

ANNEX 1
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Version

From: Trial Chamber V Communications
Sent: 09 January 2024 15:04
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 D29-5015
Attachments: Yekatom Defence Submission of evidence following the examination of P-5015

Follow Up Flag: Follow up
Flag Status: Flagged

[ICC] RESTRICTED

Dear Counsel, dear colleagues from the Registry,

The Chamber takes note of the emails on the submission of evidence following the examination of D29-5015 by the Yekatom Defence and the Prosecution, and the Yekatom Defence's response to the latter (*see below and attached*).

The Chamber notes that the Yekatom Defence opposes the submission of item **CAR-OTP-00002245** in its entirety, on the basis that the Prosecution presented a short clip of this video to the witness and who, according to the Yekatom Defence, 'is not in a position to attest to the identity of the person shown on the video'. It thus argues that the submission of this item 'adds nothing to the witness' testimony and is not helpful in the search of the truth'. The Chamber recalls that items should be submitted in their entirety, and sees no reason in this instance not to recognise **CAR-OTP-00002245** as a whole (*see email from the Chamber, 2 July 2021, at 14:07*), particularly noting that the witness did comment on it (*see ICC-01/14-01/18-T-255-CONF-ENG, p. 55, line 13 to p. 57, line 5*). It thus recognises the submission of **CAR-OTP-00002245**.

Moreover, the Chamber takes note of the Yekatom Defence's submissions concerning the reliability of **CAR-OTP-2001-4333**, which it will assess during the judgment deliberations.

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-D29-0010-0172	DSC02868	Photograph
CAR-D29-0010-0178	DSC02874	Photograph
CAR-D29-0010-0177	DSC02873	Photograph
CAR-D29-0010-0165	DSC02861	Photograph
CAR-OTP-2127-6194	Transcription de document audio/vidéo / CONF DE PRESSE CONSEILLER MOLOTO BODA.mpg	Transcript
CAR-OTP-00002244		Audio / Video Material

Doc ID	Title	Type
	Former Seleka rebels say they'll work with new president, but militia killings must stop.mp4	
CAR-D29-0010-0168	DSC02864	Photograph
CAR-D29-0010-0169	DSC02865	Photograph
CAR-D29-0010-0179	DSC02875	Photograph
CAR-D29-0010-0181	DSC02877	Photograph
CAR-OTP-00002245	No hace falta entender las palabras. Crisis en Rep. Centroafricana.mp4	Audio / Video Material
CAR-OTP-2001-4333	Centrafrique: la paix à tout prix	Media / press article
CAR-OTP-00002252	Transcription de document audio / vidéo / EDITION SPECIALE MBAÏKI PDTE.mpg	Transcript
CAR-OTP-00002254	Traduction / Transcription de document audio / vidéo / EDITION SPECIALE MBAÏKI PDTE.mpg	Transcript
CAR-OTP-2054-1403	MESSAGE DES EVEQUES DE CENTRAFRIQUE AUX CHRETIENS ET AUX HOMME DE BONNE VOLONTE : « RENDONS COMPTE DE NOTRE FOI ET DE NOTRE ESPERANCE » Cf(1P.3,15)	Media / press article

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: 18 December 2023 18:41
To: OTP CAR IIB [REDACTED]; Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]; [REDACTED]
[REDACTED] D30 Ngaissona Defence Team [REDACTED]; V44 LRV Team OPCV [REDACTED]
[REDACTED] V44 LRV Team [REDACTED]; V45 LRV Team [REDACTED]; [REDACTED]
[REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
[REDACTED]
Subject: RE: Prosecution Submission of evidence following the cross-examination of D29-5015

[ICC] RESTRICTED

Dear Trial Chamber V,

The Defence of Mr. Yekatom ("Defence") hereby takes note of the Prosecution Submission of evidence following the examination of CAR-D29-P-5015 and opposes the formal submission of CAR-OTP-00002245. Furthermore, the Defence wishes to highlight the unreliability of item CAR-OTP-2001-4333.

