

Annex 1

Public

[REDACTED]

From: Trial Chamber III Communications
Sent: 28 March 2022 15:05
To: OTP KEN art70 [REDACTED] D32 Gicheru Defence team; Associate Legal Officer-Court Officer
Cc: Trial Chamber III Communications
Subject: Decision on Submitted Materials for P-0274
Attachments: Items of evidence for submission: P-0274; Defence List of items for submission into evidence - P-0274.msg

[REDACTED]

Dear Counsel and Registry,

The Prosecution requests to recognise 4 items as formally submitted (Email from the Prosecution, 2 March 2022, at 13:06) and the Defence requests that 23 items are recognised as formally submitted (Email from the Defence, 2 March 2022, 17:06).

The Chamber notes that all items submitted by the parties are unopposed.

Regarding the item that is requested by both parties to be recognised as formally submitted (KEN-OTP-0107-0565), the Chamber recalls its previous explanations in its earlier decisions on submitted materials for viva voce witnesses. In line with these clarifications, the Registry does not need to mark this item a second time as recognised as formally submitted.

Item 1 (KEN-OTP-0073-0259), Item 2 (KEN-OTP-0124-0237) and item 3 (KEN-OTP-0107-0565) (of the Prosecution items)

The Chamber notes that item 3 was used during the questioning of the witness by both the Prosecution and the Defence. Pursuant to the Directions of the Conduct of the Proceedings (ICC-01/09-01/20-189, para. 19) related items 1 and 2 are also recognised as formally submitted.

Item 10 (KEN-OTP-0159-0986-R01), item 20 (KEN-OTP-0159-1803) and item 22 (KEN-OTP-0150-0255) (of the Defence items)

In respect of item 10, item 20 and item 22, the Chamber notes that they all constitute prior recorded testimony. Consequently, they may only be submitted under one of the available avenues of Rule 68 of the Rules of Procedure and Evidence. Since the Defence did not explain how any of these three items fulfil the conditions of Rule 68, the Chamber rejects the request to recognise them as formally submitted.

Item 23 (no ERN; Defence list of submitted items)

With regard to item 23 of the Defence list (Witness clarification log from 24.02.2022), the Chamber notes that no ERN has been provided. This is not due to any fault by the Defence since the item in question was only uploaded into Ringtail later and received an ERN at that moment in time. However, the Chamber notes that there are two items with this name and date (KEN-OTP-0160-1602 and KEN-OTP-0160-1605). From context (see discussion on ICC-01/09-01/20-T-058-CONF-ENG, page 66, lines 7 onwards), it appears that the Defence discussed both documents. The Chamber therefore assumes that both items are also being put forward for recognition as formally submitted. However, in order to avoid any misunderstanding, the Registry is hereby instructed to liaise with the Defence in order to clarify whether they wish both items to be recognised as formally submitted.

The remainder of the items put forward for submission by both parties have been discussed in one form or another during the witnesses testimony.

In summary, for P-0274, the Chamber recognises all items requested by the Prosecution and all items requested by the Defence – with the exception of items 10, 20 and 22 of the Defence's list of items – as formally submitted.

The Registry is directed to proceed in accordance with paragraph 17(iv) of the Directions on the Conduct of the Proceedings, 7 October 2021, ICC-01/09-01/20-189.

Kind regards,
Trial Chamber III

[REDACTED]

From: [REDACTED]
Sent: 02 March 2022 13:06
To: Trial Chamber III Communications
Cc: Trial Chamber III Legal Officers; D32 Gicheru Defence team; OTP KEN art70 [REDACTED]; Associate Legal Officer-Court Officer
Subject: Items of evidence for submission: P-0274

Dear Trial Chamber III,
Dear Counsel,

Please find below a list of items for witness P-0274 the Prosecution seeks to formally submit into evidence as per paragraph 17 (i) of the Directions on the Conduct of the Proceedings (ICC-01/09-01/20-189). These items are also included in the list of material for P-0274 the Prosecution provided to the Chamber and the Defence on Wednesday 23 February 2022.

Further, the Prosecution seeks to formally submit into evidence P-0274's Protected Information List (item 4 on the list below) used during his testimony by both parties. This item will be formally disclosed and released in eCourt as soon as possible.

