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TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD
NGAISSONA***

Public redacted version of

**Decision on the Common Legal Representatives of Victims Requests for Leave to
Present Evidence and
Further Order on the Remainder of the Prosecution Presentation of Evidence**

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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TRIAL CHAMBER V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Articles 64(2), 66(2), 67, 68(3) and 69(3) of the Rome Statute (the ‘Statute’) and Rules 68(2)(b) and (3) and 91(3) of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Decision on the Common Legal Representatives of Victims Requests for Leave to Present Evidence and Further Order on the Remainder of the Prosecution Presentation of Evidence’.

I. Procedural history

1. On 26 August 2020, the Chamber issued the Initial Directions on the Conduct of the Proceedings, according to which the Common Legal Representative of the Former Child Soldiers and the Common Legal Representatives of Victims of Other Crimes (the ‘CLR V1’ and the ‘CLR V2’; together, the ‘CLR V’) must seek the Chamber’s leave to present evidence as well as non-evidentiary ‘views and concerns’ of participating victims.¹
2. On 29 May 2023, the Chamber issued further directions on the presentation of evidence by the CLR V, ordering them, *inter alia*, to file any request for leave to present evidence no later than 7 July 2023.²

¹ Initial Directions on the Conduct of the Proceedings, ICC-01/14-01/18-631 (the ‘Initial Directions’), para. 16.

² Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLR V and the Defence), ICC-01/14-01/18-1892 (the ‘Further Directions’), para. 11. Subsequently, the Single Judge rejected a joint request by the CLR V for extension of time to file any such request. *See* Decision on the CLR V Joint Request for Extension of Time to File a Request for Leave to Present Evidence, 9 June 2023, ICC-01/14-01/18-1913.

3. On 3 July 2023,³ the CLRV requested the Chamber's leave to introduce into evidence P-0925's additional expert report (the 'Additional Report')⁴ and associated items, under Rule 68(3) of the Rules (the 'P-0925 Request').⁵
4. On 7 July 2023, the CLRV filed their respective requests for leave to present evidence (the 'CLRV1 Request' and the 'CLRV2 Request'; collectively, the 'CLRV Requests').⁶ The CLRV1 intends to call six participating victims to testify as crime-base witnesses.⁷ The CLRV2 intend to call three participating victims to present evidence,⁸ and one participating victim⁹ to present views and concerns.¹⁰
5. On 14 July 2023, the Yekatom Defence opposed the P-0925 Request (the 'Yekatom Defence Response to the P-0925 Request').¹¹
6. On 19 July 2023, the Ngaïssona Defence responded to the CLRV2 Request. It defers to the Chamber's discretion with regard to the proposed testimony of a/65012/19, but opposes that of a/65010/19 and a/65013/19. It also opposes that

³ On 23 June 2023, the Chamber dismissed *in limine* the initial CLRV request in this regard on the basis that, at the time, they lacked standing to do so. See Decision on the Common Legal Representatives' Joint Request for the Formal Submission of P-0925's Additional Expert Report and Associated Material under Rule 68(3) of the Rules, ICC-01/14-01/18-1943, paras 8-12.

⁴ On 10 March 2021, the Chamber granted the Prosecution's request to introduce into evidence under Rule 68(3) of the Rules an earlier report prepared by P-0925, subject, *inter alia*, to the witness's appearance before the Chamber. See Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-2926, P-2927, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926's Evidence, 10 March 2021, ICC-01/14-01/18-907-Conf (public redacted version notified on 1 April 2021, ICC-01/14-01/18-907-Red) (the 'First Rule 68(3) Decision'), para. 36, p. 31.

⁵ Common Legal Representatives of Victims' Joint Request for Leave to Introduce into Evidence P-0925's Additional Report and Associated Material pursuant to Rule 68(3) of the Rules of Procedure and Evidence, ICC-01/14-01/18-1954-Conf (public redacted version notified the next day, ICC-01/14-01/18-1954-Red), paras 1, 27.

⁶ Corrigendum to the "Request of the Common Legal Representative of the Former Child Soldiers for leave to present evidence" (No. ICC-01/14-01/18-1969-Conf, dated 7 July 2023) (corrigendum notified on 11 July 2023), ICC-01/14-01/18-1969-Conf-Corr (with confidential *ex parte* Annex A, only available to the CLRV1, ICC-01/14-01/18-1969-Conf-Exp-AnxA-Corr; confidential redacted version of Annex A notified the same day, ICC-01/14-01/18-1969-Conf-AnxA-Red-Corr); Requête des Représentants Légaux Communs des Victimes des autres crimes aux fins de la Présentation des Preuves, ICC-01/14-01/18-1972-Conf-Exp, confidential *ex parte*, only available to the CLRV2 (confidential redacted version notified the same day, ICC-01/14-01/18-1972-Conf-Red).

⁷ a/65190/19; a/20722/21; a/65234/19; a/65991/19; a/70032/22; a/20712/21.

⁸ a/65012/19; a/65010/19; a/65013/19.

⁹ a/65090/19.

¹⁰ CLRV1 Request, ICC-01/14-01/18-1969-Conf-Corr, paras 1, 41; CLRV2 Request, ICC-01/14-01/18-1972-Conf-Red, para. 1, p. 17.

¹¹ Response to the 'Common Legal Representative's Joint Request for Leave to Introduce into Evidence P-0925's Additional Report and Associated Material pursuant to Rule 68(3) of the Rules of Procedure and Evidence', ICC-01/14-01/18-1981-Conf, paras 1, 50.

a/65090/19 be allowed to present his views and concerns, without prejudice to a renewed request at a later stage (the ‘Ngaïssona Defence Response to the CLR V2 Request’).¹²

7. On 24 July 2023,¹³ the Yekatom Defence opposed the CLR V Requests, although it defers to the Chamber’s discretion concerning the presentation of a/65090/19’s views and concerns. Subsidiarily, should the Chamber allow the introduction of all or part of the proposed evidence, the Yekatom Defence requests the Chamber to amend its calendar, so that the presentation of evidence by the CLR V start at least six months from the disclosure of the unredacted versions of the victims’ summaries (the ‘Yekatom Defence Response to the CLR V Requests’ and the ‘Request to Postpone’, respectively).¹⁴

II. Analysis

8. The Chamber will first set out the applicable law concerning the presentation of evidence by participating victims and the expression of their views and concerns. It will then analyse the CLR V Requests and the P-0925 Request in that regard, before issuing a further order on the remainder of the Office of the Prosecutor’s (the ‘Prosecution’) presentation of evidence.

