

ANNEX 20
Public Redacted
Version

From: Trial Chamber V Communications
Sent: 27 February 2024 09:34
To: OTP CAR IIB; D30 Ngaissona Defence Team
Cc: D29 Yekatom Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Associate Legal Officer-Court Officer; Trial Chamber V Communications; Chamber Decisions Communication
Subject: Decision on D30 Ngaissona Objection to the Use of Prosecution's Material for the Examination of P-4864

[ICC] RESTRICTED

Dear Counsel,
 dear colleagues of the Registry,

The Single Judge takes note of the objections raised in the Ngaissona Defence's below email, as well as the Prosecution's response thereto.

Having considered the audio-recordings on the Prosecution's list of materials (CAR-OTP-00036094; CAR-OTP-00036095), the Single Judge notes that whilst there are no related transcripts of the audio-recordings available in JEM, both are in English. Therefore, noting that these items exist in at least one of the working languages of the court, the Single Judge does not consider the lack of transcripts to be a bar to their use by the Prosecution during its examination of D30-4864.

Kind regards, TC V

From: OTP CAR IIB [REDACTED] >
Sent: Tuesday, February 27, 2024 8:47 AM
To: [REDACTED]; Trial Chamber V Communications
 [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED] D29 Yekatom Defence Team
 [REDACTED]; V44 LRV Team [REDACTED] V44 LRV Team OPCV
 [REDACTED] OTP CAR IIB [REDACTED]; V45 LRV Team [REDACTED]
 [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
 [REDACTED]
Subject: RE: D30 Ngaissona Objection to the Use of Prosecution's Material for the Examination of P-4864

[ICC] RESTRICTED

Dear Trial Chamber,

Dear Counsel,

The Ngaissona Defence's request should be rejected. First, the Defence misreads paragraph 23 of decision -2160 (explaining in turn paragraph 44 of the Chamber's Directions on the Conduct of the Proceedings), which imposes a cumulative (not alternative) conditions that a Party (a) seek the submission of the audio-visual; and (b) also relies on it for any spoken content. Second, the request is inapposite, as the Directions do not preclude the use of such audio-visual material during a witness's examination, and it is further premature insofar as no such material has yet been submitted, even if the intent to do so is indicated. Thank you.

Kind regards,

On behalf of the OTP Trial Team

From: [REDACTED]
Sent: Monday, February 26, 2024 4:49 PM
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team
 <[REDACTED]>; V44 LRV Team [REDACTED] V44 LRV Team OPCV
 [REDACTED]; OTP CAR IIB [REDACTED] V45 LRV Team [REDACTED]
 [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
 [REDACTED]
Subject: D30 Ngaissona Objection to the Use of Prosecution's Material for the Examination of P-4864

[ICC] RESTRICTED

Dear Trial Chamber V,
 Dear Parties and Participants,

The Defence for Mr Ngaissona notes that the Prosecution's List of Materials for Defence witness P-4864 contains two audio-recordings without corresponding transcripts.

The Defence recalls that paragraph 44 of the Initial Directions on the Conduct of the Proceedings (ICC-01/14-01/18-631) provides that "[a]s regards the use of speech in audio-visual material during the hearing, the participant in question must indicate the ERN of a corresponding working language transcript". Additionally, the Chamber further clarified that although "[i]t may not be strictly necessary for items to be accompanied by transcripts and/or translations at the time of filing of the list of evidence, however, it becomes necessary when such items are requested for submission, and if the submitting party intends to rely on spoken word contained therein." (ICC-01/14-01/18-2160, para. 23).

As such, the Defence intends to object to the use of the two audio-recordings by the Prosecution during the examination of P-4864.

Kind regards,

[REDACTED]
On behalf of the Ngaissona Defence

From: OTP CAR IIB [REDACTED]
Sent: Monday, February 26, 2024 12:34 PM
To: Trial Chamber V Communications <[REDACTED]>
Cc: D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team
 [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV
 [REDACTED] V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer
 [REDACTED] TP CAR IIB
 [REDACTED]
Subject: RE: OTP List of Material for CAR-D30-P-4864 - Hyperlinked list

[ICC] RESTRICTED

Dear Trial Chamber V,
 Dear Colleagues,

Please find attached the hyperlinked list of materials for Defence Witness CAR-D29-P-4864.

To view the materials in Nuix database (upon completion by Ecourt Support today), please go to "Search", select in the field "CB OTP" – and the value "006 – CAR-D29-P-4864". To sort the material in the proper order, please add the field 'CB OTP – 006 tab' to your view and click on the arrow to sort it.

Best regards,

[REDACTED]
OTP Case Manager

De : OTP CAR IIB <[REDACTED]>
Envoyé : lundi 26 février 2024 10:25
À : Trial Chamber V Communications [REDACTED] >
Cc : D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]; OTP CAR IIB [REDACTED]

Objet : RE: OTP List of Material for CAR-D30-P-4864 - Courtesy copy

[ICC] RESTRICTED

Dear Trial Chamber V,
Dear Colleagues,

Please find attached the courtesy copy of the list of materials for Defence Witness CAR-D29-P-4864. We will send you the hyperlinked version and CB binder as soon as possible.

Best regards,

[REDACTED]
OTP Case Manager

De : OTP CAR IIB [REDACTED]
Envoyé : lundi 26 février 2024 10:10
À : Pa [REDACTED] Trial Chamber V Communications [REDACTED]
Cc : D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; OTP CAR IIB [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]

Objet : OTP List of Material for CAR-D30-P-4864

[ICC] RESTRICTED

Trial Chamber V;
Parties and Participants;

The Prosecution offers its apologies for the slightly belated provision of its list. While the standard email will follow shortly, we can advise that it contains two items:

CAR-OTP-00036094; and
CAR-OTP-00036095.

Kind regards,

[REDACTED]
OTP Trial Lawyer

From: [REDACTED]
Sent: Monday, February 26, 2024 9:55 AM
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED] OTP CAR IIB [REDACTED] V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED] Associate Legal Officer-Court Officer [REDACTED] ▶
Subject: Yekatom Defence List of Material for CAR-D30-P-4864

Dear Trial Chamber V,
Dear all,

The Defence for Mr. Yekatom provides in attachment its list of material for witness CAR-D30-P-4864.

The Defence e-binder for D30-P-4864 will shortly be available on Nuix and can be accessed by selecting the field "CB D29" – and the value "009 – CAR-D30-P-4864". To sort the material in the proper order, please select the filed "CB D29 – 009".

Further to the "*Decision on Yekatom Defence Request for authorization for P-4864 to bring laptop into Courtroom*" dated 23 February 2024 at 17:32, the Defence wishes to inform the Chamber and Parties that it intends to provide P-4864 with items 1 to 41 of its List of Material.

With regard to the voluminous nature of some of the documents, for the CDRs and CSTs numbered 6 to 41 the Defence indicated that the "Entire item" would be used. Indeed, as previously explained, the purpose of the provision of those documents to P-4864 is to allow the witness an opportunity to review the material in order to streamline the proceedings when he will be asked to ascertain the reliability of the process used (described in items 1 to 5) by the Defence to create its CSTs. When the Defence intends to show P-4864 specific portions of CDRs or CSTs, this information has been duly detailed in the column "Relevant passages to be used".

Accordingly, the Defence assures the Chamber, parties and participants that items 6 to 41 do not therefore need to be printed in full unless otherwise required.

Kind regards,

[REDACTED]
Yekatom Defence

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