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Date: **5 June 2023**

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

**Second Decision on the Prosecution Requests for Formal Submission of Prior
Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules**

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), 67(1) and 69(2) of the Rome Statute (the ‘Statute’) and Rule 68(2) of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Second Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules’.

I. Procedural history

1. The Chamber incorporates by reference the procedural history as set out in its ‘Corrected version of First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules’ (the ‘First Decision’).¹

II. Analysis

2. In the present decision, the Chamber will address four requests submitted by the Office of the Prosecutor (the ‘Prosecution’) for formal submission of prior recorded testimonies pursuant to Rule 68(2)(b) of the Rules (respectively, the ‘Sixth Request’,² the ‘Seventh Request’,³ the ‘Eighth Request’,⁴ the ‘Ninth Request’,⁵ and jointly, the ‘Requests’⁶).

¹ First Decision, 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 1-11.

² Corrigendum to the “Prosecution’s Sixth Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b)” (ICC-01/14-01/18-802-Conf), 12 January 2021, ICC-01/14-01/18-802-Conf-Corr (with confidential Annexes A and B) (original filing notified on 8 January 2021; public redacted version of the corrected version notified on 26 March 2021, ICC-01/14-01/18-802-Corr-Red).

³ Prosecution’s Seventh Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b), 11 January 2021, ICC-01/14-01/18-808-Conf (with confidential Annexes A and B) (public redacted version notified on 31 March 2021, ICC-01/14-01/18-808-Red).

⁴ Prosecution’s Eighth Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b), 11 January 2021, ICC-01/14-01/18-812-Conf (with confidential Annexes A and B) (public redacted version notified on 22 February 2021, ICC-01/14-01/18-812-Red).

⁵ Prosecution’s request for leave to add P-2687 to its Final Witness List and for the formal submission of his prior recorded testimony pursuant to Rule 68(2)(b), 29 June 2021, ICC-01/14-01/18-1043-Conf (with confidential Annexes A and B) (public redacted version notified on 30 June 2021, ICC-01/14-01/18-1043-Red).

⁶ The Chamber notes each of these requests annex a summary chart of the relevant materials as Annex A, as well as the relevant statements and associated items as Annex B.

A. Applicable Law

3. The Chamber incorporates by reference the applicable law as set out in its First Decision.⁷

B. Analysis of the prior recorded testimonies

4. The Chamber will now turn to its individual assessment of the Sixth, Seventh, Eighth and Ninth Requests, and address the participants' submissions, as necessary.

1. Sixth Request

5. In its Sixth Request, the Prosecution seeks the introduction of the prior recorded testimonies of witnesses P-0365, P-2671, P-0505, P-2133, P-1442, P-0567 and P-1503, including statements and associated items.

i. Submissions

6. The Prosecution submits that the prior recorded testimonies of these witnesses fulfil all requirements under Rule 68(2)(b) of the Rules and that their introduction is warranted. Specifically, the Prosecution submits that the proposed prior recorded testimonies do not concern the acts or conduct of the accused, but are 'limited to evidence of the crime base forming a part of the contextual elements for War Crimes and Crimes against Humanity; in particular, the Anti-Balaka's engagement in an armed conflict throughout the relevant period and the group's course of conduct involving the multiple commission of crimes and acts against the Muslim civilian population of western CAR, including the pattern and intensity of their mistreatment, pursuant to a criminal organisational policy'.⁸
7. According to the Prosecution, (i) the tendered evidence further 'bears sufficient indicia of reliability and is relevant to and probative of matters at issue in the case'; (ii) the witnesses' accounts were signed in accordance with Rule 111 of the Rules; (iii) the statements contain an 'express acknowledgement attesting to its

⁷ First Decision, ICC-01/14-01/18-1833-Corr-Red, paras 16-54.