A. Applicable law

1. Presentation of evidence by the CLR V

9. It is the established jurisprudence of the Court that Article 68(3) of the Statute, in conjunction with Article 69(3), provides an avenue for participating victims to

¹² Defence Response to the “Requête des Représentants Légaux Communs des Victimes des autres crimes aux fins de la Présentation des Preuves”, ICC-01/14-01/18-1991-Conf, paras 1-2, 27.

¹³ On 13 July 2023, the Single Judge granted the Yekatom Defence’s request for extension of time to respond, *inter alia*, to the CLR V Requests by 24 July 2023. See email from the Chamber, 13 July 2023, at 10:30.

¹⁴ Rectificatif de la ‘Réponse consolidée à la version corrigée de la « Request of the Common Legal Representative of the Former Child Soldiers for leave to present evidence » (7 juillet 2023, ICC-01/14-01/18-1969-Conf-Corr) et à la version confidentielle expurgée de la « Requête des Représentants Légaux Communs des Victimes des autres crimes aux fins de la Présentation des Preuves » (7 juillet, ICC-01/14-01/18-1972-Conf-Red)’, 24 juillet 2023, ICC-01/14-01/18-2004-Conf, ICC-01/14-01/18-2004-Conf-Corr (corrected version notified the next day), paras 1, 70, 72. The Single Judge partly granted a request by the Yekatom Defence, thereby extending the page-limit to respond to the CLR V Requests by 10 pages (see email from the Chamber, 21 July 2023, at 15:30).

lead previously undisclosed evidence when the personal interests of the victims are affected.¹⁵

10. That being said, the statutory framework does not automatically confer victims a right to present evidence, but merely affords a possibility to do so with the leave of the Chamber.¹⁶ As such, its decision on whether to grant leave to present evidence is discretionary.¹⁷
11. Pursuant to Article 68(3) of the Statute, the Chamber must first be satisfied as a prerequisite that the personal interests of the victims are affected. Only then may the Chamber exercise its discretion under Article 69(3) of the Statute to request the submission of all evidence that it considers necessary for the determination of the truth.¹⁸
12. In carrying out its assessment under Article 69(3) of the Statute, the Chamber, consistent with the jurisprudence of the Court, will assess whether (i) the hearing of evidence is appropriate and affects the issues in the case; (ii) the hearing of evidence is necessary for the determination of the truth; and (iii) the presentation of evidence is consistent with the rights of the accused,¹⁹ and in particular the

¹⁵ See Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on the Legal Representatives for Victims Requests to Present Evidence and Views and Concerns and related requests, 6 March 2018, ICC-02/04-01/15-1199-Conf (public redacted version notified the same day, ICC-02/04-01/15-1199-Red (the ‘First Ongwen Decision’), para. 15 and the references cited therein. See also Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on LRVs requests to present evidence and views and concerns, 9 December 2021, ICC-01/12-01/18-2063-Conf (public redacted version notified the same day, ICC-01/12-01/18-2063-Red) (the ‘Al Hassan Decision’), para. 9; Trial Chamber I, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’)*, Decision on the Common Legal Representatives for Victims’ request to present evidence and views and concerns, 16 February 2023, ICC-02/05-01/20-874, para. 7.

¹⁶ See *Al Hassan Decision*, ICC-01/12-01/18-2063-Red, para. 11 and the references cited therein.

¹⁷ See Appeals Chamber, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Judgment on the Appeal of Mr Katanga Against the Decision of Trial Chamber II of 22 January 2010 Entitled ‘Decision on the Modalities of Victim Participation at Trial’, 16 July 2010, ICC-01/04-01/07-2288 (the ‘Katanga Appeals Judgment’), para. 40 ; Trial Chamber IV, *The Prosecutor v. Abdallah Banda Abakaer Nourain*, Decision on the participation of victims in the trial proceedings, 20 March 2014, ICC-02/05-03/09-545 (the ‘Banda Decision’), paras 24, 27. See also Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I’s Decision on Victims’ Participation of 18 January 2008, 11 July 2008, ICC-01/04-01/06-1432 (the ‘Lubanga Appeals Judgment’), paras 98-99.

¹⁸ *Katanga Appeals Judgment*, ICC-01/04-01/07-2288, paras 40.

¹⁹ See *Al Hassan Decision*, ICC-01/12-01/18-2063-Red, para. 10 and the references cited therein.

right to have adequate time and facilities to prepare his or her defence, and a fair and impartial trial.²⁰

13. In assessing whether the evidence is appropriate or necessary, the Chamber may take into account, *inter alia*, whether it is relevant to the charges, cumulative of other evidence, representative of a larger group of victims, or offers a unique perspective.²¹ What evidence is considered necessary for the determination of the truth is ultimately decided on a case-by-case basis by the Chamber.²²
14. The Appeals Chamber found that a trial chamber may request victims to testify on the role of the accused, if it considers that such testimony is necessary for the determination of the truth. Confining the submission of evidence pertaining to the conduct of the accused to the Prosecution would otherwise limit the trial chamber's powers under Article 69(3) of the Statute.²³ In addition, the Appeals Chamber found that evidence on the conduct of the accused is encompassed within the general category of evidence pertaining to the guilt or innocence of the accused which victims may be permitted to submit.²⁴ It therefore concluded that the possibility for victims to testify on matters including the role of the accused in charged crimes is not *per se* inconsistent with the rights of the accused and the concept of fair trial.²⁵
15. While the Appeals Chamber's findings leave the door open for that possibility, they also underscore that the right to lead evidence pertaining to the guilt or innocence of the accused lies primarily with the parties.²⁶ Consistent with its

²⁰ *Katanga Appeals Judgment*, ICC-01/04-01/07-2288, para. 114.

