

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

**From:** Trial Chamber V Communications  
**Sent:** 10 May 2023 16:50  
**To:** OTP CAR IIB; D29 Yekatom Defence Team; D30 Ngaissona 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-1042  
**Attachments:** Items to be submitted through P-1042

**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-1042 by the Prosecution (*see below* emails from the Prosecution, 23 September 2022, at 17:06 and correction thereof at 17:29), and the objections, responses and replies thereto by the Ngaissona Defence, the Yekatom Defence and the Prosecution respectively (*see below* email from the Ngaissona Defence, 26 September 2022, at 17:15; emails from the Yekatom Defence, 27 September 2022, at 16:00 and 19:28; emails from the Prosecution, 26 September 2022, at 20:00 and 27 September 2022, at 17:22). The Chamber also notes that the Ngaissona Defence indicated that it does not intend to submit any items through P-1042 (*see attached*, email from the Ngaissona Defence, 23 September 2022, at 12:45).

At the outset, the Chamber notes the Yekatom Defence's submission that its arguments be considered in 'the interest of justice', despite the untimely nature of its response as a result of an 'administrative oversight'. In light of the explanations provided, the Chamber considers it appropriate in this instance to take into account the submissions in question.

First, with regard to items CAR-OTP-2130-1176, CAR-OTP-2130-1298, CAR-OTP-2130-1204 and CAR-OTP-2130-1332, the Chamber notes that these items have already been recognised as submitted. It therefore need not rule on these items again.

Second, the Chamber notes that the Ngaissona Defence and the Yekatom Defence oppose the submission of items CAR-OTP-2136-0257 and CAR-OTP-2139-0221 (the 'ID Badges'), on the basis that they were not shown to or discussed with the witness. In addition, the Yekatom Defence submits that the ID Badges allegedly lack sufficient reliability and authenticity, and that the Chamber should exclude them under Article 69(7) of the Statute.

The Chamber observes that during the examination of the witness by the Prosecution, the ERN of the ID Badges were read by the Prosecution 'for the record', but were otherwise not shown to or discussed with the witness (*see* T-164 CONF-ENG, p. 52, line 23 to p. 54, line 21). The Chamber therefore does not consider it appropriate to recognise the submission of the ID Badges in the context of the testimony of P-1042 (*see* Initial Directions on the Conduct of the Proceedings, ICC-01/14-01/18-631, para. 63(i); *see also, similarly*, email from the Chamber, 16 March 2023, at 09:51). Moreover, the Chamber recalls that, when granting the Prosecution's request to add the ID Badges to its List of Evidence, the Single Judge's determinations merely concerned their addition to the List of Evidence, not their submission (*see* ICC-01/14-01/18-1573-Conf, para. 27).

In light of the above, the Chamber does not consider it necessary to consider at this stage the Yekatom Defence's and Prosecution's submissions regarding Article 69(7) of the Statute.

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

<b>Doc ID</b>	<b>Title</b>	<b>Type</b>
CAR-OTP-2107-0159	Transcription de déposition / CAR-OTP-P-1042 Interview Day 1/4 / CAR-OTP-2090-0466 - Track 1	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0202	Transcription de déposition / CAR-OTP-P-1042 Interview Day 1/4 / CAR-OTP-2090-0466 - Track 2	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0243	Transcription de déposition / CAR-OTP-P-1042 Interview Day 1/4 / CAR-OTP-2090-0466 - Track 3	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0262	Transcription de déposition / CAR-OTP-P-1042 Interview Day 2/4 / CAR-OTP-2090-0467 - Track 1	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0297	Transcription de déposition / CAR-OTP-P-1042 Interview Day 2/4 / CAR-OTP-2090-0467 - Track 2	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0330	Transcription de déposition / CAR-OTP-P-1042 Interview Day 2/4 / CAR-OTP-2090-0467 - Track 3	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0370	Transcription de déposition / CAR-OTP-P-1042 Interview Day 2/4 / CAR-OTP-2090-0467 - Track 4	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0402	Transcription de déposition / CAR-OTP-P-1042 Interview Day 3/4 / CAR-OTP-2090-0468 - Track 1	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0427	Transcription de déposition / CAR-OTP-P-1042 Interview Day 3/4 / CAR-OTP-2090-0468 - Track 2	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0462	Transcription de déposition / CAR-OTP-P-1042 Interview Day 3/4 / CAR-OTP-2090-0468 - Track 3	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0496	Transcription de déposition / CAR-OTP-P-1042 Interview Day 3/4 / CAR-OTP-2090-0468 - Track 4	ICC Statement - ICC transcribed statement

