

**Cour
Pénale
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**International
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No.: **ICC-01/04-02/06**
Date: **13 September 2019**

TRIAL CHAMBER VI

**Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

Decision on requests for admission of evidence related to sentencing from the bar table

To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

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Others

Trial Chamber VI of the International Criminal Court (‘Chamber’), in the case of *The Prosecutor v. Bosco Ntaganda* (‘Ntaganda case’), pursuant to Articles 64, 67, and 69 of the Rome Statute (‘Statute’) issues this ‘Decision on requests for admission of evidence related to sentencing from the bar table’.

I. PROCEDURAL HISTORY

1. On 8 July 2019, the Chamber convicted Mr Ntaganda of several crimes against humanity and war crimes.¹ That same day, the Chamber ordered the Office of the Prosecutor (‘Prosecution’), the Defence and the LRVs to file any requests to submit further evidence or to call witnesses in relation to sentencing by 29 July 2019, with any responses to follow by 5 August 2019 (‘Order on Sentencing Procedure’).² The requests were to provide the details of any documentary evidence intended to be submitted, the identities of any witnesses sought to be called, the estimated length of examination, a summary of anticipated testimony and any requests for protective measures, video-link testimony and/or admission of prior recorded testimony.³
2. On 11 July 2019, the Chamber instructed the Registry to file a report on, *inter alia*, Mr Ntaganda’s conduct while in detention.⁴ This report was filed on 26 July 2019 (‘Registry Report’).⁵
3. On 29 July 2019, the parties filed their respective requests pursuant to the Chamber’s Order on Sentencing Procedure.⁶ The Defence, *inter alia*, notified its intention to tender 21 items into evidence.⁷

¹ Judgment, ICC-01/04-02/06-2359 (with Annexes A, B and C).

² Order on sentencing procedure, ICC-01/04-02/06-2360.

³ Order on Sentencing Procedure, para. 2(iii).

⁴ Email from the Chamber to the Registry, 11 July 2019, at 16:29.

⁵ Registry’s Report on Mr Bosco Ntaganda’s Solvency and Conduct While in Detention, ICC-01/04-02/06-2367-Conf (with confidential annex).

⁶ Prosecution’s request to submit additional evidence on sentencing, ICC-01/04-02/06-2368-Conf; and Defence request for admission of sentencing evidence, ICC-01/04-02/06-2369-Conf-Exp (‘First Defence Request’, with confidential *ex parte* Annexes A, B and C only available to the Chamber and the Registry and confidential Annex D; confidential redacted versions were notified the same day, ICC-01/04-02/06-2369-Conf-Red, ICC-01/04-02/06-2369-Conf-AnxA-Red and ICC-01/04-02/06-2369-Conf-AnxB-Red, respectively. A further confidential redacted version was notified on 10 September, ICC-01/04-02/06-2369-Conf-Red2). The LRVs both informed the Chamber that they did not intend to request leave to submit further evidence or to call witnesses for the purposes of the sentencing proceedings, see email from the Common Legal Representative for the former child soldiers to the Chamber, 29 July 2019, at 15:19; and email from the Common Legal Representative for the victims of the attacks to the Chamber, 29 July 2019, at 16:45.

4. On 5 August 2019, the parties filed their respective responses pursuant to the Chamber's Order on Sentencing Procedure. The Prosecution partially opposed the Defence's request and further requested the admission of five documents and excerpts of six documents to contextualize some of the evidence tendered by the Defence ('5 August Prosecution Response').⁸ The Defence opposed the Prosecution's request in its entirety.⁹
5. On 20 August 2019, the Chamber, *inter alia*, granted the Defence's request to hear three *viva voce* witnesses and rejected the Prosecution's request to hear one *viva voce* witness.¹⁰ On 23 August 2019, the Chamber issued its 'Preliminary ruling on prior recorded testimony pursuant to Rule 68(2)(b) in relation to sentencing', *inter alia*, admitting four documents tendered by the Prosecution in the 5 August Prosecution Response and ordering the parties and participants to file any requests for admission of documentary evidence other than through witnesses by 30 August 2019 (the latter, '23 August Order').¹¹
6. On 30 August 2019, the Defence requested the admission of 17 items into evidence for the purpose of sentencing ('Defence Request').¹² On the same day, the Prosecution requested the admission of 26 items into evidence ('Prosecution Request').¹³
7. Also on 30 August 2019, pursuant to an order from the Chamber in this respect,¹⁴ the Director of Judicial Services filed an *addendum* to the Registry Report, providing

⁷ First Defence Request, paras 1, 25; and Annex B, *annexed to* ICC-01/04-02/06-2369-Conf-Red.

⁸ Prosecution's response to the "Defence request for admission of sentencing evidence", ICC-01/04-02/06-2369-Conf-Red, 29 July 2019, ICC-01/04-02/06-2375-Conf (a corrected version was notified on 8 August 2019, ICC-01/04-02/06-2375-Conf-Corr, with confidential annex ICC-01/04-02/06-2375-Conf-Corr-Anx).

⁹ Defence response to "Prosecution's request to submit additional evidence on sentencing", ICC-01/04-02/06-2373-Conf.

¹⁰ Decision on requests to call witnesses in relation to sentencing and for increased monitoring of Mr Ntaganda's contacts and scheduling the sentencing hearing, ICC-01/04-02/06-2384-Conf (a public redacted version was notified the next day, ICC-01/04-02/06-2384-Red).

¹¹ ICC-01/04-02/06-2385-Conf (a public redacted version was notified the same day, ICC-01/04-02/06-2385-Red).

¹² Defence request for the admission of supplementary sentencing evidence, ICC-01/04-02/06-2388-Conf (with confidential *ex parte* annex available to the Chamber and the Registry only; a confidential redacted version of the annex was filed the same day).

¹³ Prosecution's request for the admission of additional documentary evidence on sentencing, ICC-01/04-02/06-2389 (with confidential Annex A).

