

**ANNEX 1**  
**Public Redacted**  
**Version**

**From:** Trial Chamber V Communications  
**Sent:** 27 March 2023 17:17  
**To:** OTP CAR IIB; D29 Yekatom Defence Team; D30 Ngaïssona Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Associate Legal Officer-Court Officer Chamber Decisions Communication; Trial Chamber V Communications  
**Cc:**  
**Subject:** Decision on Submitted Materials for P-2353

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

[ICC] RESTRICTED

Dear Counsel, dear colleagues from the Registry,

The Chamber takes note of the email on the submission of evidence following the examination of P-2353 by the Prosecution (*see below* email from the Prosecution, 20 September 2022, at 12:12), and the objections thereto by the Ngaïssona Defence (*see below* email from the Ngaïssona Defence, 23 September 2022, at 17:02).

The Chamber notes that the Ngaïssona Defence does not object to the submission of item CAR-REG-0001-0009. However, it takes note of its submissions that the Chamber consider the alleged lack of probative value and reliability of item CAR-REG-0001-0009 'at the time of conducting its holistic assessment of the evidence during the deliberation of the judgment'. Furthermore, in relation to the Ngaïssona Defence indicating that it had not yet received the item at that time and that it thus reserved its right to supplement its observations, the Chamber notes that the item was released to the Ngaïssona Defence by the Registry on the first day of the examination of the witness, and that no further submissions have been received with regard to the item.

In light of the above, and in the absence of any procedural bars, the Chamber recognises as formally submitted the following items:

Doc ID	Title	Type
CAR-REG-0001-0009		Court document - ICC
CAR-OTP-2107-3014	Transcription de document audio / vidéo / MORT DE DIDO.3gp	Transcript
CAR-OTP-2118-5633	MORT DE DIDO.3gp	Translation - FRA

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

Doc ID	Title	Type
CAR-OTP-2100-0226	WITNESS STATEMENT	ICC Statement - General
CAR-OTP-2122-4377	Traduction d'élément de preuve / DÉCLARATION DE TÉMOIN / WITNESS STATEMENT	ICC Statement - Translation - FRA
CAR-OTP-2100-0242	Annex A / Axe Mbaiki-Bangui	Map

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:** 23 September 2022 17:02  
**To:** [REDACTED] Trial Chamber V Communications <[REDACTED]>  
 [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-2353

Dear Trial Chamber V,

Dear all,

Pursuant to paragraph 63(2) of the Initial Directions on the Conduct of the Proceedings the Defence presents the following submissions in relation to the Prosecution's submission of CAR-REG-0001-0009 along with the accompanying transcripts CAR-OTP-2107-3014 and CAR-OTP-2118-5633.

The Defence has not yet received CAR-REG-0001-0009 and thus reserves its rights to supplement the below observations.

This video lacks probative value and reliability.

*First*, the author of the video is unknown (see for instance T-161-ENG RT, page 35, lines 4-9 and page 37, lines 19-24). P-2353 indicated during his testimony that [REDACTED] and that he does not know how this person received it. *Second*, the video lacks probative value in that the date and time when the video was made is further unknown. *Third*, P-2353 was unable to identify persons in the crowd and alleged perpetrators (T-161-ENG-RT page 59, lines 12-18). In addition, the video displayed in court was of bad quality. This poses further challenges to verifying elements in the video and noticing potential tampering or corruption in the data. *Fourth*, P-2353 indicated that [REDACTED], years after the time the alleged events would have taken place (T-161-ENG-RT, page 36, line 24 to page 37, lines 2). [REDACTED] was not contemporaneous with the events and it is impossible to know how many hands the video passed through before arriving [REDACTED]. Because of this, it could have been altered or corrupted through repeated re-encoding and transfer in the intervening years. P-2353 also did not provide sufficient information that could be understood as indicating a [REDACTED].

The Defence respectfully requests the Chamber to consider the above submissions at the time of conducting its holistic assessment of the evidence during the deliberation of the judgment.

Kind regards,

[REDACTED]  
 Legal Assistant, Defence for Mr Ngaissona

**From:** [REDACTED]  
**Sent:** 20 September 2022 12:12

**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]  
 [REDACTED]

**Subject:** Prosecution Submission of evidence following the examination of P-2353

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, "Directions"), the Prosecution requests that the following items be recognised as formally submitted:

- (i) 3 items submitted under Rule 68(3) at the start of P-2353's testimony (see ICC-01/14-01/18-1480-Red; and ICC-01/14-01/18-T-161-CONF ENG RT, p.8, l.16-p.10, l.4)

Count	Doc ID	WIT - Used through	Type	EVD - Date	EVD - Participant Tendering	Request Submission
1	CAR-OTP-2100-0226	Rule 68(3)	ICC Statement - General	19-Sep-22	OTP	YES
2	CAR-OTP-2100-0242	Rule 68(3)	Map	19-Sep-22	OTP	YES
3	CAR-OTP-2122-4377	Rule 68(3)	ICC Statement - Translation - FRA	19-Sep-22	OTP	YES

- (ii) The Prosecution also seeks to submit the following item collected from P-2353 by the Chamber and viewed in its entirety during his examination, as well the transcript and translation of the version of the video available at CAR-OTP-2059-0384 (which was officially already submitted through P-2475):

Count	Doc ID	WIT - Used through	Type	EVD - Date	EVD - Participant Tendering	Request Submission
1	CAR-REG-0001-0009	CAR-OTP-P-2353	Audio / Video Material	19-Sep-22	OTP	YES
2	CAR-OTP-2107-3014	CAR-OTP-P-2353	Transcript	19-Sep-22	OTP	YES
3	CAR-OTP-2118-5633	CAR-OTP-P-2353	Translation - FRA	19-Sep-22	OTP	YES

Kind regards,

[REDACTED]  
 OTP Case Manager

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