CAR-OTP-2107-0554	Transcription de déposition / CAR-OTP-P-1042 Interview Day 4/4 / CAR-OTP-2090-0469 - Track 1	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0591	Transcription de déposition / CAR-OTP-P-1042 Interview Day 4/4 / CAR-OTP-2090-0469 - Track 2	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0623	Transcription de déposition / CAR-OTP-P-1042 Interview Day 4/4 / CAR-OTP-2090-0469 - Track 3	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0660	Transcription de déposition / CAR-OTP-P-1042 Interview Day 4/4 / CAR-OTP-2090-0469 - Track 4	ICC Statement - ICC transcribed statement
CAR-OTP-2107-0691	Transcription de déposition / CAR-OTP-P-1042 Interview Day 4/4 / CAR-OTP-2090-0469 - Track 5	ICC Statement - ICC transcribed statement
CAR-OTP-00000163	Page 38	Notes (other)
CAR-OTP-00000164	Page 10	Notes (other)
CAR-OTP-00000165	Page 19	Notes (other)
CAR-OTP-00000166	Page 15	Notes (other)
CAR-OTP-2090-0487	Voici la liste des Assassins et Criminels de la Sous-Préfecture de Carnot	List / table
CAR-OTP-2090-0484	Evènement d'Assassinat Par les Baudis soit disant Ex-Combattants Anti-Balaka de la S/Préfecture de Carnot. Voici la liste des Assassinés	List / table
CAR-OTP-2088-0977	CLIP0021.AVI	Audio / Video Material
CAR-OTP-2090-0492	Certificat de Participation	Certificate
CAR-OTP-2090-0493	Attestation de Participation	Certificate
CAR-OTP-2090-0494	CERTIFICAT DE PARTICIPATION	Certificate
CAR-OTP-2090-0495	Certificat de présence	Certificate
CAR-OTP-2090-0496	Certificat de présence	Certificate
CAR-OTP-2090-0513	ACCORD SUR LES PRINCIPES DE DESARMEMENT DEMOBILISATION REINTEGRATION ET RAPATRIEMENT (DDRR (ET D'INTEGRATION DANS LES CORPS EN UNIFORME	Contract / Agreement
CAR-OTP-2090-0522	Accord de Partenariat	Contract / Agreement

CAR-OTP-2090-0501	ACCORD DE CESSATION DES HOSTILITES EN REPUBLIQUE CENTRAFRICAINE	Contract / Agreement
CAR-OTP-2090-0490	Carte d'Identification No.:0004CNO	Identifying document
CAR-OTP-2090-0497	MANDAT No. 03/ATB/CN/CE.14.	Internal guidelines / instruction / orders
CAR-OTP-2090-0481		Map
CAR-OTP-2001-4330	70 Muslims killed in Central African Republic town	Media / press article
CAR-OTP-2001-4401	Muslims hide in CAR church after killings	Media / press article
CAR-OTP-2090-0498	COMMUNIQUE RADIO / CALENDRIER DES DISCUSSIONS AVEC LES GROUPES ARMES	Media / press article
CAR-OTP-2090-0500	Comme par hasard. .. le nom de bozize est sorti mdr	Media / press article
CAR-OTP-2090-0499		Notes (other)
CAR-OTP-2001-2247	Central African Republic: Extrêmes violences et tensions à Carnot	Report
CAR-OTP-2001-2306	Central African Republic: Témoignage de Carnot, en République centrafricaine : « des images extrêmement difficiles »	Report
CAR-OTP-2090-0510	PROCES-VERBAL de mise en place du bureau sous-préfectoral du collectif des centrafricains pour la réconciliation (CCR) de CARNOT	Report
CAR-OTP-2090-0482	CAR-CARNOT	Satellite images and related reports
CAR-OTP-2090-0483	CAR-CARNOT	Satellite images and related reports