¹⁴ Order in relation to D-0308, 14 August 2019, ICC-01/04-02/06-2382-Conf.

further information on Mr Ntaganda's conduct while in detention in relation to one particular matter.¹⁵

8. On 6 September 2019, in line with the deadline set by the Chamber,¹⁶ the Defence responded to the Prosecution Request, opposing it ('Defence Response').¹⁷ That same day, the Prosecution also responded to the Defence Request ('Prosecution Response'), opposing the admission of all but one item tendered by the Defence and requesting the admission of a number of further items into evidence, should the Chamber admit some of the items tendered by the Defence.¹⁸
9. On 11 September 2019, the Defence responded to the Prosecution's request for admission of additional items contained in the Prosecution Response ('Further Defence Response'), opposing the request to admit some of the items, and submitting that, in any event, the request for admission of those items is untimely and should therefore be rejected *in limine*.¹⁹

II. ANALYSIS

10. The Chamber incorporates by reference the applicable law as set out in its previous decisions on the admission of documentary evidence from the 'bar table'.²⁰

¹⁵ Addendum to "Registry's Report on Mr Bosco Ntaganda's Solvency and Conduct While in Detention" (ICC-01/04-02/06-2367-Conf), ICC-01/04-02/06-2390-Conf-Exp (with confidential Annex I and confidential *ex parte* Annex II only available to the Registrar and the Defence; a confidential redacted version was filed the same day, ICC-01/04-02/06-2390-Conf-Red).

¹⁶ Email from the Chamber to the parties and participants, 2 September 2019, at 11:02.

¹⁷ Defence response to "Prosecution's request for the admission of additional documentary evidence on sentencing", ICC-01/04-02/06-2392.

¹⁸ Prosecution's response to the "Defence request for the admission of supplementary sentencing evidence", ICC-01/04-02/06-2388-Conf, 30 August 2019, ICC-01/04-02/06-2393-Conf. The Prosecution also indicated that it 'reserves its right' to make submission on the admission of one item submitted by the Defence, in relation to which the Defence's submissions were made *ex parte*, until it obtained access to the document (Prosecution Response, paras 2, 32).

¹⁹ Response to Prosecution's request for admission of additional evidence contained in "Prosecution's response to the 'Defence request for the admission of Supplementary sentencing evidence', ICC-01/04-02/06-2388-Conf, 30 August 2019", ICC-01/04-02/06-2399-Conf.

²⁰ Decision on Prosecution's first request for the admission of documentary evidence, 19 February 2016, ICC-01/04-02/06-1181, paras 6-7 ('19 February 2016 Decision'); Decision on Prosecution's request for admission of documentary evidence, 28 March 2017, ICC-01/04-02/06-1838 ('28 March 2017 Decision'), para. 6; and Decision on Defence request for admission of evidence from the bar table, 31 January 2018, ICC-01/04-02/06-2201-Conf, para. 4.

A. Preliminary matter

11. The Chamber notes the Defence's submission that the Prosecution's request for admission of 19 items into evidence should be rejected *in limine* as these items were submitted after the deadline set out in the Order on Sentencing Procedure for the notification of supplemental sentencing evidence.²¹ It argues that the Prosecution did not make a request pursuant to Regulation 35 of the Regulations of the Court for the extension of the deadline previously imposed by the Chamber and that, in any event, no such justification exists since the Prosecution had ample time to notify its intention to tender the documents in response to the Defence's request for the admission of further evidence in relation to sentencing.²²
12. In this respect, the Chamber notes that, while it would have been preferable for the Prosecution to notify the Chamber and the Defence of its intention to tender the 19 documents into evidence either in its request for admission of further evidence related to sentencing or in its response to the Defence's request for the admission of further evidence in relation to sentencing, the absence of such notification does not, as such, constitute a bar to admission. It further notes that it was only in the 23 August Order that the Chamber set a deadline for any requests for admission of evidence other than through witnesses. It did so, as only after the Chamber's respective decisions on their requests to call witnesses in relation to sentencing, could the parties adequately assess the need to tender evidence related to sentencing other than through witnesses on matters that would otherwise have been addressed by the persons who were not granted as witnesses. The Chamber will therefore consider the Prosecution's request for admission of these 19 items.
13. In relation to the similar Defence submission that the Prosecution's request in the Prosecution Response for admission of some of the additional items into evidence should be rejected *in limine* as being untimely,²³ the Chamber notes the Prosecution's submission that the additional documents are relevant for a complete evaluation of matters raised in the Defence Request.²⁴ Noting the nature of the items in question, the Chamber accepts that that the Prosecution could only have adequately assessed the

²¹ Defence Response, paras 2, 9-12.

²² Defence Response, para. 11

²³ Further Defence Response, paras 2, 12-15.

²⁴ Prosecution Response, paras 20-21, 29.

need to tender such evidence following receipt of the Defence Request and will therefore consider the Prosecution's request for admission of these additional items.

B. Uncontested item and related supplemental request

14. The Defence tenders into evidence four excerpts of video DRC-OTP-0127-0064,²⁵ together with their related transcriptions DRC-OTP-0165-0276²⁶ and translations DRC-OTP-0165-0349.²⁷ The Defence submits that the video depicts a ceremony during which ranks were given out to FPLC soldiers in the presence of FNI and Lendu community leaders and related events in Katoto and is illustrative of Mr Ntaganda's efforts to reach out to the Lendu community and to promote reconciliation.²⁸ While not opposing the admission of the excerpts proposed by the Defence, the Prosecution requests that, should the Chamber admit them into evidence, it should also grant the admission of two extensions of two of the excerpts,²⁹ so that the Chamber can properly evaluate the nature of the event depicted therein and the related Defence submissions.³⁰ The Prosecution specifically submits that the further proposed excerpts illustrate the reason for the presence of Lendu leaders at the event depicted on the video.³¹
15. In light of their content, and considering that the Prosecution does not dispute the authenticity of the video excerpts, the Chamber finds that the excerpts of video DRC-OTP-0127-0064 proposed for admission into evidence by both parties are unique and go beyond other evidence on the record and are *prima facie* relevant to the Chamber's assessment of Mr Ntaganda's conduct after the events forming part of the charges,

²⁵ 00:34:05 to 00:35:00; 00:57:47 to 01:07:01; 02:08:23 to 02:10:10; and 02:17:41 to 02:19:33.

²⁶ Page 0297, line 459 to line 478; page 0304 line 666 to page 0308, line 767; page 0336, line 1473 to page 0337, line 1491; and page 0338, line 1511 to page 0339, line 1541.

²⁷ Page 0371, line 481 to page 0372, line 501; page 0379, line 710 to page 0383, line 821; page 0413, line 1556 to line 1577; and page 0414 line 1599 to page 0416 line 1634.

²⁸ Annex, *annexed to* ICC-01/04-02/06-2388-Conf, pages 5-6.