⁸ Sixth Request, ICC-01/14-01/18-802-Corr-Red, paras 4, 11.

voluntariness and the truth of its contents’; (iv) ‘the statements are internally consistent, and sufficiently corroborated by other evidence in the case’;⁹ and (iv) their introduction under Rule 68(2)(b) of the Rules will ‘expedite the proceedings, obviate the witnesses’ unnecessary appearance, save valuable court time, and would not unfairly prejudice the Accused’.¹⁰ With regard to the associated items, the Prosecution avers that they form an ‘inseparable and indispensable part’ of the testimonies and should therefore equally be submitted.¹¹

8. The Common Legal Representative of the Former Child Soldiers and the Common Legal Representatives of the Victims of Other Crimes (jointly, the ‘CLR’) support the introduction of the prior recorded testimonies subject to the Sixth, Seventh and Eighth Requests, submitting that ‘(i) the prior recorded testimonies and associated exhibits go to proof of a matter other than the acts and conduct of the Accused; (ii) the evidence contained in said testimonies have indicia of reliability; (iii) their introduction will best serve[] the interests of justice and will not be prejudicial to the fairness of the proceedings and the rights of both Accused; and (iv) this course of action will also promote the rights of the Victims to fair and expeditious proceedings’.¹²
9. The Yekatom Defence does not oppose the formal submission of the prior recorded testimonies of P-0505, P-2133 and P-0567 as well as the associated items,¹³ but notes that its non-opposition ‘should in no way be understood as a concession as to the reliability or probative value of their evidence, nor as to the veracity of any Prosecution allegations based thereon’, and that it ‘intends to

⁹ Sixth Request, ICC-01/14-01/18-802-Corr-Red, para. 10.

¹⁰ Sixth Request, ICC-01/14-01/18-802-Corr-Red, paras 3, 50.

¹¹ Sixth Request, ICC-01/14-01/18-802-Corr-Red, para. 12.

¹² Common Legal Representatives’ Joint and Consolidated Response to the Prosecution’s Fourth, Fifth, Sixth, Seventh and Eight [sic] Requests for the Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b), 14 January 2021, ICC-01/14-01/18-820-Conf, para. 3.

¹³ Corrigendum to “Yekatom Defence Response to ‘Prosecution’s Sixth, Seventh and Eighth Formal Submissions of Rule 68(2) Applications’ (ICC-01/14-01/18-802-Conf, ICC-01/14-01/18-808-Conf and ICC-01/14-01/18-812-Conf)” (ICC-01/14-01/18-845-Conf), 2 March 2021, ICC-01/14-01/18-845-Conf-Corr (with confidential Annex A) (original filing notified on 21 January 2021) (public redacted version notified on 6 April 2021, ICC-01/14-01/18-845-Corr-Red) (the ‘Yekatom Defence Response’), para. 2.

challenge the evidence of a number of these witnesses and/or the relevant Prosecution allegations at a later stage'.¹⁴

10. The Yekatom Defence opposes the formal submission of the prior recorded testimonies and associated items of P-0365, P-2671, P-1442 and P-1503, arguing that their submission 'would be prejudicial to the fairness of the proceedings as they attest to the acts and conducts of the accused and are material to core issues of the Prosecution's case', and that 'their evidence should be elicited *viva voce* so as to allow the Defence to use it to challenge the credibility of other witnesses'.¹⁵ In its supplemental response (the 'Supplemental Response'),¹⁶ the Yekatom Defence submits that (i) the evidence of witnesses P-0365 and P-2671 'touches upon core issues materially in dispute'; (ii) 'it brings new discrepancies to light in the overall evidence regarding P-2620 reinforcing the Defence's position that P-0365 and P-2671's evidence is neither cumulative nor corroborative of other evidence'; (iii) 'the evidence of P-2671 is itself marked with such problems as to affect its reliability'; and (iv) 'it is in the interests of justice to allow the Defence to examine those witnesses, or to reject their evidence entirely'.¹⁷
11. The Ngaïssona Defence, with respect to the introduction of the statements and associated items of P-0505, P-2133 and P-0567, defers to the Chamber's discretion in evaluating whether their introduction under Rule 68(2)(b) of the Rules 'is not prejudicial or inconsistent with the rights of Mr Ngaïssona'.¹⁸ With regard to the introduction of the statements and associated items of P-0365, P-2671 and P-1503, the Ngaïssona Defence defers to the position of the Yekatom

¹⁴ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, paras 10-11.

