

ANNEX 51
PUBLIC
REDACTED

From: Trial Chamber V Communications
Sent: 18 July 2022 08:57
To: [REDACTED]; Trial Chamber V Communications
Cc: D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Operations; Associate Legal Officer-Court Officer; [REDACTED] Chamber
Subject: Decisions Communication
 Decision on Certain Items in the Prosecution's List of Materials for P-2556

Dear Counsel,

The Presiding Judge takes note of the email by the Ngaissona Defence, whereby it 'note[d] for the record that items CAR-OTP-2130-1176 (tab 19), CAR-OTP-2130-1298 (tab 21) and CAR-OTP-2136-1473 (tab 23) [the 'Items'] are not included in the Prosecution's initial List of Evidence or its amendments', and the Prosecution's response thereto (see emails below).

The Single Judge previously indicated that he expects that all documents to be relied upon by the Prosecution during the examination of a witness in a hearing are to be included in its List of Evidence (see emails from the Chamber, 29 September 2021, at 10:00; 3 November 2021, at 14:52; and 25 November 2021, at 18:54).

The Single Judge observes, as acknowledged by the Ngaissona Defence, that the Items are transcripts of audio-visual recordings that are included in the List of Evidence. While the Single Judge takes note of the Prosecution's submissions concerning paragraph 64 of the 'Initial Directions on the Conduct of Proceedings', 26 August 2020, ICC-01/14-01/18-631 (the 'Initial Directions'), he notes that this direction concerns, *inter alia*, recognising the formal submission of associated transcripts of audio-visual material, which is presently not at issue.

The Single Judge further notes that, in respect of the Items, both CAR-OTP-2130-1176 and CAR-OTP-2130-1298 were disclosed on 18 December 2020, and that the Prosecution shared on 8 July 2022 a courtesy copy of CAR-OTP-2136-1473, indicating that it will disclose it on Friday 15 July 2022 (see emails from the Prosecution, 8 July 2022, at 17:01 and 12 July 2022, at 11:44). Moreover, given the undisputed nature of the Items, the Single Judge is of the view that allowing the Prosecution to use them during the examination of P-2556 will assist the Chamber and participants during the examination of the witness.

Nonetheless, the Single Judge stresses that, according to paragraph 64 of the Initial Directions, it is clearly preferable that the transcripts/translations of audio-visual material be on the list of evidence or formally submitted, so that there be no confusion as to their status.

Kind regards,

TC V

From: [REDACTED]
Sent: 12 July 2022 13:11
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]; Associate Legal Officer-Court Officer [REDACTED]
 [REDACTED]
 [REDACTED]

Subject: RE: OTP summary of P-2556 and the examination list in Nuix

Dear Trial Chamber V,

Items 19 and 21 are respectively the transcription and translation of item 1 in the Prosecution binder (Audio/ video “Les bannis de Bangui”) and item 23 is the transcription of item 4 (“Audio/video “Arrestation Anti Balaka”). As acknowledged by the Defence, the items in question are not new pieces of evidence but simply transcripts and translations of audio-video materials timely disclosed by the Prosecution and included in the list of evidence. As per para. 64 of the Chamber’s Initial Directions on the Conduct of the Proceedings, audio-video material automatically includes any associated disclosed transcripts or translations, regardless of whether those transcripts/ translations were included in the list of evidence. Item 19 and 21 were duly disclosed. As to item 23, a courtesy copy was circulated by the Prosecution last Friday and it will be formally disclosed next Friday. Therefore, the Defence objection has no merit.”

Kind regards,

On behalf of OTP Trial Team

From: [REDACTED]
Sent: mardi 12 juillet 2022 12:02
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]
 [REDACTED]
 [REDACTED]
Subject: RE: OTP summary of P-2556 and the examination list in Nuix

Dear Trial Chamber V,

The Defence for Mr Ngaïssona (‘the Defence’) notes for the record that items CAR-OTP-2130-1176 (tab 19), CAR-OTP-2130-1298 (tab 21) and CAR-OTP-2136-1473 (tab 23) are not included in the Prosecution’s initial List of Evidence or its amendments.

While the Defence acknowledges that all three items are transcripts of audios/videos that are included in the List of Evidence, it is our position that the Prosecution should have included them in its List of Evidence when it was given the chance to amend it, pursuant to the Chamber’s order.

Sincerely,

[REDACTED]
 [REDACTED]
 Case Manager – Ngaïssona Defence Team
 International Criminal Court (ICC)

[REDACTED]
www.icc-cpi.int

From: [REDACTED]
Sent: 12 July 2022 11:44

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]> Associate
 Legal Officer-Court Officer [REDACTED]
 [REDACTED]
 [REDACTED]

Subject: RE: OTP summary of P-2556 and the examination list in Nuix

Dear Trial Chamber V,
 Dear Colleagues,

The examination list of P-2556 has been uploaded into Nuix. To view the materials in Nuix database, please go to "Search", select in the field "CB OTP" – and the value "007 – CAR-OTP- 2556". To sort the material in the proper order, please add the field 'CB OTP – 007 tab' to your view and click on the arrow to sort it.

Please be informed that the item CAR-OTP-2136-1473 (Tab 23 Transcript) will be disclosed and appeared in Nuix on Friday.

Kind regards,

[REDACTED]
 OTP Case Manager

From: [REDACTED]
Sent: 08 July 2022 17:01
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]; Associate
 Legal Officer-Court Officer [REDACTED]
 [REDACTED]
 [REDACTED]
Subject: OTP summary of P-2556 and the examination list

Dear Trial Chamber V,
 Dear Colleagues,

Please find attached the OTP summary of P-2556, and the hyperlinked list of P-2556. The electronic binder will be available on Tuesday in Nuix.

Please be informed that item CAR-OTP-2136-1473 (Tab 23) will be disclosed next week. A registered courtesy copy is in attached.

Please note that, in principle, the areas that the Prosecution intends to discuss in private session are highlighted in grey in the attached summary.

Kind regards,

[REDACTED]
 OTP Case Manager

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