²¹ *See e.g.* Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on the supplemented applications by the legal representatives of victims to present evidence and the views and concerns of victims, 22 February 2012, ICC-01/05-01/08-2138 (the '*Bemba Decision*'), paras 24, 33, 36; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Public redacted version of 'Decision on the request by the Legal Representative of the Victims of the Attacks for leave to present evidence and victims' views and concerns' (10 February 2017, ICC-01/04-02/06-1780-Conf), 15 February 2017, ICC-01/04-02/06-1780-Red (the '*Ntaganda Decision*'), paras 19, 25, 34, 41; First *Ongwen Decision*, ICC-02/04-01/15-1199-Red, paras 33, 57, 58; *Al Hassan Decision*, ICC-01/12-01/18-2063-Red, paras 21, 25.

²² *Katanga Appeals Judgment*, ICC-01/04-01/07-2288, para. 112.

²³ *Katanga Appeals Judgment*, ICC-01/04-01/07-2288, para. 112.

²⁴ *Katanga Appeals Judgment*, ICC-01/04-01/07-2288, para. 113.

²⁵ *Katanga Appeals Judgment*, ICC-01/04-01/07-2288, para. 114. *See also Lubanga Appeals Judgment*, ICC-01/04-01/06-1432, paras 96-97.

²⁶ *Lubanga Appeals Judgment*, ICC-01/04-01/06-1432, para. 93.

earlier indications, and in line with what other trial chambers have held,²⁷ the Chamber stresses that the CLRV's role is different from the Prosecution's, as it is the latter who exclusively carries the burden of proof to establish the alleged crimes pursuant to Article 66(2) of the Statute. Consequently, and irrespective of whether the Prosecution has elicited information on a certain point relevant to the alleged crimes, the CLRV's questioning is limited to matters relevant to the personal interests of the victims.²⁸ In the case of expert witnesses, the Chamber may also elicit evidence which will more broadly assist it in the determination of the truth.²⁹

2. *Views and concerns*

16. The Chamber underscores that the presentation of evidence by individual victims is different in nature to the expression of their views and concerns.³⁰ Furthermore, while Article 68(3) of the Statute enables victims to present views and concerns, the Chamber retains a broad discretion when determining the appropriate stage of the proceedings for them to be expressed, and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.³¹
17. In this regard, the Chamber recalls, that it is not provisionally inclined to hear victims present unsworn, non-evidentiary 'views and concerns' before its decision pursuant to Article 74 of the Statute.³² In addition, the Chamber notes

²⁷ See *Al Hassan* Decision, ICC-01/12-01/18-2063-Red, para. 12; Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on Defence Urgent Request for Delay in Opening of LRV and CLRV Evidence Presentation, 26 April 2018, ICC-02/04-01/15-1248 (the 'Second *Ongwen* Decision'), para. 13. Other chambers, in the use of their discretionary powers, specifically allowed victims to present evidence pertaining to the role of the accused. See *Bemba* Decision, ICC-01/05-01/08-2138, para. 45; *Ntaganda* Decision, ICC-01/04-02/06-1780-Red, para. 22.

²⁸ See Initial Directions, ICC-01/14-01/18-631, para. 19; Further Directions, ICC-01/14-01/18-1892, para. 11; transcript of hearing, 7 July 2021, ICC-01/14-01/18-T-048-CONF-ENG, p. 6, lines 3-10; p. 9, line 20 to p. 10, line 18; p. 14, lines 7-19; p. 16, lines 10-14. See also *Al Hassan* Decision, ICC-01/12-01/18-2063-Red, para. 12 and the references cited therein.

²⁹ Second *Ongwen* Decision, ICC-02/04-01/15-1248, para. 14.

³⁰ See *Bemba* Decision, ICC-01/05-01/08-2138, para. 19.

³¹ See *Banda* Decision, ICC-02/05-03/09-545, para. 17; *Ntaganda* Decision, ICC-01/04-02/06-1780-Red, para. 8; *Al Hassan* Decision, ICC-01/12-01/18-2063-Red, para. 33.

³² See Further Directions, ICC-01/14-01/18-1892, para. 11.

that, while the presentation of views and concerns may include their expression by individual victims in person, this is not an absolute right.³³

B. Requests for leave to introduce evidence and express views and concerns

1. CLRVI Request

18. The CLRVI submits that the six participating victims subject to his request were allegedly all under the age of fifteen when they were either conscripted or enlisted into the Anti-Balaka ranks under Mr Yekatom's command.³⁴ As such, he submits that their first-hand evidence is relevant, particularly to Count 29, and that it affects their personal interests as victims.³⁵ He further argues that their expected evidence is necessary for the determination of the truth, noting the evidence so far elicited by the Prosecution.³⁶ Lastly, the CLRVI contends that the presentation of the evidence is not prejudicial to, or inconsistent with, the rights of the accused and a fair and impartial trial.³⁷
19. The Yekatom Defence submits that the CLRVI Request purports to present evidence that almost entirely refers to rapes and alleged acts and conduct of Mr Yekatom, which are outside of the scope of the charges, and that it impermissibly aims at remedying the lack of evidence so far elicited by the Prosecution.³⁸ It further argues that it would need more time to properly conduct its investigations and prepare for the examination of these proposed victims, notably given the redactions currently applied to the victims' summaries.³⁹
20. In this regard, the Yekatom Defence contends that granting the CLRV Requests would cause an irreparable harm to Mr Yekatom's rights, given that the Chamber

³³ *Banda* Decision, ICC-02/05-03/09-545, para. 20. *See also Bemba* Decision, ICC-01/05-01/08-2138, para. 17; *Ntaganda* Decision, ICC-01/04-02/06-1780-Red, para. 8.

³⁴ CLRVI Request, ICC-01/14-01/18-1969-Conf, para. 15

³⁵ CLRVI Request, ICC-01/14-01/18-1969-Conf, paras 2, 15-18. *See also* Annex A, ICC-01/14-01/18-1962-Conf-Exp-AnxA-Corr, containing the summaries of the anticipated testimonies.

³⁶ CLRVI Request, ICC-01/14-01/18-1969-Conf, paras 2, 19-33.

³⁷ CLRVI Request, ICC-01/14-01/18-1969-Conf, paras 34-37.

³⁸ Yekatom Defence Response to the CLRV Requests, ICC-01/14-01/18-2004-Conf-Corr, paras 17-24, 29-47.