²⁹ The Prosecution requests the extension of the first excerpt by 50 seconds from 00:40:15 to 00:42:07 and the extension of the third excerpt by 1 minute and 23 seconds, effectively bridging the gap between the third and the fourth excerpt, which would run from 02:14:30 to 02:19:33. The three remaining excerpts that the Prosecution intends to tender are thus the following: (1) DRC-OTP-0127-0064, from 00:40:15 to 00:42:07, with transcription DRC-OTP-0165-0276, page 0297, line 0459 to page 0298, line 0491, and translation DRC-OTP-0165-0349, page 0371, line 481 to page 0372, line 514; (2) DRC-OTP-0127-0064, from 00:57:47 to 01:07:01, with transcription DRC-OTP-0165-0276, page 0304, line 666 to page 0308, line 767 and translation DRC-OTP-0165-0349, page 0379, line 710 to page 0383, line 821; (3) DRC-OTP-0127-0064, from 02:14:30 to 02:19:33, with transcription DRC-OTP-0165-0276, page 0336, line 1473 to page 0339, line 1541 and translation DRC-OTP-0165-0349, page 0413, line 1556 to page 0416, line 1634 (Prosecution Response, footnote 55).

³⁰ Prosecution Response, para. 22.

³¹ Prosecution Response, para. 22.

especially as concerns issues the Defence wishes to bring to the attention of the Chamber, and considers that their probative value has been sufficiently established. The Chamber also considers that the additional excerpts proposed by the Prosecution may assist the Chamber in contextualizing the portions sought to be admitted by the Defence. Furthermore, the Chamber is satisfied that no undue prejudice would arise from their admission. Accordingly, the Chamber admits the excerpts of video DRC-OTP-0127-0064 as proposed by the Defence³² and the Prosecution³³ and their related transcriptions³⁴ and translations³⁵ into evidence.

C. Contested items

1. Items tendered by the Defence

16. *DRC-OTP-0159-0477 and related transcription and translation*: The Defence tenders into evidence three excerpts of video DRC-OTP-0159-0477,³⁶ together with their related transcriptions³⁷ and translations.³⁸ It avers that they show Mr Ntaganda's family relationships as well as his views about women and his disposition towards the civilian population in 2004.³⁹ The Prosecution argues that the excerpts are irrelevant to any mitigating circumstances pursuant to Rule 145(2)(a) of the Rules and lack probative value.⁴⁰ It submits that, contrary to the Defence's submissions, the video does not portray Mr Ntaganda attending a private birthday celebration with the civilian population of Largu, but rather a UPC public relations event aimed at obtaining the support of the – mainly Hema – local population.⁴¹ It further refers to the Chamber's previous indication that it would defer its ruling on the admission into evidence of the first excerpt of the video which, pursuant to the Defence's

³² 00:34:05 to 00:35:00; 00:57:47 to 01:07:01; 02:08:23 to 02:10:10; and 02:17:41 to 02:19:33.

³³ 00:40:15 to 00:42:07; 00:57:47 to 01:07:01; and 02:14:30 to 02:19:33.

³⁴ DRC-OTP-0165-0276, page 0297, line 0459 to page 0298, line 0491, page 0304, line 666 to page 0308, line 767, and page 0336, line 1473 to page 0339, line 1541.

³⁵ DRC-OTP-0165-0349, page 0371, line 481 to page 0372, line 514, page 0379, line 710 to page 0383, line 821, and page 0413, line 1556 to page 0416, line 1634.

³⁶ 00:02:46 to 00:03:32; 01:11:20 to 01:22:37; and 02:45:30 to 02:55:10.

³⁷ DRC-OTP-2061-0651, page 0657, line 150 to page 0658, line 10; page 0667, line 499 to page 0670, line 608; and page 0691, line 1383 to page 0696, line 1577.

³⁸ DRC-OTP-2085-0468, page 0475, line 153 to page 0476, line 192; page 0486, line 519 to page 0488 line 641; and page 0511, line 1476 to page 0517, line 1693.

³⁹ Annex, *annexed to* ICC-01/04-02/06-2388-Conf, page 1.

⁴⁰ Prosecution Response, paras 8, 9, 11, 15-16.

⁴¹ Prosecution Response, para. 9.

submission, was to be referred to in Witness D-0303's prior recorded testimony.⁴² Should the Chamber admit the second excerpt tendered by the Defence, the Prosecution requests that the excerpt be extended⁴³ so that the Chamber can properly evaluate the nature of the event depicted therein in its context.⁴⁴

17. At the outset, the Chamber recalls that one excerpt of video DRC-OTP-0159-0477,⁴⁵ together with the related transcription and translation, are subject to a pending request for them to be admitted as items associated to Witness D-0303's prior recorded statement, which has been submitted for admission pursuant to Rule 68(2)(b) of the Rules.⁴⁶ The Chamber will therefore rule on this excerpt and the related transcription and translation when dealing with the Rule 68(2)(b) request.

18. As for the remaining excerpts tendered by the Defence,⁴⁷ as well as the extension of the second excerpt as proposed by the Prosecution, the Chamber considers that they are unique and go beyond other evidence on the record and may be relevant in determining the existence of mitigating circumstances, Mr Ntaganda's character *vis-à-vis* others, and Mr Ntaganda's personal relationships. Noting further that their authenticity is not disputed, the Chamber considers that their probative value has been sufficiently established.

19. Under these circumstances, the Chamber admits the aforementioned excerpts of video DRC-OTP-0159-0477⁴⁸ into evidence, together with their related transcriptions⁴⁹ and translations.⁵⁰

⁴² Prosecution Response, para. 10.

⁴³ The Prosecution requests the admission of DRC-OTP-0159-0477, from 01:22:37 to 01:30:03, with transcription DRC-OTP-2061-0651, page 0671, line 609 to page 0672, line 694, and translation DRC-OTP-2085-0468, page 0489, line 642, to page 0491, line 735; and DRC-OTP-0159-0477, from 01:43:53 to 01:48:49, with transcription DRC-OTP-2061-0651, page 0673, line 719, to page 0674, line 781, and translation DRC-OTP-2085-0468, page 0492, line 768 to page 0493, line 863 (Prosecution Response, footnotes 18, 19).

⁴⁴ Prosecution Response, paras 12-14.

⁴⁵ 02:47:40 to 02:51:00.

⁴⁶ ICC-01/04-02/06-2385-Red, para. 45; D-0303 witness statement in Annex C, *annexed to* ICC-01/04-02/06-2397, paras 33-35.

⁴⁷ 00:02:46 to 00:03:32; 01:11:20 to 01:22:37; 02:45:30 to 02:47:40; and 02:51:00 to 02:55:10.

⁴⁸ 00:02:46 to 00:03:32; 01:11:20 to 01:30:03; 01:43:53 to 01:48:49; 02:45:30 to 02:47:40; and 02:51:00 to 02:55:10.

