

Annex 1

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[REDACTED]

From: Trial Chamber I Communications
Sent: 28 November 2023 13:57
To: Abd Al Rahman Prosecution Team; D31AbdAlRahmanDefenceTeam [REDACTED]
V47AbdAlRahmanLRVTeam [REDACTED]
Cc: FS Items Communication; Associate Legal Officer-Court Officer; Trial Chamber I Communications
Subject: Decision on the submission of evidence through D-0027
Attachments: D-0027 List of Materials for Submission; RE: Prosecution's List of Material for Submission - D-0027

Dear counsel,
Dear colleagues,

Following the testimony of D-0027, the Chamber notes the submission of 2 items by the Defence (e-mail of 20 November 2023, at 18:05) and 11 items by the Prosecution (e-mail of 20 November 2023 at 18:21).

Noting that the items identified by the Defence were used and discussed with D-0027, and that these are unopposed, the Chamber hereby recognises them as formally submitted.

In relation to the items identified by the Prosecution, the Defence objects to the submission of items 4-7 and 10-11 on the Prosecution's list (e-mail of 22 November 2023, at 06:19).

The Chamber notes that the Prosecution no longer intends to submit items 10-11 on its list for submission (e-mail of 23 November 2023, at 15:21).

The Chamber further notes that the Defence's objection concerning items 4-7 relates to the appropriateness of submitting lengthy documents into evidence considering that in respect of each the Prosecution relied on discrete passages and that the proposition(s) of relevance were read out in full to the witness. The Chamber reiterates its previous rulings that items are to be submitted as a whole. This is without prejudice to the party's reliance on only a part of the document (as stated by the Prosecution in its e-mail reply, see e-mail of 23 November 2023, at 15:21). The Chamber will also take into consideration these submissions when analysing the evidence for the purpose of its judgment pursuant to Article 74 of the Rome Statute. Accordingly, the Chamber rejects the Defence's argument that only portions used with or read out to the witness should be submitted.

The Chamber reiterates its previous rulings, pursuant to the submission system adopted in this trial, that any issue on the admissibility, weight and reliability of these items raised by the Defence will be considered by the Chamber in the context of the Article 74 judgment.

Accordingly, for the completeness of the record, pursuant to Article 69(3) of the Rome Statute, the Chamber hereby recognises as formally submitted items 1-9 as identified in the Prosecution's email of 20 November 2023 at 18:21.

The Registry is therefore directed to proceed in accordance with paragraph 31(iv) of the Directions on the conduct of the proceedings (filing 478).

Kind regards,

[REDACTED]
(on behalf of Trial Chamber I)

From: Velarde, Marcela [REDACTED]
Sent: 20 November 2023 18:05
To: Trial Chamber I Communications
Cc: Abd Al Rahman Prosecution Team; V47 Abd Al Rahman LRV Team; D31 Abd-Al-Rahman Defence Team; Associate Legal Officer-Court Officer
Subject: D-0027 List of Materials for Submission
Attachments: D-27 List of Materials for Submission.pdf

[ICC] RESTRICTED

Dear Trial Chamber I,
Dear Parties,

Please find attached the Defence's List of Materials for Submission, following D-0027's testimony. It is our understanding, as per oral submissions during the hearing, that D-0027's report was admitted into evidence under Rule 68(3) [See [ICC-02/05-01/20-T-137-CONF-ENG](#) at page 3, lines 21-25 and page 4, lines 1-5].

Kind regards,
Marcela Velarde



Marcela Velarde

Assistant Evidence Reviewer
Defence Team for Mr. Abd-al-Rahman

[REDACTED]
[REDACTED]

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Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
Case No. ICC-02/05-01/20

Defence List of Materials for Submission: D-0027

Count	ERN	Title	Document Type
1	DAR-D31-00000159	Fiona March Resume	Personal data
2	DAR-D31-00000261	Notes on Signature Chart	Notes (other)

From: Sabatini, Claire
Sent: 23 November 2023 15:21
To: Trial Chamber I Communications
Cc: Abd Al Rahman Prosecution Team; V47 Abd Al Rahman LRV Team; Edwards, Iain; Mazzarella, Rachel; Associate Legal Officer-Court Officer; D31 Abd-Al-Rahman Defence Team
Subject: RE: Prosecution's List of Material for Submission - D-0027
Attachments: DAR-OTP-00006887.pdf; DAR-OTP-00006888.pdf; DAR-OTP-00006885.pdf; DAR-OTP-00006886.pdf

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Dear Trial Chamber I,
Dear colleagues,

The Prosecution notes that items 10-11 on its list of material for submission are indeed already submitted into evidence, and accordingly withdraws its request in relation to these two items.

In relation to items 4-7, the Prosecution has no objection to extracting and submitting into evidence only those pages of these documents that were used with D-0027:

Item	Original ERN	Extracted pages	New ERN
4	DAR-OTP-00006624	0001, 0015	DAR-OTP-00006887
5	DAR-OTP-00005127	0001, 0013, 0104	DAR-OTP-00006885
6	DAR-OTP-00006626	0259, 0260	DAR-OTP-00006888
7	DAR-OTP-00006623	0015, 0016, 0025	DAR-OTP-00006886

Accordingly, the Prosecution respectfully requests the submission into evidence of the four new ERNs in the table above (and attached) in lieu of the original ERNs for these items.