³⁹ Yekatom Defence Response to the CLRV Requests, ICC-01/14-01/18-2004-Conf-Corr, paras 48-55.

would necessarily have to grant an extension of time for the proper preparation of his defence, which would in turn violate Mr Yekatom's right to an expeditious trial. Lastly, the Yekatom Defence submits that allowing the evidence proposed by the CLRV1 would also be prejudicial, taking into account the 'fabrication' of evidence in relation to Count 29.⁴⁰

21. Having assessed the expected testimonies of the proposed victims,⁴¹ the Chamber is satisfied that their personal interests as victims are affected. It further finds that the expected evidence is relevant to the issues of the case, to the extent that they relate to Count 29.⁴² However, taking into account the content of their anticipated testimonies, the evidence before the Chamber and the scope of the charges, the Chamber does not consider that hearing the evidence of all the proposed victims is appropriate or necessary for the determination of the truth.
22. First, the Chamber notes that all of the proposed victims recount different forms of physical and psychological harm suffered while they allegedly were in the Anti-Balaka ranks, including references to a traditional type of initiation known as '*blindage*', and/or the '*baptême d'assassinage*'.⁴³ Their anticipated testimonies appear to be repetitive in this regard. Bearing in mind the importance of the expeditiousness of the proceedings, the Chamber is not persuaded that hearing different accounts from all the victims on this topic is appropriate or necessary for the determination of the truth.
23. Second, with regard to the rest of their expected testimonies, the Chamber notes that all of the proposed victims – but a/65991/19 – refer to, *inter alia*, allegations of sexual violence. Three of them claim to have been raped by Anti-Balaka elements, while a/20722/21 and a/65991/19 allegedly witnessed it or [REDACTED]. The Chamber recalls that the decision confirming the charges (the 'Confirmation Decision') does not contain any factual findings in that

⁴⁰ Yekatom Defence Response to the CLRV Requests, ICC-01/14-01/18-2004-Conf-Corr, paras 56-69.

⁴¹ Annex A, ICC-01/14-01/18-1969-Conf-Exp-AnxA-Corr.

⁴² See also First *Ongwen* Decision, ICC-02/04-01/15-1199-Red, para. 29.

⁴³ See also CLRV1 Request, ICC-01/14-01/18-1969-Conf, para. 26.

regard.⁴⁴ It also notes that a/65234/19 claims to [REDACTED], and that a/65190/19 states that [REDACTED] and other Anti-Balaka elements systematically raped boys with Mr Yekatom's knowledge. The Chamber is of the view that allowing the presentation of evidence that focuses on issues that do not form part of the facts and circumstances described in the charges, and yet, at least in part, purport to directly implicate Mr Yekatom, is not appropriate and would also be prejudicial to his rights.⁴⁵

24. In light of the above, the Chamber declines to exercise its discretion pursuant to Article 69(3) of the Statute with regard to a/65234/19; a/65190/19; a/20712/21 and a/70032/22.
25. With regard to a/20722/21 and a/65991/19, the Chamber notes the Yekatom Defence's submissions that they participated in killings and attacks and were brought to Anti-Balaka bases in localities that are not mentioned in the Confirmation Decision.⁴⁶ Amongst the findings made by Pre-Trial Chamber II in relation to Count 29, the Chamber recalls that '[c]hildren were also forced to participate in military-style training aiming at teaching them how to behave in combat'; also, that 'children were then used to injure and weaken captured enemies, prior to Anti-Balaka elements killing them. Finally, children were mobilised to directly participate in hostilities'; and that 'Anti-Balaka elements subjected children to physical and mental violence'.⁴⁷
26. In the Chamber's view, the fact that the proposed evidence of these two victims touches upon localities that were not mentioned in the Confirmation Decision does not, in itself, preclude the Chamber from hearing it. The localities as such are not determinative in the present context, and the purpose of the evidence in question is not to be used to support findings that would exceed the facts and circumstances of the Confirmation Decision. Rather, the Chamber considers that

⁴⁴ See Pre-Trial Chamber II, Corrected version of 'Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona', 14 May 2020, ICC-01/14-01/18-403-Conf-Corr (with one annex) (public redacted version notified on 20 December 2019; corrected public redacted version notified on 14 May 2020, ICC-01/14-01/18-403-Red-Corr) (the 'Confirmation Decision'), paras 144-152.

⁴⁵ See also First *Ongwen* Decision, ICC-02/04-01/15-1199-Red, para. 57.

⁴⁶ See Yekatom Defence Response to the CLRV Requests, ICC-01/14-01/18-2004-Conf-Corr, para. 47.

⁴⁷ Confirmation Decision, ICC-01/14-01/18-403-Conf-Corr, paras 149-150.

the proposed evidence is relevant to assess the *experience* and *harm* suffered by the victims while they allegedly were in the Anti-Balaka ranks, such as when they took part in hostilities or during their training.⁴⁸ With this limited purpose, the Chamber finds it appropriate and necessary to hear the evidence of victims a/20722/21 and a/65991/19.

27. To the extent that the testimonies of a/20722/21 and a/65991/19 inevitably touch upon Mr Yekatom's role in the harm they suffered, the Chamber recalls the Appeals Chamber's findings outlined above, and considers, in this instance, that hearing their evidence is necessary for the determination of the truth. In particular, the Chamber takes note of the CLRV1 submission that the expected evidence of a/20722/21 would provide a unique perspective, given his position within Mr Yekatom's group.⁴⁹ It further stresses that the Yekatom Defence will have the opportunity to fully examine the witnesses in court.
28. Further with regard to the potential prejudice caused to the accused, the Chamber is not persuaded that, in this particular instance, the proposed evidence of victims a/20722/21 and a/65991/19 must be rejected on the basis of allegations of 'fabrication' of evidence in relation to Count 29. The Chamber also recalls that the Yekatom Defence will have the opportunity to fully examine the victims in court, and notes that these allegations pertain rather to the probative value or weight, if any, of the evidence, which will be ultimately assessed in the context of the judgment deliberation.⁵⁰
29. Lastly, the Chamber is mindful of the Yekatom Defence's submissions concerning the time needed for their preparation in view of the presentation of evidence by the CLRV. However, it does not consider that any postponement or extension is necessary. Taking into account the number of witnesses who are permitted to testify and that, as indicated above, the scope of the examination is limited, the Chamber is of the view that there is sufficient time for the Yekatom

⁴⁸ See also CLRV1 Request, ICC-01/14-01/18-1969-Conf, paras 16, 31-32.