Items of evidence for submission: P-0274

1. KEN-OTP-0073-0259 (audio)
2. KEN-OTP-0124-0237 (transcript)
3. KEN-OTP-0107-0565 (translation)
4. KEN-OTP-0159-2015 (PIL)

Best regards,

[REDACTED]
On behalf of the Prosecution

[REDACTED]

From: Amann-Lasnier, Victoria [REDACTED]
Sent: 02 March 2022 17:06
To: Trial Chamber III Communications; OTP KEN art70 [REDACTED]
Cc: D32 Gicheru Defence team; [REDACTED] Associate Legal Officer-Court Officer
Subject: Defence List of items for submission into evidence - P-0274
Attachments: 220302 - Defence List for admission into evidence.pdf

Dear Honorable Single Judge of Trial Chamber III,
Dear Prosecution,

On behalf of Mr. Karnavas, please find enclosed the List of items the Defence formally requests to be submitted into evidence for Witness P-0274 in accordance with paragraph 17 of the Directions (ICC-01/09-01/20-189).

Sincerely yours,
Victoria Amann-Lasnier

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ICC-01/09-01/20

THE PROSECUTOR V. PAUL GICHERU

List of items the Defence formally requests to be admitted into evidence for Witness P-0274

	ERN Number	Title	Type	Date	Relevant excerpt if necessary	Admission into evidence
1.	KEN-OTP-0107-0565	[REDACTED]	[REDACTED]	[REDACTED]		Yes
2.	KEN-OTP-0148-0133-R01	[REDACTED]	[REDACTED]	20/12/2014		Yes
3.	KEN-OTP-0148-0136-R01	INVESTIGATOR'S REPORT / [REDACTED]	ICC Investigation notes / report / correspondence	24/12/2014		Yes
4.	KEN-OTP-0148-0138-R01	[REDACTED]	[REDACTED]	[REDACTED]		Yes
5.	KEN-OTP-0148-0140	Untitled	[REDACTED]	[REDACTED]		Yes
6.	KEN-OTP-0148-0141-R01	Untitled	[REDACTED]	[REDACTED]		Yes

7.	KEN-OTP-0150-0345	INVESTIGATOR'S REPORT / Background information [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
8.	KEN-OTP-0150-0617-R01	[REDACTED]	[REDACTED]	9/4/2015		Yes
9.	KEN-OTP-0150-1011-R01	[REDACTED]	[REDACTED]	13/4/2015		Yes
10.	KEN-OTP-0159-0986-R01	WITNESS STATEMENT	ICC Statement - General	[REDACTED] 2/2021		Yes
11.	KEN-OTP-0159-1851	INVESTIGATION REPORT / Phone contact [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
12.	KEN-OTP-0159-1855	Untitled	Correspondence - Letter	[REDACTED]		Yes
13.	KEN-OTP-0159-1857	INVESTIGATION REPORT / Phone Call [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
14.	KEN-OTP-0159-1953	INVESTIGATION REPORT / Background information [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
15.	KEN-OTP-0159-1997	[REDACTED]	[REDACTED]	[REDACTED]		Yes
16.	KEN-OTP-0160-0206	INVESTIGATION REPORT / Phone call to [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
17.	KEN-OTP-0160-0269-R01	Untitled	Correspondence - Letter	29/7/2021		Yes

18.	KEN-OTP-0160-0275-R01	Untitled	Correspondence - Letter	3/8/2021		Yes
19.	KEN-OTP-0160-1489	INVESTIGATION REPORT / Contacts with [REDACTED]	ICC Investigation notes / report / correspondence	10/1/2022		Yes
20.	KEN-OTP-0159-1803	Transcript of interview / Audio Recordings of Witness Interview / KEN-OTP-0160-0212 - Track 2	ICC Statement - ICC transcribed statement	[REDACTED]		Yes
21.	KEN-OTP-0147-1590	INVESTIGATOR'S REPORT / Meeting with [REDACTED]	ICC Investigation notes / report / correspondence	15/5/2012		Yes
22.	KEN-OTP-0150-0255	WITNESS STATEMENT	ICC Statement - General	[REDACTED]		Yes
23.	N/A	Witness clarification log	ICC witness preparation log / clarification	24/2/2022		Yes