⁴⁹ DRC-OTP-2061-0651, page 0657, line 150 to page 0658, line 10; page 0667, line 499 to page 0670, line 608; page 0671, line 609 to page 0672, line 694; page 0673, line 719, to page 0674, line 781; and page 0691, line 1383 to page 0696, line 1577.

20. *DRC-D18-0001-0425 and related transcription and translation:* The Defence tenders into evidence two excerpts of video DRC-D18-0001-0425,⁵¹ a press conference following the signing of the *cessez le feu* agreement between the UPC and the RCD-Goma dated February 2003,⁵² together with their related translations.⁵³ It submits that the speech by Thomas Lubanga depicted therein, given in Mr Ntaganda's presence, demonstrates the UPC/FPLC's efforts towards peace and reconciliation with all communities.⁵⁴ The Prosecution avers that the event depicted in the video has already been extensively dealt with during Mr Ntaganda's testimony as well as in the Defence's closing brief and that the Defence has already presented extensive evidence on – and the Chamber made factual findings in relation to – the UPC's policy with respect to peace and ethnic reconciliation.⁵⁵
21. The Chamber considers that the Defence has not sufficiently demonstrated that the aforementioned proposed evidence is unique and goes beyond other evidence on the record. It specifically notes that, in its Judgment, the Chamber indeed dismissed arguments concerning the alleged genuineness of the message of peace and ethnic reconciliation of the UPC.⁵⁶ In light of the foregoing, the Chamber decides not to admit the excerpts of video DRC-D18-0001-0425 tendered by the Defence and their related transcriptions and translations into evidence.
22. *DRC-D18-0001-0436 and DRC-OTP-0118-0002 and related transcriptions and translations:* The Defence tenders into evidence four excerpts of video DRC-D18-0001-0436⁵⁷ and five excerpts of video DRC-OTP-0118-0002⁵⁸ and their related transcriptions⁵⁹ and translations.⁶⁰ It submits that the videos, depicting a ceremony in

⁵⁰ DRC-OTP-2085-0468, page 0475, line 153 to page 0476, line 192; page 0486, line 519 to page 0488 line 641; page 0489, line 642, to page 0491, line 735; page 0492, line 768 to page 0493, line 863; and page 0511, line 1476 to page 0517, line 1693.

⁵¹ 00:10:10 to 00:14:52 (of which minutes 00:14:02 to 00:14:39 are already admitted); and 01:09:22 to 01:11:30.

⁵² Annex, *annexed to* ICC-01/04-02/06-2388-Conf, page 2.

⁵³ DRC-D18-0001-5540, page 5543 line 31 to page 5544 line 63.

⁵⁴ Annex, *annexed to* ICC-01/04-02/06-2388-Conf, page 2.

⁵⁵ Prosecution Response, para. 17.

⁵⁶ Judgment, paras 686-689.

⁵⁷ 00:16:37 to 00:19:14; 00:42:36 to 00:45:22; 01:05:20 to 01:05:45; and 01:46:04 to 01:46:15.

⁵⁸ 00:00:00 to 00:01:06; 00:16:20 to 00:20:20; 00:20:49 to 00:26:30; 00:55:27 to 01:11:46; and 01:12:43 to 01:14:31

⁵⁹ For DRC-D18-0001-0436: DRC-D18-0001-5632, pages 5633 to 5634. For DRC-OTP-0118-0002: DRC-OTP-2084-0092, page 0093, lines 1 to 18, page 0095 line 98 to page 0096 line 138, page 96, line 138 to page 0097, line 166, page 101, line 307 to page 0105, line 443, and page 0105 line 453 to page 0105 line 471.

Largu in 2004 during which ranks were given to FPLC members in the presence of FNI and Lendu community leaders and which were followed by celebrations is probative of the reconciliation between the FPLC, the FNI and the Hema and Lendu communities and demonstrates Mr Ntaganda's successful efforts to reach out to the Lendu community and the FNI and to promote reconciliation.⁶¹ The Defence further notes that, considering that Witnesses D-0305 and D-0306 were present during the event depicted on the videos, they could be understood as related to these videos; however, in the interests of efficiency, it requests that it be permitted to tender the proposed excerpts from the bar table, on the understanding that some portions of the videos will be shown to the witnesses during their examination-in-chief.⁶² In the alternative, the Defence requests an additional 15 minutes for its examination-in-chief of D-0305 and D-0306, respectively.⁶³ The Prosecution argues that the Defence's request should be rejected *in limine*, as the Chamber already ruled that the excerpts are to be tendered during the allocated time for examination-in-chief of D-0305 and D-0306.⁶⁴ It further avers that, in any case, the request for admission of the nine excerpts should be rejected for lack of relevance and/or probative value, as the mere presence of FNI and Lendu leaders at the event depicted in the video is not probative of Mr Ntaganda's efforts towards ethnic reconciliation but is rather illustrative of the UPC's 2004 political and military alliance with the FNI against other armed groups in the region.⁶⁵ Should the Chamber admit all or some of the aforementioned video excerpts tendered by the Defence, the Prosecution requests the admission of portions of three MONUC documents⁶⁶ which it argues are important for the Chamber's evaluation of the matters raised by the Defence.⁶⁷ The Defence opposes the admission of those three MONUC documents, submitting that the information contained therein constitutes anonymous hearsay, and that the information does not demonstrate that the coalition between UPC and FNI 'was not one of ethnic and community

⁶⁰ For DRC-D18-0001-0436: DRC-D18-0001-5635, pages 5637 to 5638. For DRC-OTP-0118-0002: DRC-OTP-2084-0041, page 0043, lines 1 to 21, page 0045, line 104 to page 0046, line 135, page 0047, lines 144 to 174, page 0051, line 321 to page 0055, line 463, and page 0055, line 478 to page 0056 line 496.

⁶¹ Annex, *annexed to* ICC-01/04-02/06-2388-Conf, pages 2-4.

⁶² Defence Request, paras 5-6.

⁶³ Defence Request, para. 7.

⁶⁴ Prosecution Response, para. 18.

⁶⁵ Prosecution response, para. 19.

⁶⁶ DRC-OTP-0009-0227, page 0232, para. 5(c); DRC-OTP-0009-0271, page 0275, para. 19; and DRC-OTP-0195-2012.