⁴⁹ See CLRV1 Request, ICC-01/14-01/18-1969-Conf, para. 27.

⁵⁰ See also *Al Hassan* Decision, ICC-01/12-01/18-2063-Red, para. 27.

Defence to adequately prepare for the same. Accordingly, the Chamber rejects the Yekatom Defence's Request to Postpone.

30. In light of the above, the Chamber considers that hearing the evidence of a/20722/21 and a/65991/19 is not inconsistent with or prejudicial to the rights of the accused. It therefore authorises the CLRV1 to call victims a/20722/21 and a/65991/19 as witnesses. It further considers three and two hours for their respective questioning by the CLRV1 to be appropriate.⁵¹

2. *CLRV2 Request*

31. The CLRV2 contend that the introduction of the evidence of the three participating victims will shed light on the nature and circumstances of the alleged crimes, and the personal and collective harm resulting therefrom, taking into account, *inter alia*, the evidence elicited so far by the Prosecution.⁵² The CLRV2 further submit that the proposed evidence is representative of the harm suffered by a very large group of participating victims in this case, will contribute to the determination of the truth, and that it will not prejudice the rights of the accused.⁵³ The CLRV2 detail the expected testimonies of the proposed victims.⁵⁴
32. The CLRV2 further argue, *inter alia*, that the expression of the identified victim's views and concerns will assist the Chamber to understand and assess (i) the evidence related to the individual and collective harm suffered, notably in relation to the alleged Anti-Balaka attack on Bangui on 5 December 2013 (the 'Bangui Attack'); (ii) the manner in which the victims and their relatives were caught in surprise in their homes, having to flee and not being able to take anything with them; and (iii) the dangers faced due to the exactions during their flight, as they were being targeted by the Anti-Balaka.⁵⁵

⁵¹ See CLRV1 Request, ICC-01/14-01/18-1969-Conf, para. 40.

⁵² CLRV2 Request, ICC-01/14-01/18-1972-Conf-Red, paras 18, 21.

⁵³ CLRV2 Request, ICC-01/14-01/18-1972-Conf-Red, paras 19-22.

⁵⁴ CLRV2 Request, ICC-01/14-01/18-1972-Conf-Exp, paras 26-34.

⁵⁵ CLRV2 Request, ICC-01/14-01/18-1972-Conf-Red, paras 12, 35-37.

33. The Ngaïssona Defence defers to the Chamber's discretion with regard to a/65012/19, but submits that the proposed evidence is repetitive.⁵⁶ With regard to a/65010/19, the Ngaïssona Defence argues that it is also repetitive, partly indirect and outside the scope of the charges, and therefore not necessary for the determination of the truth.⁵⁷ As to a/65013/19, the Ngaïssona Defence submits that the proposed evidence would not be appropriate, or consistent with Mr Ngaïssona's right to a fair trial, to the extent that the alleged crimes she suffered do not fit within the charges or are of low probative value.⁵⁸
34. In relation to the expression of views and concerns of a/65090/19, the Ngaïssona Defence contends that there are no compelling reasons to receive them at this stage, but would rather be more appropriate after the delivery of the trial judgment pursuant to Article 74 of the Statute.⁵⁹
35. Having assessed the expected testimonies of the proposed victims,⁶⁰ the Chamber is satisfied that their personal interests as victims are affected and relevant to the issues of the case, as their accounts relate to their personal experience regarding contextual elements of the case or of the charged crimes. However, taking into account the content of their anticipated testimonies, the evidence before the Chamber and the scope of the charges, the Chamber does not consider that hearing the evidence of all the proposed victims is appropriate or necessary for the determination of the truth.
36. In this regard, the Chamber notes that the account of a/65012/19 appears to be repetitive of other evidence and is thus not persuaded that it would be further assisted by hearing her evidence. As to a/65013/19, the Chamber observes that the main topic of her proposed evidence consists of a new allegation, namely her

⁵⁶ Ngaïssona Defence Response to the CLRV2 Request, ICC-01/14-01/18-1991-Conf, paras 2, 13-15.

⁵⁷ Ngaïssona Defence Response to the CLRV2 Request, ICC-01/14-01/18-1991-Conf, paras 16-18.

⁵⁸ Ngaïssona Defence Response to the CLRV2 Request, ICC-01/14-01/18-1991-Conf, paras 19-22.

⁵⁹ Ngaïssona Defence Response to the CLRV2 Request, ICC-01/14-01/18-1991-Conf, paras 23-25.

⁶⁰ See CLRV2 Request, ICC-01/14-01/18-1972-Conf-Exp, paras 26-34.

alleged rape by Anti-Balaka elements in the night from 5 to 6 December 2013, following the Bangui Attack, and the harm resulting therefrom.⁶¹

37. While the Bangui Attack itself falls within the scope of the charges, the Chamber considers that allowing the presentation of evidence relating to this new allegation would not be consistent with the rights of the accused. It also notes that the rest of her account – namely, the killing of her husband, the pillaging allegedly committed by the Anti-Balaka and the evacuation of Muslim civilians – appears to be at least partly repetitive. As a result, the Chamber finds that a/65013/19’s evidence would not be appropriate or necessary for the determination of the truth.
38. The Chamber therefore declines to exercise its discretion pursuant to Article 69(3) of the Statute with regard to a/65012/19 and a/65013/19.
39. As to the proposed evidence of a/65010/19, the Chamber observes that part of her expected testimony would focus on the situation in Bossangoa before and in November 2013, as well as the killing of her husband in November 2013. While neither accused is being charged for this incident, the Chamber considers that it is relevant to the contextual elements of the case, notably the alleged Anti-Balaka attacks in and around Bossangoa and their alleged criminal policy of targeting the Muslim population in western CAR from September 2013 onwards, which included ‘the commission of murder’.⁶² As such, it is not persuaded that this incident falls outside the ‘facts and circumstances’ of the case.⁶³ It therefore finds that the proposed evidence of a/65010/19 is appropriate and dismisses the defence’s submissions.⁶⁴
40. Moreover, as to whether there would be a ‘clear benefit’ from hearing indirect evidence from this victim,⁶⁵ the Chamber recalls that its powers under

⁶¹ The Chamber notes that no mention to this incident was made in the Confirmation Decision and that it is not included in any count for which neither Mr Ngaïssona nor Mr Yekatom were charged. *See* ICC-01/14-01/18-403-Conf-Corr, paras 86-92, pp. 109-10.