¹⁵ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, paras 5, 20.

¹⁶ Supplemental Response to "Prosecution's Sixth Formal Submissions of Prior Recorded Testimony pursuant to Rule 68(2)", 15 September 2022, ICC-01/14-01/18-1574-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence (confidential redacted version notified on 16 September 2022, ICC-01/14-01/18-1574-Conf-Red; public redacted version notified on 14 April 2023, ICC-01/14-01/18-1574-Red).

¹⁷ Supplemental Response, ICC-01/14-01/18-1574-Red, para. 11.

¹⁸ Defence Consolidated Response to the Prosecution Sixth, Seventh and Eighth Requests for the formal submission of prior recorded testimony pursuant to Rule 68(2)(b) (ICC-01/14-01/18-802-Conf, ICC-01/14-01/18-808-Conf, ICC-01/14-01/18-812), 22 February 2021, ICC-01/14-01/18-887-Conf (public redacted version notified on 21 January 2022, ICC-01/14-01/18-887-Red) (the 'Ngaïssona Defence Response'), para. 6.

Defence ‘to the extent the witnesses provide information with respect to Mr Yekatom or charges with which Mr Ngaïssona is not charged’.¹⁹ Lastly, the Ngaïssona Defence opposes the introduction of the prior recorded testimony and associated items of P-1442, as its introduction would be inconsistent and prejudicial to the rights of Mr Ngaïssona,²⁰ and fully joins and supports the arguments raised by the Yekatom Defence.²¹

ii. Chamber’s determinations

a. P-0365

12. P-0365 was the [REDACTED] at the Bangui municipality at the relevant time.²² He was responsible for [REDACTED] and [REDACTED] was responsible for [REDACTED] and the [REDACTED].²³
13. In his statement,²⁴ the witness discusses, *inter alia*, the [REDACTED] in the Central African Republic (the ‘CAR’); [REDACTED]; the problems concerning [REDACTED] at the [REDACTED]; the difficulties [REDACTED] for the [REDACTED]; and the damage and looting [REDACTED] by the Seleka in 2013 [REDACTED]. The witness does not mention the accused. In addition, the witness discusses [REDACTED] (CAR-OTP-2121-2577).
14. In light of the above, the Chamber is satisfied that P-0365’s statement does not go to proof of the accused’s acts and conduct within the meaning of Rule 68(2)(b) of the Rules and is thus suitable to be introduced under this provision.
15. The Ngaïssona Defence defers to the Yekatom Defence’s position regarding the introduction of P-0365’s prior recorded testimony.²⁵ The Chamber takes note of the Yekatom Defence’s submission that P-0365’s evidence is at the core of

¹⁹ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 17.

²⁰ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 18.

²¹ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 19.

²² Sixth Request, ICC-01/14-01/18-802-Conf-Corr, para. 14; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 9.

²³ Statement, CAR-OTP-2122-9042, at 9044, para. 14.

²⁴ Statement, CAR-OTP-2122-9042.

²⁵ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 17.

disputed issues; ‘directly concerns a specific issue in this case’;²⁶ and that ‘establishing the date of birth of P-2620 is a crucial issue to the “Chamber’s eventual determination of the charges against the accused in its judgment under Article 74 of the Statute”’.²⁷ Furthermore, the Chamber notes the Yekatom Defence’s argument that ‘contesting the date of birth of alleged child soldiers, notably through contesting the authenticity of identifying documents, is central to the Defence’s strategy’²⁸ and that the ‘matter of the date of birth and of the authenticity of P-2620’s birth certificate are “soundly and conceivably” disputed between the Defence and the Prosecution’.²⁹ The Chamber further notes the Yekatom Defence’s argument concerning P-2671, [REDACTED].³⁰ Lastly, the Chamber takes note of the Yekatom Defence’s argument that ‘the evidence of P-0365, P-2671 and P-2620 regarding the latter’s date of birth cannot be considered as mutually corroborative’.³¹