⁶⁷ Prosecution Response, paras 20-21.

reconciliation’,⁶⁸ rather merely demonstrates that there was indeed a coalition and that MONUC felt threatened by it, which it says is not surprising, nor relevant to any issue of sentencing, given MONUC’s open acknowledgement of its support of Floribert Kisembo’s faction.⁶⁹

23. Considering the Defence’s submission that Witnesses D-0305 and D-0306 appear on the videos the extracts of which the Defence intends to tender into evidence, the Chamber considers it more appropriate – as already indicated in its previous ruling – that the excerpts be tendered during the examination-in-chief of the aforementioned witnesses. Considering further the length of the extracts to be tendered and the procedure for having videos admitted through witnesses,⁷⁰ the Chamber grants the Defence’s request for an additional 15 minutes for the examination-in-chief of Witnesses D-0305 and D-0306, respectively, and rejects its request for admission of the tendered excerpts of DRC-D18-0001-0436 and DRC-OTP-0118-0002 and their related transcriptions and translations from the bar table. Under these circumstances, the Chamber also defers its ruling on the Prosecution’s request for admission of portions of three MONUC documents tendered for the purpose of contextualizing the aforementioned video evidence tendered by the Defence. In case the excerpts of the videos are admitted for the Defence, the Prosecution must inform the Chamber at the end of the testimony of the relevant witnesses whether it still wishes to have the items admitted.
24. *DRC-OTP-0086-0036*: The Defence tenders document DRC-OTP-0086-0036, a decree dated 11 December 2004, which it submits is probative of the integration into the FARDC of members of various armed groups, including the FPLC, and goes to proof of Mr Ntaganda’s contribution thereto.⁷¹ The Defence argues that the admission of the document from the bar table would not justify the Prosecution’s attempt to tender seven documents making alleged prejudicial and unsubstantiated allegations concerning events which occurred in 2008, 2009 and 2010 and which fail to demonstrate whether or not Mr Ntaganda was integrated into the FARDC prior to 2008 – which in any case the Defence does not intend to prove by means of tendering

⁶⁸ Prosecution Response, para 21.

⁶⁹ Further Defence Response paras 16-17, 27.

⁷⁰ Decision on the conduct of proceedings, 2 June 2015, ICC-01/04-02/06-619, para. 56.

⁷¹ Defence Request, para. 8; and Annex, *annexed to* ICC-01/04-02/06-2388-Conf, pages 6-7.

the present document.⁷² The Prosecution argues that, contrary to the Defence's claim, without any further evidence regarding the context in which it was made, document DRC-OTP-0086-0036 does not support the claim that Mr Ntaganda contributed to the integration process of former FPLC members into the FARDC.⁷³ It further avers that, should the document be in any way related to the testimony of D-0020 and/or D-0047, it should be tendered through either one of these witnesses and not from the bar table.⁷⁴ Lastly, the Prosecution refers to its request for the admission of six excerpts of United Nations Group of Experts on the DRC reports and one related Reuters news article, which it argues clarify Mr Ntaganda's testimony about his reintegration into the FARDC and provide information concerning his conduct in the period after the temporal scope of the charges in the present case and which the Chamber should admit for a complete evaluation of the Defence's evidence on this point.⁷⁵

25. The Chamber considers that the tendered document is unique and goes beyond other evidence on the record. It further considers that, seen in the context of other evidence received by the Chamber,⁷⁶ the document is *prima facie* relevant to the Chamber's assessment of Mr Ntaganda's conduct after the events forming part of the charges, especially as concerns issues the Defence has indicated it wishes to bring to the attention of the Chamber. The Chamber further notes the document is dated, signed, stamped, and bears the letterhead of the DRC Presidency, and it notes that the Prosecution does not dispute its authenticity. The Chamber is therefore satisfied that the probative value has sufficiently been established and admits it into evidence.

26. The Prosecution's request for admission of six excerpts of United Nations Group of Experts on the DRC reports and one related Reuters news article is dealt with by the Chamber below.

27. *DRC-OTP-0004-0047*: The Defence tenders document DRC-OTP-0004-0047, which it submits reproduces the content of a brief provided to the force commander on the Demobilization, Disarmament and Reinsertion programme ('DDR programme') and

⁷² Defence Request, paras 9-10.

⁷³ Prosecution Response, para. 23.

⁷⁴ Prosecution Response, para. 24.

⁷⁵ Prosecution Response, para. 25, also referring Annex A, annexed to ICC-01/04-02/06-2389, pages 1-2.

⁷⁶ Annex A, *annexed to* Notice of submission of prior recorded testimony pursuant to Rule 68(2)(b) and the Trial Chamber's order of 23 August 2019, 9 September 2019, ICC-01/04-02/06-2397.

the CCCGA programme and it thus probative of the UPC/FPLC's involvement in the aforementioned programmes and illustrates the UPC/FPLC's good record in this respect.⁷⁷ It submits that although the document was not admitted from the bar table at trial due to the fact that it is not dated, this is not determinative at the present stage considering the different standard of proof applicable to mitigating circumstances.⁷⁸ The Prosecution argues that the Defence has not provided any new information since its previous tendering of the document, which was found to lack sufficient indicia of reliability and that, in any case, the document lacks probative value as far as the UPC/FPLC's involvement in the DDR and CCCGA programmes is concerned.⁷⁹ Should the Chamber admit the document, the Prosecution requests the admission of excerpts of seven additional documents⁸⁰ for the Chamber's complete evaluation of the Defence's evidence on this point.⁸¹ Lastly, the Prosecution submits that, should document DRC-OTP-0004-0047 be in any way related to the testimony of D-0020 and D-0047, the appropriate procedural avenue for its submission is through either one of these witnesses and not from the bar table.⁸²

28. The Chamber notes that, contrary to the Defence's submission, the reason for the Chamber's previous denial of admission into evidence of document DRC-OTP-0004-0047 was not solely the absence of the relevant date, but also the absence of any other relevant indicia of reliability, such as information as to its source, context, and purpose of its creation.⁸³ It further notes that, while the existence of mitigating circumstances is indeed to be considered on a balance of probabilities,⁸⁴ any items of evidence going to the proof thereof must still bear relevant indicia of reliability in

⁷⁷ Annex, annexed to ICC-01/04-02/06-2388-Conf, page 7.

⁷⁸ Annex, annexed to ICC-01/04-02/06-2388-Conf, page 8.

⁷⁹ Prosecution Response, paras 26-28.

⁸⁰ DRC-OTP-0004-0040, paras 2, 9; DRC-OTP-0061-0191, page 0192, para. 3; DRC-OTP-0006-0323, page 0324, para 2(e); DRC-OTP-1029-0568, page 0571, paras 25-26; DRC-OTP-0009-0035, page 0038, para. 10; DRC-OTP-1029-0579, page 0584, para. 13; and DRC-OTP-0009-0146, page 0155, paras 12, 15.

⁸¹ Prosecution Response, paras 29-30.

⁸² Prosecution Response, para. 31.