⁶² *See* Confirmation Decision, ICC-01/14-01/18-403-Conf-Corr, paras 63-64.

⁶³ *See also* Decision on Motions on the Scope of the Charges and the Scope of the Evidence at Trial, 29 October 2020, ICC-01/14-01/18-703-Conf (public redacted version notified on 2 November 2020, ICC-01/14-01/18-703-Red), paras 44-49.

⁶⁴ *See* Ngaïssona Defence Response to the CLRV2 Request, ICC-01/14-01/18-1991-Conf, paras 9, 16, 18. *See also* Yekatom Defence Response to the CLRV Requests, ICC-01/14-01/18-2004-Conf-Corr, paras 26-27, 47.

⁶⁵ *See* Ngaïssona Defence Response to the CLRV2 Request, ICC-01/14-01/18-1991-Conf, para. 16.

Article 69(3) of the Statute are discretionary in nature, and that in this particular case, the potential prejudice to the rights of Mr Ngaïssona, if any, would be limited. The Chamber further recalls that it will assess the probative value or weight, if any, of her evidence in its judgment deliberation, and does not find that, in this particular case, she should be barred from testifying.

41. The Chamber further observes that the rest of a/65010/19's anticipated evidence would relate to the Bangui Attack and the evacuation of Muslim civilians. While it takes note of the Ngaïssona Defence's submissions that several witnesses have already testified about these topics,⁶⁶ the Chamber is of the view that additional evidence on the harm suffered may be elicited from this victim. This includes the personal harm suffered as a result of the killing of her husband and the lack of proper mourning for his death, as well as the harm suffered by other Muslims who also lost family members in November 2013, and the current living conditions of other victims following their displacement from the CAR.⁶⁷
42. In light of the above, the Chamber considers that hearing the evidence of a/65010/19 is not inconsistent with or prejudicial to the rights of the accused. It therefore authorises the CLRV2 to call a/65010/19 as a witness. It further considers three hours of questioning time to be appropriate.⁶⁸ As to the mode of testimony,⁶⁹ the Chamber recalls the deference given to the participants in that regard,⁷⁰ provided that the necessary arrangements are made to ensure the security of the transmissions and that the proceedings will not be unduly interrupted or delayed due to technical failures.⁷¹

3. *P-0925 Request*

43. The CLRV submit that the interests of the victims are affected by P-0925's evidence, as it deals specifically with the trauma associated with the charged

⁶⁶ See Ngaïssona Defence Response to the CLRV2 Request, ICC-01/14-01/18-1991-Conf, para. 17.

⁶⁷ See CLRV2 Request, ICC-01/14-01/18-1972-Conf-Red, para. 30.

⁶⁸ See CLRV2 Request, ICC-01/14-01/18-1972-Conf-Red, para. 31.

⁶⁹ See CLRV2 Request, ICC-01/14-01/18-1972-Conf-Exp, para. 42.

⁷⁰ Initial Directions, ICC-01/14-01/18-631, para. 31.

⁷¹ See email from the Chamber, 7 July 2021, at 14:52.

crimes.⁷² They contend that the Additional Report is relevant to the issues in the case, and that it would allow the Chamber ‘to assess the impact of the charged crimes on the lives of the victims in a more universal manner’.⁷³ They further argue that it is necessary, as P-0925’s professional opinion will be of assistance to the Chamber in its determination of the truth,⁷⁴ and that its introduction is not prejudicial to, or inconsistent with the rights of the accused, since it ‘does not in any way deal with the guilt or innocence of the defendants’.⁷⁵

44. The Yekatom Defence submits that the Additional Report does not meet the requirements to be presented as evidence. In particular, it contends that it is repetitive of the witness’s first report (the ‘First Report’).⁷⁶ It further argues that its introduction would be prejudicial to the rights of Mr Yekatom, as it contains extracts of victims’ application forms which in themselves contain testimonial and unverifiable information going to the alleged acts and conduct of Mr Yekatom.⁷⁷
45. Having assessed the Additional Report, the Chamber is satisfied that it affects the personal interests of the victims, to the extent that it deals specifically with the trauma associated with the charged crimes, as well as the types of harm allegedly suffered by many victims and their impact on them.⁷⁸
46. However, the Chamber notes that the First Report and the Additional Report appear to overlap substantially. The CLRV submit that the latter ‘addresses matters from the victims’ [perspective] [in a manner] different from the ones relevant for the Prosecution’.⁷⁹ However, having reviewed their content, the Chamber is of the view that the Additional Report is rather overly repetitive.⁸⁰ It

⁷² P-0925 Request, ICC-01/14-01/18-1954-Conf, para. 18.

⁷³ P-0925 Request, ICC-01/14-01/18-1954-Conf, paras 19-20.

⁷⁴ P-0925 Request, ICC-01/14-01/18-1954-Red, para. 22.

⁷⁵ P-0925 Request, ICC-01/14-01/18-1954-Red, para. 23.

⁷⁶ Yekatom Defence Response to the P-0925 Request, ICC-01/14-01/18-1981-Conf, paras 18-22.

⁷⁷ Yekatom Defence Response to the P-0925 Request, ICC-01/14-01/18-1981-Conf, paras 28-30.

⁷⁸ *See also* P-0925 Request, ICC-01/14-01/18-1954-Conf, para. 18.

⁷⁹ *See* P-0925 Request, ICC-01/14-01/18-1954-Conf, para. 22. *See also* the respective instructions given by the Prosecution and the CLRV to P-0925, in CAR-OTP-2127-6805, at 6869-6871; CAR-V45-00000002-001 to 003; and CAR-V44-00000002-001 to 003.