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:** 27 September 2022 19:28  
**To:** Vanderpuye, Kweku [REDACTED]; OTP CAR IIB [REDACTED]  
[REDACTED] 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:** RE: Correction - RE: Prosecution Submission of evidence following the examination of P-1042

Dear Trial Chamber V,  
Dear Parties and participants,

The Prosecution's argument that 'article 69(8) precludes the Chamber's assessment of the validity of CAR domestic law in this case and its application to the submission of the material' is incorrect in law. The Appeals Chamber has

held, in the context of a request for exclusion of evidence under Article 69(7), that Article 69(8) ‘does not per se preclude the Court from taking into account, in certain circumstances, issues of compliance with national law in the collection of evidence as a factual matter potentially relevant to the understanding of the relevant factual background’ (ICC-01/05-01/13-2275-Red, paras 296, 330). The Defence is not seeking an express finding as to whether the CAR authorities violated the CAR domestic legal framework in their ‘seizure’ and transmission of the Badges, or in their post-facto amending of a *Procès-Verbal de Perquisition*. On the contrary, the Defence argues that the CAR authorities’ apparent non-compliance with domestic law should be taken into account in the Chamber’s determination as to whether the Badges were obtained by means of a broader violation of the internationally recognised human right to privacy, pursuant to Article 69(8) (see, ICC-01/14-01/18-1415-Conf, paras 19-29).

Further, the suggestion that ‘these issues were effectively dealt with when the Prosecution sought and obtained the Chamber’s authorisation to add, *inter alia*, the referenced two ID badges to its List of Evidence’ is likewise plainly incorrect. As the Defence has pointed out, in the ‘Decision on the Prosecution Request to Add Nine Items to its List of Evidence’ the Single Judge ‘stress[ed] that the Request does not concern the submission into evidence of the Items, but merely their inclusion on the List of Evidence. Furthermore, the Single Judge stresses that nothing prevents the Yekatom Defence from ‘[contesting] the manner in which said evidence was collected’ at a later stage of the proceedings – notably, if and when they are submitted into evidence[.]’ (ICC-01/14-01/18-1573-Conf, para. 27). The Prosecution thus appears to have confused its List of Evidence with the evidentiary record in these proceedings.

Lastly, setting aside the curious suggestion that the Prosecution’s reading out of ERNs, on which basis the Prosecution now tenders the Badges, was ‘for the benefit’ of the Defence, the Prosecution’s broader justification for this backdoor submission procedure misses the point. The Defence has no objection to the Prosecution reading out ERNs onto the record. It does however object to the suggestion that merely reading out an ERN onto the record qualifies as ‘using’ that document with a witness for the purposes of its subsequent submission into evidence. The fact that the Prosecution believes that the witness could not have provided evidence as to its provenance only serves to further illustrate the inappropriateness of its attempt to tender the Badges through P-1042, and is thus further reason to deny the request.

Best regards,

██████████  
Legal Assistant, Yekatom Defence

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**From:** Vanderpuye, Kweku ██████████  
**Sent:** 27 September 2022 17:22  
**To:** ██████████; OTP CAR IIB ██████████  
 ██████████ 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 ██████████  
 ██████████  
 ██████████ >  
**Subject:** RE: Correction - RE: Prosecution Submission of evidence following the examination of P-1042

Dear Trial Chamber V,

Dear All,

The arguments advanced below should be denied. *First*, as the Yekatom Defence fully knows photographs of the 21 badges, which include the two tendered by the Prosecution, were provided along with the original ██████████. *Second*, as the Defence is aware, article 69(8) precludes the Chamber’s assessment of the validity of CAR domestic law in this case and its application to the submission of the material. *Third*, that the

material was provided to the Prosecution by the [REDACTED] [REDACTED] *Fourth*, and importantly, these issues were effectively dealt with when the Prosecution sought and obtained the Chamber's authorisation to add, *inter alia*, the referenced two ID badges to its List of Evidence. In short, the substantive grounds advanced to reject the submission of the documents are specious.