⁸³ Decision on Defence request for admission of evidence from the bar table, 21 January 2017, ICC-01/04-02/06-2201-Conf (a public redacted version was notified the same day, ICC-01/04-0206-2201-Red), para. 12.

⁸⁴ *The Prosecutor v. Thomas Lubanga*, Decision on Sentence pursuant to Article 76 of the Statute, 10 July 2012, ICC-01/04-01/06-2901, para. 34; *The Prosecutor v. Germain Katanga*, Decision on Sentence pursuant to Article 76 of the Statute, 23 May 2014, ICC-01/04-01/07-3484, para. 34; *The Prosecutor v. Jean-Pierre Bemba*, Decision on Sentence pursuant to Article 76 of the Statute, 21 June 2016, ICC-01/05-01/08-3399, para. 19; *The Prosecutor v. Ahmad Al Mahdi*, Judgment and Sentence, 27 September 2016, ICC-01/12-01/15-171, para. 74; and *The Prosecutor v. Jean-Pierre Bemba Gombo et al.* Decision on Sentence pursuant to Article 76 of the Statute, 22 March 2017, ICC-01/05-01/13-2123-Corr, para. 24.

order to assist the Chamber in establishing the existence of any such mitigating circumstances. Under these circumstances, and considering that the Defence has not provided any new information in relation to the document, the Chamber denies its admission into evidence. In light of the foregoing, the Prosecution's request for admission of excerpts of seven additional documents tendered for the purpose of the Chamber's evaluation of the Defence's evidence on this point is moot.⁸⁵

29. *Ex parte document*: The Defence tenders one document into evidence which remains *ex parte*, Chambers and Registry only, as it relates to matters concerning the private life of an accused person in another case before the Court.⁸⁶ The relevant information contained in the document is referred to in the *addendum* to the Registry Report.⁸⁷ The Prosecution requests access to the document or to a redacted version thereof in order to make submissions in relation thereto and indicates that it 'reserves its right' to do so until it has obtained such access.⁸⁸

30. The Chamber notes that the aforementioned document tendered by the Defence is relevant to one matter concerning Mr Ntaganda's conduct while in detention, which has been placed on the record of the case by means of filing of the *addendum* to the Registry Report. Under these circumstances and noting further the *ex parte* nature of the document and the concomitant effect thereof on the document's probative value, the Chamber considers it not appropriate to admit the document into evidence. The Chamber therefore denies the admission of the aforementioned document.

2. Items tendered by the Prosecution

31. *United Nations Group of Experts on the DRC reports and related Reuters news article*: The Prosecution tenders six excerpts of United Nations Group of Experts on the DRC reports⁸⁹ and one related news article.⁹⁰ It argues that the tendered items are relevant to the Defence's argument that document DRC-OTP-0086-0036, which the

⁸⁵ See also Further Defence Response, paras 18-24.

⁸⁶ Defence Request, para. 11; and Annex, *annexed to* ICC-01/04-02/06-2388-Conf, page 6.

⁸⁷ Annex, *annexed to* ICC-01/04-02/06-2388-Conf; and Annex I, *annexed to* ICC-01/04-02/06-2390-Conf-Red.

⁸⁸ Prosecution Response, para. 32.

⁸⁹ DRC-OTP-2102-1032, at 1044, para. 54; DRC-OTP-2102-1093, at 1097, para. 19 and 1139, para. 191; DRC-OTP-2102-1220, at 1228, para. 35 and 1239, paras 98-99; DRC-OTP-2102-1247, at 1292, para. 183 and 1432, annex 62; DRC-OTP-2102-1535, at 1542-1543, para. 34; and DRC-OTP-2102-1560, at 1601, para. 153.

⁹⁰ DRC-OTP-2102-1004.

Defence seeks to tender, is indicative of Mr Ntaganda's contribution to the integration of FPLC members into the FARDC, whereas the Prosecution asserts that these documents demonstrate that Mr Ntaganda only assumed a position within the FARDC many years after his alleged appointment, if at all, and that, in the meantime, he was part of the leadership of an armed group active in eastern DRC which was accused of committing human rights abuses and international crimes.⁹¹ The Defence argues that the tendered items are irrelevant and inappropriate for admission during sentencing proceedings.⁹² It submits that they are not probative of the alleged fact that Mr Ntaganda only assumed a position within the FARDC many years after his alleged appointment and that the roles played and positions occupied by him from 2004 onwards are not a matter that arises from the evidence tendered in mitigation.⁹³ The Defence further avers that the tendering of the aforementioned items constitutes a disguised attempt to introduce evidence concerning aggravating circumstances, in relation to which it further submits that: (i) the events referred to in the tendered items are too remote to be considered aggravating circumstances for the crimes for which Mr Ntaganda has been convicted; and (ii) due to its anonymous nature, the information contained therein is unsuitable for proof of any fact beyond reasonable doubt, which is required for establishing the existence of aggravating circumstances.⁹⁴

32. To the extent the Prosecution aims to rely on the items to show Mr Ntaganda's involvement with the FARDC or the CDNP, the Chamber considers that the items are relevant. They further bear sufficient indicia of reliability, and for the stated purpose of admission, part of the information contained in the excerpts the Prosecution request to have admitted had probative value. However, the excerpts contain information that is unduly prejudicial to Mr Ntaganda, and is irrelevant for the stated purpose. The Chamber will therefore only admit the specific sentences, or parts of sentences, that refer to Mr Ntaganda's role or position in the aforementioned armed forces.

33. The following (parts of) sentences of the excerpts are therefore admitted:

⁹¹ Annex A, *annexed to* ICC-01/04-02/06-2389, pages 1-2.

⁹² Defence Response, paras 13, 17.

⁹³ Defence Response, paras 13-15.

⁹⁴ Defence Response, para. 16.

- i. DRC-OTP-2102-1032, page 1044, the first sentence ('Bosco Ntaganda ... operations commander') of paragraph 54;
- ii. DRC-OTP-2102-1093, page 1097, para. 19 up to and including the words '... led by General Bosco Ntaganda';
- iii. DRC-OTP-2102-1220, page 1228, para. 35; page 1239, para. 98: only the words 'Kiwanja on 5 November 2008' from the heading; and the first sentence of para. 99 ('The Group ... General Bosco Ntaganda');
- iv. DRC-OTP-2102-1247, page 1292, para. 183 and page 1432, annex 62;
- v. DRC-OTP-2102-1535, pages 1542-1543, the sentence 'The Group understands that formally integrated CNDP units continue to respond to the parallel chain of command of General Bosco Ntaganda' of paragraph 34; and
- vi. DRC-OTP-2102-1560, page 1601, the sentence 'Bosco Ntaganda remained ... 6 October' of paragraph 153.