⁸⁰ In particular, the issues that are also addressed in the First Report include psychological outcomes of sexual and gender-based crimes and their impacts on individual and community functioning and reintegration, the risk of re-traumatisation and re-victimization; issues related to forced removal,

is therefore not persuaded that the Additional Report would assist it in the determination of the truth. The Chamber also considers that, while the First Report was requested to be introduced into evidence by the Prosecution, it can also serve and affect the personal interests of the victims, given the substantial overlap with the Additional Report.

47. Consequently, the Chamber declines to exercise its discretion pursuant to Article 69(3) of the Statute.

C. Remainder of the Prosecution's presentation of evidence

48. The Chamber notes that, to date, the Prosecution expects to call five more witnesses, including P-0925, who is currently scheduled to testify either in the week of 11 or 18 September 2023. According to the Prosecution, the estimated duration of his examination would be 17 hours.⁸¹ The Chamber recalls that it introduced the First Report into evidence, subject to the fulfilment of the requirements of Rule 68(3) of the Rules.
49. The Prosecution is also expected to call two witnesses regarding call data records (P-2973 and P-2687),⁸² after the Chamber introduced their evidence *proprio motu* pursuant to Rule 68(3) of the Rules, but rejected the former's request to introduce their evidence under Rule 68(2)(b) of the Rules.⁸³
50. The Chamber further notes that, by September 2023, two years and a half will have passed since the appearance of the first witness called by the Prosecution.⁸⁴ Mindful of its duty to ensure the fair and expeditious conduct of the trial

displacement and deportation; the impact of trauma on child development, specific mental health consequences (with a focus in the Additional Report on gender differences) and physical impacts of trauma resulting from child soldiering, including long term effects; sexual assault to child soldiers; their reintegration into and the functioning of the community; the impact of trauma on the mental health of individual victims, neurobiological and psychophysiological responses to trauma, and the inter-generational transmission of trauma.

⁸¹ See emails from the Prosecution, 13 July 2023, at 14:20 and 24 July 2023, at 14:14.

⁸² See emails from the Prosecution, 13 July 2023, at 14:20 and 24 July 2023, at 14:14.

⁸³ See Second Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules, 5 June 2023, ICC-01/14-01/18-1907-Conf (public redacted version notified the same day, ICC-01/14-01/18-1907-Red) (the 'Second Rule 68(2)(b) Decision'), paras 110-112, 187-190, pp. 61-63.

⁸⁴ See Order Setting the Commencement Date of the Prosecution's Presentation of Evidence, 13 January 2021, ICC-01/14-01/18-817.

proceedings under Article 64(2) of the Statute, the Chamber already adopted measures to further streamline them.⁸⁵ In this regard, the Chamber highlights that expeditiousness is an independent and important value in the Statute to ensure the proper administration of justice and is therefore more than just a component of the fair trial rights of the accused.⁸⁶

51. The Chamber considers it necessary to adopt further measures in this regard.

1. *P-2687*

52. The Chamber notes that, while P-2973 and P-2687 held different positions as [REDACTED], respectively, the issues on which they are expected to testify about are substantially similar. Notably, this would, *inter alia*, include the CDR registration process, the details registered during such process and the procedure of producing CDR.⁸⁷

53. While the Chamber initially considered that hearing the evidence of both witnesses would assist it in its determination of the truth, in light of the timing considerations mentioned above, it is of the view that it is not in the interest of ensuring the expeditiousness of the proceedings to hear two witnesses testifying on issues related to CDR. The Chamber further notes that the defence teams (the ‘Defence’) sought to question P-2973, that P-2687 is scheduled to testify in September rather than in August, and that in both cases the Prosecution similarly intended to use their evidence to support its arguments in relation to a larger evidence collection.⁸⁸

54. For the reasons above, the Chamber considers that hearing the evidence of P-2973 will be sufficient to assist it in its determination of the truth, and thus decides that it will not hear P-2687 in court. Further recalling that the Chamber rejected the

⁸⁵ See Order regarding the Remainder of the Prosecution’s Presentation of Evidence and Order pursuant to Article 64(6)(d) of the Statute, 31 January 2023, ICC-01/14-01/18-1739-Conf (public redacted version notified the same day, ICC-01/14-01/18-1739-Red), paras 1-5.

⁸⁶ See Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Reasons for the Decision on Defence request to defer the closure of its presentation of evidence, 3 March 2023, ICC-01/12-01/18-2474-Conf-Exp, confidential *ex parte*, only available to the Defence and the Registry (public redacted version notified the same day, ICC-01/12-01/18-2474-Red), para. 20 and the references cited therein.

⁸⁷ See Second Rule 68(2)(b) Decision, ICC-01/14-01/18-1907-Conf, paras 104-105, 182-183.

⁸⁸ See Second Rule 68(2)(b) Decision, ICC-01/14-01/18-1907-Red, paras 109, 111, 186.

introduction of P-2687's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules, it clarifies that it will therefore not receive P-2687's evidence, neither oral nor written.

2. P-0925

55. The Chamber incorporates by reference the applicable law with regard to Rule 68(2)(b) and (3) of the Rules, as previously set out.⁸⁹
56. It further recalls that it introduced the First Report into evidence, subject to the fulfilment of the requirements of Rule 68(3) of the Rules. The Chamber took into account, *inter alia*, the fact that the proposed testimony of P-0925 would not go to core issues in the case, and that the Defence did not oppose its introduction under Rule 68(3) of the Rules.⁹⁰
57. For the reasons that follow, and noting that the requirements are met, it is of the view that the interests of justice are best served by the introduction of P-0925's First Report pursuant to Rule 68(2)(b) of the Rules.⁹¹
58. The Chamber notes at the outset that the First Report does not go to proof of 'the acts and conduct of the accused'.⁹² While Mr Yekatom is mentioned in a few instances, these references are peripheral, in the sense that they are contained in brief extracts of witness statements that form the basis of the analysis made by P-

⁸⁹ First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules, 17 April 2023, ICC-01/14-01/18-1833-Conf-Corr (original decision and public redacted version thereof notified on 6 April 2023) (public redacted version of the corrigendum notified on 18 April 2023, ICC-01/14-01/18-1833-Corr-Red), paras 16-46; First Rule 68(3) Decision, ICC-01/14-01/18-907-Red, paras 8-16.