16. As regards these arguments, the Chamber observes that the Prosecution has withdrawn P-2620 who will no longer testify.³² Therefore, the Chamber notes that it will not need to consider P-2620’s age at the relevant time and the evidence [REDACTED]. Consequently, the Chamber sees no need to further address these submissions.
17. In respect of the Yekatom Defence’s submissions that P-0365’s evidence would assist the Chamber in evaluating the evidence of other witnesses,³³ the Chamber notes that the witness merely provides his general knowledge on [REDACTED] in the CAR. The Chamber further notes the Yekatom Defence’s stated desire to question him on the evidence of other witnesses, such as those [REDACTED], or on [REDACTED] which he did not discuss in his statement and which are related

²⁶ Yekatom Defence Response, ICC-01/14-01/18-845-Conf-Corr, para. 28.

²⁷ Supplemental Response, ICC-01/14-01/18-1574-Red, para. 13.

²⁸ Supplemental Response, ICC-01/14-01/18-1574-Red, para. 15.

²⁹ Supplemental Response, ICC-01/14-01/18-1574-Red, para. 16.

³⁰ Yekatom Defence Response, ICC-01/14-01/18-845-Conf-Corr, para. 29.

³¹ Supplemental Response, ICC-01/14-01/18-1574-Red, para. 18.

³² Prosecution’s Observations pursuant to the Chamber’s “Order regarding the Remainder of the Prosecution’s Presentation of Evidence and Order pursuant to Article 64(6)(d) of the Statute”, ICC-01/14-01/18-1739-Conf, 31 January 2023, 10 March 2023, ICC-01/14-01/18-1791-Conf, para. 6.

³³ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 29.

to other witnesses.³⁴ The Chamber considers that this is not a reason, in itself, to deny introduction of the prior recorded testimony under Rule 68(2)(b) of the Rules. In addition, and in any event, the Chamber notes that the Yekatom Defence has been able to examine specific witnesses directly in court on the issue of their purported age and related documentation, as well as [REDACTED].

18. Additionally, the Chamber finds that P-0365's statement shows sufficient indicia of reliability. Notably, it was obtained by fulfilling the formal requirements set out by the Chamber in the First Decision (the 'Formal Requirements').³⁵
19. As regards the associated item, the Chamber observes that item CAR-OTP-2121-2577 has been used and explained by the witness in his statement and thus forms an integral part of it.
20. In light of these considerations, and noting that the CLRV do not object, the Chamber considers that the introduction of P-0365's prior recorded testimony is not prejudicial to or inconsistent with the accused's rights and that the interests of justice are better served by its introduction. It particularly notes that this contributes to the expeditiousness of the proceedings and streamlines the presentation of evidence.
21. Accordingly, the Chamber grants the introduction of P-0365's statement³⁶ and associated item³⁷ pursuant to Rule 68(2)(b) of the Rules.

b. P-2671

22. P-2671 is the [REDACTED].³⁸
23. In her statement,³⁹ the witness discusses, *inter alia*, [REDACTED] background and life; [REDACTED]; and [REDACTED] and later on [REDACTED]. The

³⁴ Yekatom Defence Response, ICC-01/14-01/18-845-Conf-Corr, para. 29.

³⁵ First Decision, ICC-01/14-01/18-1833-Corr-Red, para. 45.

³⁶ Statement, CAR-OTP-2122-9042; CAR-OTP-2122-9786 (Translation).

³⁷ [REDACTED], CAR-OTP-2121-2577.

³⁸ Sixth Request, ICC-01/14-01/18-802-Conf-Corr, para. 18; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 8.