34. As to the Reuters news article DRC-OTP-2102-1004, the Chamber recalls that it has previously ruled in relation to news articles, that, *inter alia*, the lack of information on the background and qualifications of their authors and the sources relied upon, results in such items being of a limited probative value. It further considered that such items therefore 'do not meet the reliability and probative value requirements without a witness to testify to the accuracy of the information contained therein', and that admission of news articles via the bar table was not appropriate.⁹⁵ The Chamber further notes that the key information, namely Mr Ntaganda's alleged involvement in the Amani Leo operations, is already captured in the UN report. Therefore, and in line with its previous ruling on news articles, the Chamber rejects the admission into evidence of the Reuters news article.

35. *Letter from Dominique McAdams and MONUC press article*: The Prosecution tenders a letter sent by Dominique McAdams, the then-director of MONUC in Ituri, to Thomas Lubanga on 29 June 2004⁹⁶ and a press article published by MONUC on

⁹⁵ 28 March 2017 Decision, para. 61.

⁹⁶ DRC-OTP-0151-0305.

22 January 2004⁹⁷ which it argues are relevant to the evidence to be introduced by the Defence regarding Mr Ntaganda's alleged good cooperation with MONUC in 2004.⁹⁸ It avers that the documents are relevant to Mr Ntaganda's conduct after the period of the charges and the Defence's arguments in relation thereto.⁹⁹ The Defence argues that no reference to Mr Ntaganda or to anyone under his control is made in the 29 June 2004 letter and that no source of the information contained therein is given.¹⁰⁰ It thus avers that the document is thus not suitable for admission as it lacks both relevance and probative value.¹⁰¹ As for the MONUC press article, the Defence argues that it relates to the first two months of 2004 and concerns issues related to MONUC's support for Floribert Kisembo at a time when the UPC had split into two factions, which the Defence submits led to friction between the FPLC and MONUC, a matter not contested by the Defence.¹⁰² It further argues that this situation improved over the course of 2004 and, in any event, does not rebut Mr Ntaganda's efforts in 2004 to encourage reconciliation with Lendu leaders.¹⁰³

36. In relation to the letter DRC-OTP-0151-0305, the Chamber notes that the document does not make any mention of Mr Ntaganda and/or the UPC/FPLC. Under these circumstances, the Chamber considers that its relevance to the sentencing proceedings in the present case has not been sufficiently established and does not admit it into evidence.

37. As for the press article DRC-OTP-0154-0648, the Chamber notes that the information contained therein is unique and goes beyond other evidence on the record. It further considers that, while only referring to events which occurred in early 2004, such information is *prima facie* relevant to the Chamber's assessment of Mr Ntaganda's conduct after the events forming part of the charges, especially as concerns issues the Defence wishes to bring to the attention of the Chamber. Moreover, mindful that the Defence does not dispute the document's authenticity, and that the document bears relevant indicia of reliability, its probative value has been sufficiently established.

⁹⁷ DRC-OTP-0154-0648.

⁹⁸ Annex A, *annexed to* ICC-01/04-02/06-2389, pages 3-4.

⁹⁹ Annex A, *annexed to* ICC-01/04-02/06-2389, pages 3-4.

¹⁰⁰ Defence Response, para. 25.

¹⁰¹ Defence Response, para. 25.

¹⁰² Defence Response, para. 24.

¹⁰³ Defence Response, para. 24.

Furthermore, the Chamber is satisfied that no undue prejudice to Mr Ntaganda would arise from the document's admission. Accordingly, the Chamber admits DRC-OTP-0154-0648 into evidence.

38. *20 November 2003 handwritten document and related items:* The Prosecution tenders a handwritten letter dated 20 November 2003 and purportedly signed by Mr Ntaganda¹⁰⁴ together with its translation¹⁰⁵ and an internal UN email dated 16 December 2003 sent by Dominique McAdams allegedly referring to the aforementioned letter.¹⁰⁶ It submits that the three documents considered together are relevant to the evidence to be introduced by the Defence regarding Mr Ntaganda's alleged good cooperation with MONUC in 2004 as they indicate that the then-director of MONUC in Ituri considered Mr Ntaganda to be a credible threat against MONUC personnel.¹⁰⁷ While acknowledging that the Chamber previously rejected the admission from the bar table of the letter and its translation at trial, it submits that the documents should now be admitted in light of the lower standard of proof applicable during sentencing proceedings.¹⁰⁸ The Defence argues that the handwritten document is a forgery, which it submits is evident on the basis of both its form and its content.¹⁰⁹ It further points out and the Chamber previously denied the admission of the document at trial, stating that its authenticity had been insufficiently established and argues that, considering its prejudicial and inflammatory content, no lower standard of admissibility could be justified during the sentencing proceedings.¹¹⁰

39. The Chamber recalls that the reason for its previous denial of admission into evidence of the letter (and its translation) at trial was the absence of information to confirm the provenance of the document.¹¹¹ It also notes that the email tendered now by the Prosecution refers to the letter only as having been 'allegedly' written by Mr Ntaganda. Considering that the Prosecution has not provided any new information in relation to the letter which would support its authenticity, the Chamber denies the admission of it into evidence, and consequently, the related translation and email.

¹⁰⁴ DRC-OTP-0132-0239.

¹⁰⁵ DRC-OTP-0177-0125.

¹⁰⁶ DRC-OTP-2057-0099.

¹⁰⁷ Annex A, *annexed to* ICC-01/04-02/06-2389, pages 5-6.

¹⁰⁸ Annex A, *annexed to* ICC-01/04-02/06-2389, pages 5-6.

¹⁰⁹ Defence Response, paras 19-21.

¹¹⁰ Defence response, paras 22-23.

¹¹¹ 19 February 2016 Decision, para. 18.

40. 14 MONUC reports from January and February 2004: The Prosecution tenders excerpts of 14 purported MONUC reports from January and February 2004¹¹² into evidence, arguing that they are relevant to Mr Ntaganda's conduct in the period after the charges and to the Defence's evidence regarding his alleged good cooperation with MONUC in 2004.¹¹³ It avers that the proposed excerpts show that, contrary to the Defence's submissions in this respect, Mr Ntaganda did not cooperate with MONUC, which saw him as a threat to its personnel and to the peace process in Ituri.¹¹⁴ The Defence similarly submits that the tendered documents relate to the first two months of 2004 and concerns issues related to MONUC's support for Floribert Kisembo at a time when the UPC had split into two factions, which the Defence submits led to friction between the FPLC and MONUC, a matter not contested by the Defence.¹¹⁵ It further argues that this situation improved over the course of 2004 and, in any event, does not rebut Mr Ntaganda's efforts in 2004 to encourage reconciliation with Lendu leaders.¹¹⁶

41. In relation to the excerpts of the 14 reports, the Chamber notes that the information contained therein goes beyond other evidence on the record. It further considers that, while only referring to events which occurred in early 2004, such information is *prima facie* relevant to the Chamber's assessment of Mr Ntaganda's conduct after the events forming part of the charges, especially as concerns issues the Defence wishes to bring to the attention of the Chamber.

