

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-01/14-01/18**

Date: **22 April 2020**

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 *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public Document

**Prosecution's Request to Designate a Person Authorised to Witness a Declaration
under Rule 68(2)(b) of the Rules of Procedure and Evidence**

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. To streamline the presentation of its case, the Office of the Prosecutor (“Prosecution”) intends to introduce the prior statements/testimony of certain witnesses in whole or part at trial. The Prosecution thus requests that the Trial Chamber V (“Chamber”) designate a person authorised to witness a declaration under rule 68(2)(b) of the Rules of Procedure and Evidence (“Rules”).

2. Considering the impact of the current global pandemic on the timing and contours of a prospective trial in this case, as well as the logistical arrangements necessary to obtaining required declarations, the Prosecution requests that the Chamber grant the requested relief as expeditiously as possible.

II. SUBMISSIONS

3. The Prosecution envisages introducing in its case in chief the prior recorded statement/testimony of several witnesses in whole or part, under rule 68(2)(b) of the Rules. This may assist in a more concise and streamlined presentation of evidence, both for witnesses to be called at trial and witnesses whose appearances are not necessary, or may not otherwise materialise.

4. For such evidence to be admitted in a witness’ absence, the prior recorded testimony needs to be “accompanied by a declaration by the testifying person that the contents of the prior recorded testimony are true and correct to the best of that person’s knowledge and belief.”¹

5. The declaration itself “must be witnessed by a person authorised to witness such a declaration by the relevant Chamber or in accordance with the law and procedure of a State. The person witnessing the declaration must verify in writing

¹ Rule 68(2)(b)(ii) of the Rules.

the date and place of the declaration, and that the person making the declaration:

- is the person identified in the prior recorded testimony;
- assures that he or she is making the declaration voluntarily and without undue influence;
- states that the contents of the prior recorded testimony are, to the best of that person's knowledge and belief, true and correct; and
- was informed that if the contents of the prior recorded testimony are not true then he or she may be subject to proceedings for having given false testimony.”²

6. Although the rule equally permits persons so authorised under national laws and procedures to witness declarations, the Prosecution considers that the Chamber's separate designation of such an individual (e.g., a Legal Officer of the Chamber or Registry staff member, or local official) will promote efficiency. Further, in view of the prevailing circumstances which may entail a greater reliance on rule 68 evidence than ordinarily, doing so may be particularly important to ensure consistency within the case. Importantly, it will also contribute to developing a uniform Court-wide practice. For example, Trial Chamber VII in *Bemba, et al* authorized the Registry's Legal Counsel (or anyone designated by him)³, while a Victims Application Manager from Registry was used for this purpose in the *Gbagbo and Blé Goudé* case.

III. RELIEF SOUGHT

7. Based on the foregoing, the Prosecution requests the Chamber to designate a

² Rule 68(2)(b)(iii) of the Rules.

³ ICC-01/05-01/13-1109, p. 5.

person authorised to witness declarations made under rule 68(2)(b) of the Rules. The Prosecution is prepared to liaise directly with such person or unit to provide all necessary information, and logistical or practical arrangements concerning the relevant witnesses.



Fatou Bensouda, Prosecutor

Dated this 22nd day of April 2020
At The Hague, The Netherlands