

ANNEX 31
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Version

From: Trial Chamber V Communications
Sent: 15 March 2024 16:49
To: OTP CAR IIB
Cc: D30 Ngaissona Defence Team; D29 Yekatom Defence Team; V45 LRV Team; V44 LRV Team; V44 LRV Team OPCV; Trial Chamber V Communications; Chamber Decisions Communication; Associate Legal Officer-Court Officer
Subject: Decision on the Prosecution's Request for submission of item CAR-OTP-2083-3166

Dear Counsel,

Recalling the applicable procedure for the submission of evidence (see Initial Directions on the Conduct of the Proceedings, ICC-01/14-01/18-631, paras 61-63), the Single Judge instructs the Prosecution to file its request on the record.

Kind regards, TC V

From: [REDACTED]
Sent: 14 March 2024 17:36
To: OTP CAR IIB [REDACTED] Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED] D29 Yekatom Defence Team [REDACTED]; V45 LRV Team <[REDACTED]>; V44 LRV Team [REDACTED] V44 LRV Team OPCV [REDACTED]
Subject: Re: Prosecution's Request for submission of item CAR-OTP-2083-3166

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Dear Trial Chamber V,

The Yekatom Defence respectfully requests that the Prosecution be ordered to file the below request formally on the record, given the nature of the request - i.e. a request for submission of evidence via procedural means that appear to contravene the Chamber's Initial Directions (see ICC-01/14-01/18-631, paras 61, 63). The request does not constitute a 'minor procedural matter'; nor does the Prosecution argue that urgent circumstances apply (contra ICC-01/14-01/18-631, para. 75; see also, Email from Trial Chamber V of 12 December 2023 at 17:06).

Best regards,

[REDACTED]
Assistant to Counsel, Yekatom Defence

From: OTP CAR IIB [REDACTED]
Sent: 14 March 2024 16:35
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED]; OTP CAR IIB [REDACTED];

D29 Yekatom Defence Team [REDACTED] V45 LRV Team [REDACTED]
 V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]

Subject: Prosecution's Request for submission of item CAR-OTP-2083-3166

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Trial Chamber V,
 Dear All,

The Prosecution requests the submission of the CDR record CAR-OTP-2083-3166, which contains D29-3014's contacts [REDACTED] to an MBAIKI interlocutor on 31 January 2014. (CAR-OTP-2083-3166, TAB MBAIKI, entries 19427, 19428, 20189, 20190).

In its decision on the Third Prosecution Submission Request (Call Data Records), the Chamber rejected the submission of items listed in Annex D (including item CAR-OTP-2083-3166) without prejudice and noted that "*the Prosecution is not precluded from submitting additional call related data in response to 'issues arising from documentary evidence and testimony presented at trial', should it wish to do so later*". (ICC-01/14-01/18-1499, paras. 49-51, emphasis added).

The request indeed arises from the recent testimony of D29-3014. On 11 March 2024, D29-3014 confirmed that his 2014 and 2015 telephone number was [REDACTED] (see T-274-CONF-ENG ET, p. 9, l. 18-p. 10, l. 19:

The CDR record is relevant. D29-3014 was asked about his calls to individuals in MBAIKI on 31 January 2014 (following the 30 January 2014 St Jeanne d'Arc meeting in MBAIKI), which he could not recall. (see T-274-CONF-ENG ET, p. 42, l. 5-8:

"Q. [12:07:59] Would you have any reason to be in contact with an individual in Mbaiki on 31 January 2014, to your recollection?

A. [12:08:27] Mr President, I don't remember having called anyone on that date".

Further, the CDR record is reliable and authentic. The item has been obtained by the Prosecution from TELECEL on 13 July 2018 in response to a request of assistance which did not target individual numbers, but requested a call data for the cell site/s in GUEN, MBAIKI, BODA, and BOUCA during a specific period of time. The item is further self-authenticating, it was maintained by TELECEL in its regular course of business and in accordance with domestic laws.

Finally, the probative value of the item outweighs any prejudicial effect since: (i) the item, containing contacts of D29-3014, is relevant to this Witness's testimony; (ii) the item is reliable, as its collection and transmission was authorised by national authorities in accordance with the Statute; (iii) it will assist the Chamber in the determination of the truth and ensure an expeditious trial; and (iv) the Defence has had sufficient notice of its content (CAR-OTP-2083-3166 was formally disclosed on 3 November 2020).

The Prosecution is prepared to file its request formally on the record, as the Chamber may deem appropriate. Thank you.

Kind regards,
 On behalf of OTP Trial Team

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