³⁹ Statement, CAR-OTP-2125-0348.

witness further states that she does not have any information in regard to what happened to [REDACTED]. The witness does not mention the accused.

24. The witness further discusses the [REDACTED] (CAR-OTP-2121-2577).⁴⁰
25. The Ngaïssona Defence defers to the Yekatom Defence's position regarding the introduction of P-2671's prior recorded testimony.⁴¹ The Yekatom Defence objects to its introduction. It argues that (i) the 'evidence of P-2671 is directly relevant to the issue of whether P-2620 [REDACTED]' which concerns a 'matter soundly in dispute';⁴² (ii) the evidence of P-0365, P-2671 and P-2620 'cannot be considered as mutually corroborative';⁴³ and (iii) 'the reliability of P-2671's evidence is affected in a way such that the Defence should be able to examine P-2671'.⁴⁴
26. The Chamber observes that P-2671's testimony does not go to proof of the accused's acts and conduct within the meaning of Rule 68(2)(b) of the Rules, which makes it, in principle, suitable to be introduced under this provision.
27. However, the Chamber observes that P-2671's testimony is limited to information and clarifications concerning the [REDACTED] P-2620. In light of P-2620's withdrawal as a witness,⁴⁵ the Chamber will no longer have to assess the evidence of, and related to, P-2620. Therefore, the Chamber does not consider that it would be assisted in its determinations by the introduction of P-2671's prior recorded testimony.
28. Accordingly, the Chamber rejects the introduction of P-2671's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.

c. P-0505

⁴⁰ Statement, CAR-OTP-2125-0348, at 0350, para. 21.

⁴¹ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 17.

⁴² Yekatom Defence Response, ICC-01/14-01/18-845-Conf-Corr, para. 58.

⁴³ Supplemental Response, ICC-01/14-01/18-1574-Red, para. 18.

⁴⁴ Supplemental Response, ICC-01/14-01/18-1574-Red, para. 44.

⁴⁵ Prosecution's Observations pursuant to the Chamber's "Order regarding the Remainder of the Prosecution's Presentation of Evidence and Order pursuant to Article 64(6)(d) of the Statute", ICC-01/14-01/18-1739-Conf, 31 January 2023, 10 March 2023, ICC-01/14-01/18-1791-Conf, para. 6, n. 9.

29. P-0505 is an [REDACTED] who travelled to the CAR several times [REDACTED] 2013 and [REDACTED] 2014.⁴⁶
30. In his statement,⁴⁷ P-0505 discusses, *inter alia*, travelling to Bossangoa in [REDACTED] 2013; Muslim civilians gathering in the ‘*École Liberté*’ in Bossangoa and Christian civilians gathering around the church in Bossangoa; [REDACTED] Bangui to Boali on [REDACTED] 2013, and the gathering of Muslim men at the mosque in Boali; the 5 December 2013 attack on Bangui (the ‘5 December Bangui Attack’) and seeing dead bodies of Muslims being gathered at the Ali Babolo Mosque in PK5; [REDACTED]. The witness does not mention the accused.
31. The witness also locates the place where he saw several bodies of young men in a satellite picture (Annex I, CAR-OTP-2014-0140). Furthermore, the witness provides and discusses items [REDACTED].⁴⁸
32. In light of the above, the Chamber is satisfied that P-0505’s statement does not go to proof of the accused’s acts and conduct within the meaning of Rule 68(2)(b) of the Rules, but concerns contextual matters, making it thus particularly suitable to be introduced under this provision.
33. Additionally, the Chamber considers that P-0505’s statement shows sufficient indicia of reliability. Notably, it was obtained by fulfilling the Formal Requirements.
34. As regards the associated items, the Chamber observes that they have been used and explained by the witness in his statement and thus form an integral part of it.
35. In light of these considerations, and noting that neither the Defence nor the CLRV object, the Chamber considers that the introduction of P-0505’s prior recorded testimony is not prejudicial to or inconsistent with the accused’s rights and that the interests of justice are better served by its introduction. It particularly notes

⁴⁶ Sixth Request, ICC-01/14-01/18-802-Conf-Corr, para. 21; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 11-12.