42. In relation to items DRC-OTP-2066-0380, DRC-OTP-0204-0236, DRC-OTP-0185-0843, DRC-OTP-1029-0579, DRC-OTP-0007-0314, DRC-OTP-0004-0372, DRC-OTP-1029-0465, DRC-OTP-1029-0591, the Chamber notes that they bear the UN logo and present consistent layout and other features, and, have all according to the Prosecution, been obtained from the UN. The Chamber considers that they bear relevant indicia of reliability, and that their probative value has been sufficiently

¹¹² DRC-OTP-0010-0024, at 0026-0027, para. 7; DRC-OTP-2066-0380, at 0380, para. 1(b); DRC-OTP-0204-0236, at 0237, para. 2(c) and (d); DRC-OTP-0009-0432, at 0432, para. 1; DRC-OTP-0185-0843, at 0844-0845, para. 2(e); DRC-OTP-0012-0424; DRC-OTP-0004-0477, at 0477, para. 1; DRC-OTP-1029-0579, at 0579-0580, para. 2(b) and (c); DRC-OTP-0004-0178, at 0179, para. 6; DRC-OTP-0004-0164, at 0164; DRC-OTP-0007-0314, at 0316, para. 4(d)(1), (2) and (3); DRC-OTP-0004-0372, at 0373, para. 1; DRC-OTP-1029-0465, at 0467, para. 8(d); DRC-OTP-1029-0591, at 0595, para. 3(b)(iv) and 0603, paras 27-28.

¹¹³ Annex A, *annexed to* ICC-01/04-02/06-2389, pages 6-16.

¹¹⁴ Annex A, *annexed to* ICC-01/04-02/06-2389, pages 6-16.

¹¹⁵ Defence Response, para. 24.

¹¹⁶ Defence Response, para. 24.

established. Furthermore, the Chamber is satisfied that no undue prejudice to Mr Ntaganda would arise from the documents' admission, and accordingly admits the specified experts of them into evidence.

43. In relation to items DRC-OTP-0010-0024, DRC-OTP-0009-0432, DRC-OTP-0012-0424, DRC-OTP-0004-0477, DRC-OTP-0004-0178, and DRC-OTP-0004-0164, the Chamber observes that they lack the generally recognised indicia of reliability, such as information on their sources, context, or purpose of their creation. Furthermore, the Chamber considers that the fact that these documents were disclosed by the Prosecution as originating from the UN¹¹⁷ is not, in itself, sufficient to establish their source. Moreover, it is not clear whether the documents are finalised or still in a draft stage, and therefore whether the information contained in them has subsequently been changed or modified for a later version. In the absence of any further information, or authentication, these documents are not sufficiently reliable and probative, and the Chamber therefore denies their admission into evidence.

¹¹⁷ Annex A, *annexed to* ICC-01/04-02/06-2389, pages 6-13.

IN VIEW OF THE ABOVE, THE CHAMBER HEREBY

ADMITS the following items into evidence:

- DRC-OTP-0127-0064 (00:34:05 to 00:35:00; 00:40:15 to 00:42:07; 00:57:47 to 01:07:01; 02:08:23 to 02:10:10; and 02:14:30 to 02:19:33 only);
- DRC-OTP-0165-0276 (page 0297, line 0459 to page 0298, line 0491, page 0304, line 666 to page 0308, line 767, and page 0336, line 1473 to page 0339, line 1541 only);
- DRC-OTP-0165-0349 (page 0371, line 481 to page 0372, line 514, page 0379, line 710 to page 0383, line 821, and page 0413, line 1556 to page 0416, line 1634 only);
- DRC-OTP-0159-0477 (00:02:46 to 00:03:32; 01:11:20 to 01:30:03; 01:43:53 to 01:48:49; 02:45:30 to 02:47:40; and 02:51:00 to 02:55:10 only);
- DRC-OTP-2061-0651 (page 0657, line 150 to page 0658, line 10; page 0667, line 499 to page 0670, line 608; page 0671, line 609 to page 0672, line 694; page 0673, line 719, to page 0674, line 781; and page 0691, line 1383 to page 0696, line 1577 only);
- DRC-OTP-2085-0468 (page 0475, line 153 to page 0476, line 192; page 0486, line 519 to page 0488 line 641; page 0489, line 642, to page 0491, line 735; page 0492, line 768 to page 0493, line 863; and page 0511, line 1476 to page 0517, line 1693 only);
- DRC-OTP-0086-0036;
- The parts of DRC-OTP-2102-1032, DRC-OTP-2102-1093, DRC-OTP-2102-1220, DRC-OTP-2102-1247, DRC-OTP-2102-1535, and DRC-OTP-2102-1560, as per Chamber's specifications set out in paragraph 33above;
- DRC-OTP-0154-0648;
- DRC-OTP-2066-0380 (page 0380, para. 1(b) only);
- DRC-OTP-0204-0236 (page 0237, para. 2(c) and (d) only);
- DRC-OTP-0185-0843 (pages 0844-0845, para. 2(e) only);
- DRC-OTP-1029-0579 (pages 0579-0580, para. 2(b) and (c) only);
- DRC-OTP-0007-0314 (page 0316, para. 4(d)(1), (2) and (3) only);
- DRC-OTP-0004-0372 (page 0373, para. 1 only);
- DRC-OTP-1029-0465 (page 0467, para. 8(d) only); and
- DRC-OTP-1029-0591 (page 0595, para. 3(b)(iv) and page 0603, paras 27-28 only).

GRANTS the Defence's request for an additional 15 minutes for the examination-in-chief of Witnesses D-0305 and D-0306 respectively;

DEFERS its ruling on the Prosecution's request for admission of portions of the three MONUC documents referred to in paragraph 23;

DIRECTS the Registry to update the E-Court metadata of the abovementioned items accordingly to reflect their status; and

REJECTS all other requests.

Done in both English and French, the English version being authoritative.



Judge Robert Fremr, Presiding Judge



Judge Kuniko Ozaki



Judge Chang-ho Chung

Dated 13 September 2019
At The Hague, The Netherlands