec-2021 14-Dec-2021
4	CAR-OTP-2063-0075	Annex B / [REDACTED] [REDACTED] [REDACTED].	CAR-OTP-P-0876	Correspondence - Letter	D29 D30 OTP	7-Dec-2021 9-Dec-2021 14-Dec-2021
5	CAR-OTP-2079-0050	Annex M / PROCES VERBAL DE LA REUNION EXTRAORDINAIRE CONJOINTE DE CONCERTATION DU BUREAU EXECUTIF DES ANTI-BALAKA	CAR-OTP-P-0876	Report	D30	14-Dec-2021
6	CAR-OTP-	HEARING BEFORE THE SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTERNATIONAL	CAR-OTP-P-0876	Non ICC Statement (Note / Screening / Transcript)	D30	14-Dec-2021

	2081-0496	ORGANIZATIONS OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED THIRTEENTH CONGRESS FIRST SESSION				
7	CAR-OTP-2084-0606-R01	Attention danger!	CAR-OTP-P-0876	Communication - E-mail	D30	14-Dec-2021
8	CAR-OTP-2084-0608	Iran and Sudan Begin to Execute Moves to Dominate Central.pdf	CAR-OTP-P-0876	Media / press article	D30	14-Dec-2021
9	CAR-OTP-2084-0958-R02		CAR-OTP-P-0876	Communication - E-mail	D30 OTP	7-Dec-2021 14-Dec-2021
10	CAR-OTP-2087-9176	Annexe 34 / PROJET D'AIDE D'URGENCE AU REGROUPEMENT DES COMBATTANTS ANTIBALAKA / Première étape : Bangui	CAR-OTP-P-0876	Report	D30	14-Dec-2021

Kind regards,



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