⁴⁷ Statement, CAR-OTP-2014-0129.

⁴⁸ Statement, CAR-OTP-2014-0129, at 0132, paras 17-20.

that this contributes to the expeditiousness of the proceedings and streamlines the presentation of evidence.

36. Accordingly, the Chamber grants the Prosecution's request to introduce P-0505's statement⁴⁹ and associated items,⁵⁰ pursuant to Rule 68(2)(b) of the Rules.

⁴⁹ Statement, CAR-OTP-2014-0129; CAR-OTP-2122-4769 (Translation).

⁵⁰ Satellite image, CAR-OTP-2014-0140 (Annex I); Items, CAR-OTP-2095-0005; CAR-OTP-2095-0006; CAR-OTP-2095-0034 to CAR-OTP-2095-0036; CAR-OTP-2095-0047; CAR-OTP-2095-0052; CAR-OTP-2095-0075; CAR-OTP-2095-0079; CAR-OTP-2095-0085; CAR-OTP-2095-0094; CAR-OTP-2095-0127; CAR-OTP-2095-0141; CAR-OTP-2095-0180; CAR-OTP-2095-0497; CAR-OTP-2095-0585; CAR-OTP-2095-0639; CAR-OTP-2095-0978; CAR-OTP-2095-0985; CAR-OTP-2095-0991; CAR-OTP-2095-0992; CAR-OTP-2095-1000; CAR-OTP-2095-1023; CAR-OTP-2095-1030; CAR-OTP-2095-1094; CAR-OTP-2095-1096 to CAR-OTP-2095-1290; CAR-OTP-2095-1308 to CAR-OTP-2095-1339; CAR-OTP-2095-1351 to CAR-OTP-2095-1441; CAR-OTP-2095-1445 to CAR-OTP-2095-1490; CAR-OTP-2095-1497 to CAR-OTP-2095-1499; CAR-OTP-2095-1503 to CAR-OTP-2095-1514; CAR-OTP-2095-1517 to CAR-OTP-2095-1555; CAR-OTP-2095-2329; CAR-OTP-2095-2330; CAR-OTP-2095-2351; CAR-OTP-2095-2357 to CAR-OTP-2095-2530; CAR-OTP-2095-2598; CAR-OTP-2095-2617; CAR-OTP-2095-3714 to CAR-OTP-2095-3840; CAR-OTP-2095-3871; CAR-OTP-2095-3872; CAR-OTP-2095-3890; CAR-OTP-2095-3905; CAR-OTP-2095-4026; CAR-OTP-2095-4064; CAR-OTP-2095-4216; CAR-OTP-2095-4238; CAR-OTP-2095-4248; CAR-OTP-2095-4304 to CAR-OTP-2095-4325; CAR-OTP-2095-4452; CAR-OTP-2095-4455; CAR-OTP-2095-4473; CAR-OTP-2095-4531; CAR-OTP-2095-4595; CAR-OTP-2095-4607; CAR-OTP-2095-4678; CAR-OTP-2095-4687; CAR-OTP-2095-4693; CAR-OTP-2095-4718; CAR-OTP-2095-4726; CAR-OTP-2095-4730; CAR-OTP-2095-4733; CAR-OTP-2095-4748; CAR-OTP-2095-4774; CAR-OTP-2095-4788; CAR-OTP-2095-4835; CAR-OTP-2095-4984; CAR-OTP-2095-5057 to CAR-OTP-2095-5119; CAR-OTP-2095-5121; CAR-OTP-2095-5141 to CAR-OTP-2095-5143; CAR-OTP-2095-5159; CAR-OTP-2095-5177 to CAR-OTP-2095-5401; CAR-OTP-2095-5418 to CAR-OTP-2095-5676; CAR-OTP-2095-7483 to