In addition, there is no procedural problem concerning the propriety in referencing the documents concerned during re-examination, as the Chamber recognised. The Defence's attempt to exploit the Prosecution's plain and *bona fide* effort to save time during its re-examination by simply reading out the ERNs of the documents for the Parties', Participants', and the Chamber's benefit rather than to present them to a witness whose *opinion* of their provenance would not be probative, is shameful. And, this is not the first time. In this specific instance, as noted, the referenced documents can be assessed and compared to the so-called "fake" ID badge without the benefit of the witness's testimony. Any suggestion that showing these documents to the witness could have had or given rise to any substantive difference would be disingenuous.

The referenced documents directly respond to the issue(s) raised during the cross-examination of P-1042, and their relevance and provenance were further litigated in the Prosecution's request to add them to its List of Evidence. Moreover, the Defence obviously has had an opportunity to address these issues, including herein. As such, they have been sufficiently "discussed" before the Chamber in the trial record within the meaning of article 74. Even assuming *arguendo* that the documents may not be received "through" P-1042, there is no real question they may be appropriately recognised as formally submitted from the Bar Table, as their relevance, probative value, and materiality are sufficiently established.

In the circumstances, there is no impediment whatsoever to the submission — a fact which is not contestable. The arguments by the Defence are merely academic, and a lamentable waste of time.

Kind regards,

Kweku Vanderpuye

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**From:** [REDACTED]

**Sent:** 27 September 2022 16:00

**To:** OTP CAR IIB [REDACTED]

[REDACTED] 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:** RE: Correction - RE: Prosecution Submission of evidence following the examination of P-1042

Dear Trial Chamber V,  
Dear Parties and Participants,

The Yekatom Defence respectfully opposes the Prosecution's formal submission of the two badges tendered by the Prosecution (with ERNs CAR-OTP-2136-0257 and CAR-OTP-2136-0221, 'Badges').

The Defence apologises for the untimely nature of this response, which is the result of an administrative oversight. However, it is respectfully submitted that it is the interests of justice that these submissions be accepted and considered by the Chamber in its determination of this matter. While the Defence is in no way seeking to reassign responsibility for what is entirely its own omission, it does note that the Badges were not on the Prosecution's list of material for P-1042, nor were they actually used during the testimony of P-1042, which contributed to the Defence's

mistakenly assuming that there would be no reason to oppose the Prosecution's submission of items following the testimony of P-1042. More importantly, as the Defence has previously submitted, and as further set out below, the reliability and authenticity of the Badges is strongly contested by the Defence, as is the [REDACTED]; and further, the Single Judge has previously held that the Badges themselves 'bear sufficient potential significance to the case' (ICC-01/14-01/18-1573-Conf, para. 25).

First, the Defence supports the submissions of the Ngaissona Defence in relation to the Badges (see, Ngaissona Defence Email of 26 September 2022, at 17:15). As a matter of basic procedural fairness, tendering a document through a witness should at the very least require that the witness actually be shown the document in question. Allowing a moving party to tender documents simply by reading their ERN numbers onto the record would impermissibly water down the submission procedure so as to render it meaningless. Moreover, as the Prosecution is well aware, the authenticity and reliability of the Badges, and the [REDACTED] further to which they were [REDACTED]d, are strongly contested; the Prosecution's attempt to tender these documents through the back door should be seen in this context.