With regards to CAR-OTP-00002245, the Defence opposes the formal submission of the video in its entirety. The Prosecutor presented a short clip of this video to the witness, picturing Djido SALEH addressing a group of young men and detailing his experience of the conflict. As clearly stated by the witness, he is not in a position to attest to the identity of the person shown on the video. The witness declared: "Perhaps I've seen him once, but I cannot say that I can recognise him, no." (*ICC-01/14-01/18-T-255-ENG ET WT, [14 :58 :29]*). Therefore, this item's submission adds nothing to the witness' testimony and is not helpful in the search of the truth. Defence witness P-5015's testimony is not the appropriate forum to formally submit into evidence Djido SALEH's comments pertaining to the situation in Central African Republic.

With regards to CAR-OTP-2001-4333, the Defence simply wishes to highlight the unreliability of this press article. Indeed, when asked about the content of this press article in contrast to his memory of the events, the witness points out the approximate information reported in the item presented. CAR-D29-P-5015 stated that : "[...] je vois beaucoup des... des choses approximatives. Mbaïki n'est pas à 80 kilomètres de Bangui, par exemple. Et j'ai vu aussi ailleurs, comme c'est un peu comme ça. Parce que 80 kilomètres et 105, ce n'est pas la même chose. Donc, c'est pour dire comment on peut reporter les choses d'une façon très générale." (*ICC-01/14-01/18-T-255-FRA ET WT, [15 :59 :34]*). The witness later reiterated that the items presented to him during the course of his testimony often included errors, stating that: "[...] I see that in what I'm being shown here, the distances are often wrong. It's not 80 kilometres between Bangui and Mbaïki. There are many more kilometres." (*ICC-01/14-01/18-T-256-ENG ET WT, [9:54:26]*). Those errors identified by the witness during his testimony cast doubt on the substantive findings of item CAR-OTP-2001-4333 and should be considered when assessing this item's probative value.

In light of these reasons, the Defence respectfully requests the Chamber to reject the Prosecution submission of CAR-OTP-00002245 and consider the unreliability of CAR-OTP-2001-4333.

Kind regards,

[REDACTED]
Yekatom Defence

De : OTP CAR IIB [REDACTED]
Envoyé : 14 décembre 2023 17:17
À : Trial Chamber V Communications [REDACTED]
Cc : D29 Yekatom Defence Team [REDACTED]
[REDACTED]; D30 Ngaissona Defence Team [REDACTED] V44 LRV
Team OPCV [REDACTED]; V44 LRV Team [REDACTED] V45 LRV Team
[REDACTED] Associate Legal Officer-Court Officer
[REDACTED]
[REDACTED] OTP CAR IIB [REDACTED]
Objet : Prosecution Submission of evidence following the cross-examination of D29-5015

[ICC] RESTRICTED

Dear Trial Chamber V,

In accordance with paragraph 63(i) of the *Initial Directions on the Conduct of the Proceedings* (ICC-01/14-01/18-631), the Prosecution submits the documents listed below relating to the testimony of witness D29-5015. The submitted documents were discussed with the witness during the course of his cross-examination. The Prosecution, therefore, requests that they be recognised as formally submitted.

Please note that, as indicated below in the “Request Submission” column, several items used with D29-5015 were already formally submitted in the case.

(i) Documents discussed with D29-5015 during the course of his cross-examination:

Count	Doc ID	WIT - Used Through	Type	EVD - Date Used	Participant	Request Submission
1	CAR-D29-0010-0165	D29-5015	Photograph	12/12/2023	OTP	Yes
2	CAR-D29-0010-0168	D29-5015	Photograph	12/12/2023	OTP	Yes
3	CAR-D29-0010-0169	D29-5015	Photograph	12/12/2023	OTP	Yes
4	CAR-D29-0010-0178	D29-5015	Photograph	12/12/2023	OTP	Yes
5	CAR-D29-0010-0179	D29-5015	Photograph	12/12/2023	OTP	Yes
6	CAR-D29-0010-0181	D29-5015	Photograph	12/12/2023	OTP	Yes
7	CAR-OTP-2001-2248	D29-5015	Media / press article	12/12/2023	OTP	Already formally submitted
8	CAR-OTP-2001-4333	D29-5015	Media / press article	12/12/2023	OTP	Yes
9	CAR-OTP-2023-1636	D29-5015	Audio / Video Material	13/12/2023	OTP	Already formally submitted
10	CAR-OTP-2054-1403	D29-5015	Media / press article	13/12/2023	OTP	Yes
11	CAR-OTP-2058-0573	D29-5015	Audio / Video Material	12/12/2023	OTP	Already formally submitted
12	CAR-OTP-2068-0558	D29-5015	Report	13/12/2023	OTP	Already formally submitted
13	CAR-OTP-2118-0415	D29-5015	Audio / Video Material	12/12/2023	OTP	Already formally submitted
14	CAR-OTP-2118-0420	D29-5015	Transcript	12/12/2023	OTP	Already formally submitted
15	CAR-OTP-2127-4410	D29-5015	Transcript		OTP	Already formally submitted

16	CAR-OTP-2127-4357	D29-5015	Transcript	12/12/2023	OTP	Already formally submitted
17	CAR-OTP-2128-1373	D29-5015	Internal guidelines / instruction / orders	13/12/2023	OTP	Already formally submitted
18	CAR-OTP-00002244	D29-5015	Audio / Video Material	12/12/2023	OTP	Yes
19	CAR-OTP-00002245	D29-5015	Audio / Video Material	12/12/2023	OTP	Yes
20	CAR-OTP-00002252	D29-5015	Transcript		OTP	Yes
21	CAR-OTP-00002254	D29-5015	Transcript	13/12/2023	OTP	Yes

Kind regards,
On behalf of OTP Trial Team

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From: [REDACTED]
Sent: 14 December 2023 13:44
To: Trial Chamber V Communications
Cc: D29 Yekatom Defence Team; D30 Ngaissona Defence Team; OTP CAR IIB; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Associate Legal Officer-Court Officer
Subject: Yekatom Defence Submission of evidence following the examination of P-5015

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[ICC] RESTRICTED

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), the Defence for Mr Yekatom respectfully seeks the formal submission of the following documents used during the examination of witness CAR-D29-P-5015.

Count	Document ID	Title	Document Type	Confidentiality Level	EVD - Date Used	WIT - Used Through	WIT - Used By
1	CAR-D29-0010-0165	DSC02861	Photograph	Confidential	12/6/2023	CAR-D29-P-5015	D29
					12/11/2023		OTP
					12/12/2023		
2	CAR-D29-0010-0168	DSC02864	Photograph	Public	12/12/2023	CAR-D29-P-5015	OTP
3	CAR-D29-0010-0169	DSC02865	Photograph	Public	12/12/2023	CAR-D29-P-5015	OTP
4	CAR-D29-0010-0172	DSC02868	Photograph	Public	12/11/2023	CAR-D29-P-5015	D29
5	CAR-D29-0010-0177	DSC02873	Photograph	Public	12/11/2023	CAR-D29-P-5015	D29
6	CAR-D29-0010-0178	DSC02874	Photograph	Public	12/11/2023	CAR-D29-P-5015	D29
					12/12/2023		OTP
7	CAR-D29-0010-0179	DSC02875	Photograph	Public	12/12/2023	CAR-D29-P-5015	OTP
8	CAR-D29-0010-0181	DSC02877	Photograph	Public	12/12/2023	CAR-D29-P-5015	OTP
9	CAR-OTP-2127-6194	Transcription de document audio/vidéo / CONF DE PRESSE CONSEILLER MOLOTO BODA.mpg	Transcript	Public	12/11/2023	CAR-D29-P-5015	D29
10	CAR-OTP-00002244	Former Seleka rebels say they'll work with new president, but militia killings must stop.mp4	Audio/video material	Public	12/12/2023	CAR-D29-P-5015	D29 OTP

Best regards,

██████████

Legal intern – Yekatom Defence Team

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