Best

Claire Sabatini

Case Manager
Office of the Prosecutor
International Criminal Court
Oude Waalsdorperweg 10, 2597 AK, The Hague
Mail address: PO Box 19519, 2500 CM, The Hague, The Netherlands



www.icc-cpi.int

From: Edwards, Iain [REDACTED]
Sent: 22 November 2023 06:19
To: Mazzarella, Rachel [REDACTED] Trial Chamber I Communications
Cc: Abd Al Rahman Prosecution Team [REDACTED] V47 Abd Al Rahman LRV Team
[REDACTED] Associate Legal Officer-Court Officer [REDACTED]
[REDACTED] D31 Abd-Al-Rahman Defence Team [REDACTED]
Subject: Re: Prosecution's List of Material for Submission - D-0027

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Trial Chamber I,

Dear colleagues,

Save for the points set out below, the Defence does not object to the formal submission of the items set out in the Prosecution's list.

In respect of the two photographs at 10-11 on the list, the Defence notes that these items have already been formally submitted through witness P-1061 shortly after his testimony on 17 January 2023. They do not need to be resubmitted.

In respect of the four documents at 4-7 on the list, the Defence submits that it is inappropriate for the entirety of any of these lengthy documents to be submitted when (i) the Prosecution only took the witness to a very few short passages in each, and/or (ii) the proposition(s) of relevance contained in each of those passages was read out in full to the witness. They are thus already in the trial record, as are the witness's comments on them. It is undesirable for "voluminous documents" to be formally submitted "when only certain passages thereof are of relevance to the testimony of the witness through whom the document is presented" (*see eg Prosecutor v. Stanišić & Simatović*, MICT-15-96-T, Decision on Prosecution Submission on Exhibits Marked for Identification, 11 February 2019, page 4). Moreover, such an approach unnecessarily overburdens the trial record.

Re. DAR-OTP-00006624 (BPM Handwriting (September 2022)), this best practice manual is 122 pages long. The Prosecution only took the witness to one short sentence, at page 15, paragraph 13.2, relating to peer review of written reports (T-137-ENG p. 61, lines 6-12). The point the Prosecution no doubt wished to make has been made; the relevant sentence was read out in full and is already in the trial record. Given the Prosecution could not legitimately rely on any other part of the document in final submissions not put to the witness, it would be otiose for the whole document to be formally submitted.

Re. DAR-OTP-00005127 (Forensic Handwriting Examination and Human Factors...), this expert working report is 246 pages long. The Prosecution only took the witness to one table, figure 3.1 at page 104, relating to scales of likelihood (T-137-ENG p. 51, line 10 to p. 52, line 2), and to a single sentence in the report's introduction dealing with provenance at Roman page ix (pdf page 13) (T-

137-ENG p. 62, lines 2-24). The Defence accepts that it is appropriate and helpful for the table itself to be formally submitted, notwithstanding the fact the point the Prosecution no doubt wished to make is already in the trial record. The sentence relating to provenance is fully in the trial record. However, the Prosecution could not legitimately rely on any other part of this lengthy document in final submissions that was not put to the witness. The Defence would not object to the Prosecution being directed to extract page 104 and formally submit that page only.

Re. DAR-OTP-00006626 (Harrison: Suspect Documents – Their Scientific Examination), this document, extracted from a book that itself is over 545 pages long, contains 270 pages. The Prosecution took the witness to three sentences of the book at pdf pages 259-260: (“For an investigator to push...”, “If the questioned signature...”, and “It is to guard...” (T-137-ENG p. 58, line 6 to p. 59, line 19). The points the Prosecution no doubt wished to make have been made; the relevant sentences were read out in full and are in the trial record. Given the Prosecution could not legitimately rely on any other part of the book in final submissions not put to the witness, it would be otiose for the whole document to be formally submitted.

Re. DAR-OTP-00006623 (Hilton: Handwriting Samples), this 35-page document is a chapter extracted from a book. The Prosecution took the witness to one sentence of the chapter and a bullet-point list at pdf pages 15-16 (T-13-ENG p. 55, line 14 to p. 56, line 8), and two paragraph at pdf page 25 (T-13-ENG p. 56, lines 15-24; p. 57, lines 8-18). Once again, the Prosecution’s points have been made; the relevant sentences were read out in full and are in the trial record. The Prosecution could not legitimately rely on any other parts of the book that were not put to the witness, and so the whole document should not be recognised as formally submitted.

Kind regards,

Iain Edwards

From: Mazzarella, Rachel [REDACTED]
Sent: 20 November 2023 18:21
To: Trial Chamber I Communications [REDACTED]
Cc: Abd Al Rahman Prosecution Team [REDACTED]; V47 Abd Al Rahman LRV Team [REDACTED]
 [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
 [REDACTED] D31 Abd-Al-Rahman Defence Team [REDACTED]
Subject: Prosecution's List of Material for Submission - D-0027

[ICC] RESTRICTED

Dear Trial Chamber I,

Dear Colleagues,

In accordance with paragraph 31 of the “Directions on the conduct of proceedings” (ICC-02/05-01/20-478), the Prosecution respectfully requests the submission of the items included in the attached list in relation to Witness D-0027.

Best regards,

-Rachel Mazzarella



Rachel Mazzarella (*she/her*)

Office of the Prosecutor

International Criminal Court (ICC)

Oude Waalsdorperweg 10, 2597 AK, The Hague

[REDACTED]

[REDACTED]

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