As the Chamber is aware, the 21 'Anti-Balaka identification badges' – which includes the Badges – that were allegedly collected during the [REDACTED] were not listed in the original [REDACTED] that was initially provided to the Prosecution, in violation of the CAR national legal framework applicable to [REDACTED] (see, ICC-01/14-01/18-1415-Conf, paras 19-28). Since the Defence's filing of submissions in response to the Prosecution's request for late addition to its List of Evidence of *inter alia* the Badges, the Prosecution has disclosed an 'amended' [REDACTED] (CAR-OTP-2136-0556; attached here). The 'amended' [REDACTED] newly lists '*Vingt et un (21) badges AntiBalaka*' among the items collected during the [REDACTED] (see 0557). Further, the 'amended' [REDACTED] bears two different dates in April (at 0556 and 0559), despite the fact that it was received from the [REDACTED] following a Prosecution inquiry with the latter, after the Defence had alerted the Prosecution, in May, to the fact that the 21 badges were not listed in the original [REDACTED] (see, Emails exchanged between Defence and Prosecution in 10-19 May 2022, available upon request). In other words, the 'amended' [REDACTED] appears to have been altered after the fact; and notably, after the Prosecution informed CAR authorities that the 21 badges were not listed among the seized items in the original [REDACTED]. It cannot be controversial that this apparent alteration is contrary to basic legal principles regarding official documents of this nature, and that it plainly compromises the authenticity and reliability of the Badges. In this regard, the Defence also notes that post facto modification of a [REDACTED] in this manner would appear to constitute the crime of "*faux en écritures publiques*" as per Chapter 10, articles 350 to 353, of the CAR criminal code (<https://www.ilo.org/dyn/natlex/docs/SERIAL/88116/100661/F1881819351/CAF-88116.pdf>). Further, these doubts regarding the legality and authenticity of the *Procès-Verbal de Perquisition* provided by the [REDACTED] should also be seen in the context of P-1042's evidence that the individual who was involved in the forgeries of Anti-Balaka identification cards is himself a [REDACTED] (see, T-164 FR RT, exchange at 12:50:11-12:51:43). In light of this, the Defence reiterates that the Badges should be excluded by the Chamber under Article 69(7) (see, ICC-01/14-01/18-1415-Conf, paras 19-28).

In addition, as the Defence has previously submitted, defects present on the Badges themselves – specifically, the numbering system, and the discrepancies between the photographs and names – further demonstrate their lack of reliability (see, ICC-01/14-01/18-1415-Conf, paras 37-40).

Nor can the Prosecution claim that any prejudice would result from the dismissal of the Prosecution's request in relation to the Badges. The Prosecution remains free to tender the Badges via procedurally sound avenues, e.g. by actually 'using' them with a witness by showing him/her the Badges, and allowing the witness to give evidence on them. Alternatively, the Prosecution can tender the Badges through a bar table motion, accompanied by reasoned submissions as to their reliability and authenticity. In this regard, the Defence also recalls that the Single Judge, in allowing the late addition of the Badges to the Prosecution's List of Evidence, 'stress[ed] that nothing prevents the Yekatom Defence from "[contesting] the manner in which said evidence was collected" at a later stage of the proceedings – notably, if and when they are submitted into evidence –, or to further question the allegations that the Prosecution intends to prove when using the ID Badges' (see, ICC-01/14-01/18-1573-Conf, para. 26). With respect,



the Defence does not understand the Single Judge's finding in this regard to envisage the Prosecution simply reading the ERNs of these documents onto the record; on the contrary, it should be interpreted as envisaging a full and transparent legal debate on their admissibility. This is especially so, given that the Defence's opposition to the submission of the Badges is in part based on Article 69(7) to the Badges – which itself requires that the Chamber rule on their admissibility at this stage, as opposed to during the deliberations stage (see, ICC-01/14-01/18-631, para. 53).

Best regards,

[REDACTED]  
Legal Assistant, Yekatom Defence

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**From:** OTP CAR IIB [REDACTED]  
**Sent:** 26 September 2022 20:00  
**To:** [REDACTED] 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:** RE: Correction - RE: Prosecution Submission of evidence following the examination of P-1042

Dear All,

The Prosecution does not suggest that the Defence 'misled' the witness to any extent, and regrets any offence taken.

Our observations are directed solely at the legal basis for the submission of the referenced documents (CAR-OTP-2136-0257 and CAR-OTP-2136-0221) arising from testimony given during cross-examination (see T-164 at p.43, In.20 – p.45, In. 4). Certainly, no suggestion of misrepresentation on the part of the Defence or the witness (for that matter) is asserted or intended by the Prosecution. And, this is not necessary in order to substantiate the legal foundation for the submission of the referenced documents. Both are on their face relevant and probative of the matter at issue (*inter alia*, WOKENE's association with NGAISSONA's Anti-Balaka Coordination). Moreover, given their independent legal significance, they do not require the opinion or commentary of the witness for the Chamber to evaluate and assess them. That said, the Defence was and remains fully free to challenge the use and submission of the documents on any *substantive* evidentiary criteria. However, in the circumstances, the Prosecution considers that no such valid challenge has been made or indeed, lies. Thank you.