⁹⁰ See First Rule 68(3) Decision, ICC-01/14-01/18-907-Red, paras 31, 34-36, p. 31.

⁹¹ See also Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on the introduction into evidence of P-0524's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules, 21 February 2022, ICC-01/12-01/18-2125-Conf (public redacted version notified on 13 April 2022, ICC-01/12-01/18-2125-Red) (the 'Al Hassan Rule 68(2)(b) Decision'), para. 14. In that decision, the Chamber notes that Trial Chamber X had initially planned to hear P-0524's evidence fully *viva voce*, after it rejected the Prosecution's request to introduce it pursuant to Rule 68(3) of the Rules. The Chamber further notes that the Prosecution filed that request following an order by Trial Chamber X. See Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Registry's Quarterly Report on Email Decisions for the months of January until March 2022, 5 December 2022, ICC-01/12/01/18-2435 (with Public Redacted Annexes 1 to 9 and 11 to 21, and confidential Annexes 1 to 3, 5 to 9 and 11 to 21; confidential *ex parte* Annex 4 only available to the Prosecution and Defence and confidential *ex parte* Annex 10 only available to the Defence and the Detention Section). See, *in particular*, Annex 8, ICC-01/12-01/18-2435-Anx8-Red, p. 1.

⁹² See also First Rule 68(3) Decision, ICC-01/14-01/18-907-Red, paras 32, 34.

0925.⁹³ The core of the testimony is in any event limited to the nature and extent of harm, and otherwise does not concern the alleged acts and conduct of Mr Yekatom.

59. The Chamber further finds that the First Report possesses sufficient indicia of reliability. Notably, it was obtained following instructions by the Prosecution and prepared by a team of experts⁹⁴ that have already submitted reports on similar issues before the Court in the context of other proceedings.⁹⁵ The Chamber notes in this regard that it is already familiar with the issues to be addressed by P-0925.
60. In addition, as indicated above, the introduction of P-0925's evidence pursuant to Rule 68(2)(b) of the Rules would contribute to the expeditiousness of the proceedings, as it would allow the participants to focus on the preparation and hearing of the upcoming witnesses to be called by the CLRV.
61. Lastly, given the nature and scope of P-0925's testimony, the Chamber considers that the potential prejudice to the accused, if any, is limited.⁹⁶ It can nonetheless be mitigated by duly taking into account the absence of any examination in court as part of the Chamber's ultimate assessment of the First Report during its judgment deliberation.⁹⁷
62. Accordingly, the Chamber decides to introduce P-0925's report⁹⁸ and associated items⁹⁹ pursuant to Rule 68(2)(b) of the Rules, subject to the receipt of the required certified declarations.
63. In light of the above, the Chamber expects the Prosecution to call its last witnesses until the end of hearing block 24.

⁹³ See CAR-OTP-2127-6805, at 6811, 6835, 6842-44.

⁹⁴ See also CAR-OTP-2122-9975.

⁹⁵ See CAR-OTP-2127-6805, at 6806, 6869-71. The Chamber also notes that the First Report outlines the methodology used and specifies the sources and scientific literature that was reviewed.

⁹⁶ The Chamber also notes, in this regard, that the Yekatom Defence considered that the First Report would be more appropriately introduced at the sentencing stage. See Yekatom Defence Response to the "Prosecution's Request for the Formal Submission of the Experts Reports and Associated Materials of P-0925, P-2193, P-2926 and P-2927 pursuant to rule 68(3) and article 69(4)", 19 January 2021, ICC-01/14-01/18-834-Conf, 1 February 2021, ICC-01/14-01/18-864-Conf (public redacted version notified on 3 February 2021, ICC-01/14-01/18-864-Red), paras 7-14.

⁹⁷ See also *Al Hassan* Rule 68(2)(b) Decision, ICC-01/12-01/18-2125-Red, para. 15.

⁹⁸ CAR-OTP-2127-6805.

⁹⁹ CAR-OTP-2122-8997; CAR-OTP-2122-9975.

FOR THESE REASONS, THE CHAMBER HEREBY

PARTLY GRANTS the CLRV1 Request;

PARTLY GRANTS the CLRV2 Request;

AUTHORISES the CLRV to call a/20722/21, a/65991/19 and a/65010/19 as witnesses;

ORDERS the CLRV to file a lesser redacted version of Annex A, ICC-01/14-01/18-1969-Conf-AnxA-Red-Corr and of the CLRV2 Request, ICC-01/14-01/18-1972-Conf-Red, respectively and as soon as possible, in relation to a/20722/21, a/65991/19, and a/65010/19;

INSTRUCTS the CLRV to liaise with the Registry to make the necessary arrangements for the appearance of the witnesses identified above;

REJECTS the P-0925 Request;

REJECTS the Yekatom Defence's Request to Postpone;

DECIDES that, subject to the fulfilment of the receipt of the respective declarations under Rule 68(2)(b)(ii) and (iii) of the Rules, the prior recorded testimony of Witness P-0925 (CAR-OTP-2127-6805), together with its associated items (CAR-OTP-2122-8997; CAR-OTP-2122-9975), be introduced into evidence pursuant to Rule 68(2)(b) of the Rules;

DECIDES that it will not receive P-2687's evidence; and

ORDERS the CLRV, the Yekatom Defence and the Ngaïssona Defence to file public redacted versions of the CLRV1 Request, ICC-01/14-01/18-1969-Conf-Corr; the CLRV2 Request, ICC-01/14-01/18-1972-Conf-Red; the Yekatom Defence Response to the P-0925 Request, ICC-01/14-01/18-1981-Conf; the Yekatom Defence Response to the CLRV Requests, ICC-01/14-01/18-2004-Conf-Corr; and the Ngaïssona Defence

Response to the CLRV2 Request, ICC-01/14-01/18-1991-Conf, respectively, within one week of notification of the present decision.

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



Judge Péter Kovács



Judge Bertram Schmitt

Presiding Judge



Judge Chang-ho Chung

Dated 6 September 2023

At The Hague, The Netherlands