Kind regards,

Kweku Vanderpuye

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**From:** [REDACTED]  
**Sent:** 26 September 2022 17:15  
**To:** [REDACTED] 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: Correction - RE: Prosecution Submission of evidence following the examination of P-1042

Dear Trial Chamber V,

The Defence for Mr Ngaïssona (‘the Defence’) hereby respectfully opposes the Prosecution’s request to submit to evidence items CAR-OTP-2136-0257 and CAR-OTP-2136-0221 following P-1042’s testimony, as well as the Prosecution’s objections raised therein (email titled “Prosecution Submission of evidence following the examination of P-1042”, 23 September 2022, at 17:29).

*First*, para. 63(i) of the Single Judge’s “Initial Directions on the Conduct of the Proceedings” (ICC-01/14-01/18-631) stipulates that “When the tendering participant wishes to formally submit items used during a hearing, it is to send an email clearly identifying these items in copy to all other participants, the Chamber and the Court Officer” (emphasis added). In the present case, the items in question were not presented to the witness, but simply referred to in passing, for the record. The witness never saw them, nor attested to the correctness of their content, nor discussed them. To the contrary, when asked whether he was familiar with Richard Bejouane’s signature, which the Prosecution alleged that it appears on these badges, the witness testified that he doesn’t even know Richard Bejouane (see ICC-01/14-01/18-T-164-ENG RT, page 69).

*Second*, in its 23 September 2022 email the Prosecution alleges that Counsel for Mr Ngaïssona misled the witness by “suggesting that the Anti-Balaka badge corresponding to Anti-Balaka member Brice WOKENE of Carnot is fake because it bears a signature other than NGAÏSSONA’s and further, incorporated the image of a lion in the Group’s logo (see English Transcript, T-164 at p.36-40, and 68-69)”. The Defence takes offence at the suggestion that it mislead the witness in any way during questioning. This said, had the Prosecution thought that this was a misleading question/suggestion to the witness, they should have objected at the time the question was put and the Chamber would have ruled on that. Submitting documents that were never shown to, or used with the witness cannot be a remedy to an objection the Prosecution failed to raise timely.

Sincerely,

[REDACTED]

[REDACTED]

Case Manager – Ngaïssona Defence Team  
International Criminal Court (ICC)  
Telephone number [REDACTED]  
[www.icc-cpi.int](http://www.icc-cpi.int)

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**From:** [REDACTED]  
**Sent:** 23 September 2022 17:29  
**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]  
[REDACTED]  
[REDACTED]  
**Subject:** Correction - RE: Prosecution Submission of evidence following the examination of P-1042

Dear Trial Chamber V,

Please find below the *corrected* version of the Prosecution Submission of evidence following the examination of P-1042.

We apologise for any inconvenience.

*First*, the Chamber should reject the Ngaissona Defence's objections regarding CAR-OTP-2136-0257 and CAR-OTP-2136-0223. In respect of the latter, the Prosecution notes that ERN ending 0223 was misspoken during the hearing. The correct ERN is CAR-OTP-2136-0221. This material, appropriately referenced during re-examination, was directly responsive to the Defence's elicitation of evidence from P-1042 misleadingly suggesting that the Anti-Balaka badge corresponding to Anti-Balaka member Brice WOKENE of Carnot is fake because it bears a signature other than NGAISSONA's and further, incorporated the image of a lion in the Group's logo (see English Transcript, T-164 at p.36-40, and 68-69).

Not only were the referenced documents cited in the record and available to the Parties, Participants, and Chamber, their significance in terms of rebutting the alleged fake features of the Anti-Balaka badge identified by the P-1042 were addressed (see English Transcript, T-164 at p. 69), including evidence of the identity of the signature on WOKENE's ID as belonging to Richard BEJOUANE — a senior member of the Anti-Balaka National Coordination, as shown by a February 2014 Press Communique, identified on the record as CAR-OTP-2025-0380, 0384 (item 12).

The referenced documents are *prima facie* relevant not only to P-1042's testimony, but more generally, to the establishment of the truth. And, while they could just as easily be tendered from the Bar Table for the reasons and on the grounds set out above — indeed, there are other such ID's [REDACTED] (see Decision ICC-01/14-01/18-1573-Conf, para. 18, fn.21) — they are also appropriately tendered herein. Their submission in this manner would further advance the efficiency of the proceedings.

*Second*, in accordance with paragraph 63(i) of the *Initial Directions on the Conduct of the Proceedings* (ICC-01/14-01/18-631), the Prosecution requests that the following items 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	Document Type	EVD - Date	EVD – Participant Tendering	Request Submission
1.	CAR-OTP-00000163	P-1042	Notes (other)	21/09/22	OTP	Yes
2.	CAR-OTP-00000164	P-1042	Notes (other)	21/09/22	OTP	Yes
3.	CAR-OTP-00000165	P-1042	Notes (other)	21/09/22	OTP	Yes
4.	CAR-OTP-00000166	P-1042	Notes (other)	21/09/22	OTP	Yes
5.	CAR-OTP-2136-0257	P-1042	Identifying document	22/09/22	OTP	Yes
6.	CAR-OTP-2136-0221	P-1042	Identifying document	22/09/22	OTP	Yes

- ii. 40 items submitted under Rule 68(3) at the start of P-1042's testimony (ICC-01/14-01/18-1547-Conf, p.12-13; ICC-01/14-01/18-T-163 ENG RT, p. 7):

Count	Doc ID	WIT-Used through	Type	EVD - Date	EVD – Participant Tendering	Request Submission
1	CAR-OTP-2088-0977	P-1042	Audio / Video Material	21/09/22	OTP	Yes
2	CAR-OTP-2090-0492	P-1042	Certificate	21/09/22	OTP	Yes
3	CAR-OTP-2090-0493	P-1042	Certificate	21/09/22	OTP	Yes

4	CAR-OTP-2090-0494	P-1042	Certificate	21/09/22	OTP	Yes
5	CAR-OTP-2090-0495	P-1042	Certificate	21/09/22	OTP	Yes
6	CAR-OTP-2090-0496	P-1042	Certificate	21/09/22	OTP	Yes
7	CAR-OTP-2090-0513	P-1042	Contract / Agreement	21/09/22	OTP	Yes
8	CAR-OTP-2090-0522	P-1042	Contract / Agreement	21/09/22	OTP	Yes
9	CAR-OTP-2090-0501	P-1042	Contract / Agreement	21/09/22	OTP	Yes
10	CAR-OTP-2107-0159	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
11	CAR-OTP-2107-0202	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
12	CAR-OTP-2107-0243	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
13	CAR-OTP-2107-0262	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
14	CAR-OTP-2107-0297	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
15	CAR-OTP-2107-0330	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
16	CAR-OTP-2107-0370	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
17	CAR-OTP-2107-0402	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
18	CAR-OTP-2107-0427	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
19	CAR-OTP-2107-0462	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
20	CAR-OTP-2107-0496	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
21	CAR-OTP-2107-0554	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes

22	CAR-OTP-2107-0591	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
23	CAR-OTP-2107-0623	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
24	CAR-OTP-2107-0660	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
25	CAR-OTP-2107-0691	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
26	CAR-OTP-2090-0490	P-1042	Identifying document	21/09/22	OTP	Yes
27	CAR-OTP-2090-0497	P-1042	Internal guidelines / instruction / orders	21/09/22	OTP	Yes
28	CAR-OTP-2090-0484	P-1042	List / table	21/09/22	OTP	Yes
29	CAR-OTP-2090-0487	P-1042	List / table	21/09/22	OTP	Yes
30	CAR-OTP-2090-0481	P-1042	Map	21/09/22	OTP	Yes
31	CAR-OTP-2001-4330	P-1042	Media / press article	21/09/22	OTP	Yes
32	CAR-OTP-2001-4401	P-1042	Media / press article	21/09/22	OTP	Yes
33	CAR-OTP-2090-0498	P-1042	Media / press article	21/09/22	OTP	Yes
34	CAR-OTP-2090-0500	P-1042	Media / press article	21/09/22	OTP	Yes
35	CAR-OTP-2090-0499	P-1042	Notes (other)	21/09/22	OTP	Yes
36	CAR-OTP-2001-2247	P-1042	Report	21/09/22	OTP	Yes
37	CAR-OTP-2001-2306	P-1042	Report	21/09/22	OTP	Yes
38	CAR-OTP-2090-0510	P-1042	Report	21/09/22	OTP	Yes
39	CAR-OTP-2090-0482	P-1042	Satellite images and related reports	21/09/22	OTP	Yes
40	CAR-OTP-2090-0483	P-1042	Satellite images and related reports	21/09/22	OTP	Yes

- iii. The Prosecution also seeks to submit the following items used during the course of NGAISSONA's cross-examination of witness P-1042, to the extent these items are not submitted by the NGAISSONA Defence:

Count	Doc ID	WIT-Used through	Document Type	EVD - Date	EVD – Participant Tendering	Request Submission
1.	CAR-OTP-2130-1176	CAR-OTP-P-1042	Transcript	22/09/22	OTP	Yes
2.	CAR-OTP-2130-1204	CAR-OTP-P-1042	Transcript	22/09/22	OTP	Yes
3.	CAR-OTP-2130-1298	CAR-OTP-P-1042	Translation - FRA	22/09/22	OTP	Yes
4.	CAR-OTP-2130-1332	CAR-OTP-P-1042	Translation - FRA	22/09/22	OTP	Yes

Best regards,

[REDACTED]

OTP Case Manager

**From:** [REDACTED]

**Sent:** vendredi 23 septembre 2022 17:06

**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]; [REDACTED]

**Subject:** Prosecution Submission of evidence following the examination of P-1042

Dear Trial Chamber V,

*First*, the Chamber should reject the Ngaissona Defence's objections. Both CAR-OTP-2136-0257 and CAR-OTP-2136-0223 were used during the re-direct to counter the Defence proposition that the Anti-Balaka badges were allegedly fake (see English Transcript, T-164 at p.36-40, and 68-69). Not only did the Prosecution cite these documents for the record, but it also discussed the similarities between the alleged fake Anti-Balaka badge and the cited badges ( see English Transcript, T-164 at p. 69). Thus, the documents are *prima facie* relevant not only to P-1042's testimony, particularly elicited on re-direct but to the proceedings more generally and in furtherance of the establishment of the truth.

*Second*, in accordance with paragraph 63(i) of the *Initial Directions on the Conduct of the Proceedings* (ICC-01/14-01/18-631), the Prosecution requests that the following items be recognised as formally submitted:

- i. Documents discussed with the witness during the course of his examination by the Prosecution:

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13	CAR-OTP-2107-0262	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
14	CAR-OTP-2107-0297	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes

15	CAR-OTP-2107-0330	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
16	CAR-OTP-2107-0370	P-1042	ICC Statement - ICC transcribed statement	21/09/22	OTP	Yes
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3.	CAR-OTP-2130-1298	CAR-OTP-P-1042	Translation - FRA	22/09/22	OTP	Yes
4.	CAR-OTP-2130-1332	CAR-OTP-P-1042	Translation - FRA	22/09/22	OTP	Yes

Kind regards,

  
OTP Case Manager

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[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 23 September 2022 12:45  
**To:** Trial Chamber V Communications  
**Cc:** D30 Ngaissona Defence Team; D29 Yekatom Defence Team; V45 LRV Team; V44 LRV Team OPCV; V44 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Operations; OTP CAR IIB Prosecution Team; OTP CAR IIB Managers; Associate Legal Officer-Court Officer; [REDACTED]  
**Subject:** Items to be submitted through P-1042

Dear Trial Chamber V,

On behalf of the Ngaissona Defence team, I wish to inform you that we do not intend to submit any items through P-1042.

Sincerely,

[REDACTED]

[REDACTED]  
[REDACTED]  
Case Manager – Ngaissona Defence Team  
International Criminal Court  
[REDACTED]

[www.icc-cpi.int](http://www.icc-cpi.int)

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