CAR-OTP-2095-7671; CAR-OTP-2095-7731 to CAR-OTP-2095-7735; CAR-OTP-2095-7812; CAR-OTP-2095-7933; CAR-OTP-2095-7954; CAR-OTP-2095-7960; CAR-OTP-2095-7970; CAR-OTP-2095-7976; CAR-OTP-2095-7978; CAR-OTP-2095-8010; CAR-OTP-2095-8393; CAR-OTP-2095-8399; CAR-OTP-2095-8401; CAR-OTP-2095-8405; CAR-OTP-2095-8417; CAR-OTP-2095-8423; CAR-OTP-2095-8450; CAR-OTP-2095-8463; CAR-OTP-2095-8474; CAR-OTP-2095-8477; CAR-OTP-2095-8489; CAR-OTP-2095-8496; CAR-OTP-2095-8498; CAR-OTP-2095-8665; CAR-OTP-2095-8697; CAR-OTP-2095-8735; CAR-OTP-2095-8774 to CAR-OTP-2095-8781; CAR-OTP-2095-8783; CAR-OTP-2095-8787; CAR-OTP-2095-8803; CAR-OTP-2095-8822; CAR-OTP-2095-8884; CAR-OTP-2095-8889; CAR-OTP-2095-8934; CAR-OTP-2095-8971; CAR-OTP-2095-8975; CAR-OTP-2095-9001; CAR-OTP-2095-9003; CAR-OTP-2095-9032; CAR-OTP-2095-9048; CAR-OTP-2095-9192; CAR-OTP-2095-9228; CAR-OTP-2095-9259; CAR-OTP-2095-9263; CAR-OTP-2095-9292; CAR-OTP-2095-9304; CAR-OTP-2095-9309; CAR-OTP-2095-9312; CAR-OTP-2095-9391; CAR-OTP-2095-9437; CAR-OTP-2095-9439; CAR-OTP-2095-9445; CAR-OTP-2095-9446; CAR-OTP-2095-9455; CAR-OTP-2095-9459; CAR-OTP-2095-9460; CAR-OTP-2095-9554; CAR-OTP-2095-9556; CAR-OTP-2095-9571; CAR-OTP-2095-9592; CAR-OTP-2095-9647; CAR-OTP-2095-9656; CAR-OTP-2095-9730; CAR-OTP-2095-9754; CAR-OTP-2095-9839; CAR-OTP-2095-9841; CAR-OTP-2095-9851; CAR-OTP-2095-9853; CAR-OTP-2095-9864; CAR-OTP-2095-9924; CAR-OTP-2096-0123; CAR-OTP-2096-0269; CAR-OTP-2096-0287; CAR-OTP-2096-0631; CAR-OTP-2096-0699; CAR-OTP-2096-0801; CAR-OTP-2096-0814; CAR-OTP-2096-0828; CAR-OTP-2096-0921; CAR-OTP-2096-0926; CAR-OTP-2096-1105; CAR-OTP-2096-1121 to CAR-OTP-2096-1127; CAR-OTP-2096-1142; CAR-OTP-2096-1153; CAR-OTP-2096-1159; CAR-OTP-2096-1213; CAR-OTP-2096-1214; CAR-OTP-2096-1259; CAR-OTP-2096-1261; CAR-OTP-2096-1267; CAR-OTP-2096-1279; CAR-OTP-2096-1287; CAR-OTP-2096-1328; CAR-OTP-2096-1396; CAR-OTP-2096-1406; CAR-OTP-2096-1475 to CAR-OTP-2096-1652; CAR-OTP-2096-1698; CAR-OTP-2096-1994; CAR-OTP-2096-1998; CAR-OTP-2096-2003; CAR-OTP-2096-2005; CAR-OTP-2096-2038; CAR-OTP-2096-2045; CAR-OTP-2096-2059; CAR-OTP-2096-2095; CAR-OTP-2096-2102; CAR-

d. P-2133

37. P-2133 was [REDACTED] and [REDACTED] in Bossangoa [REDACTED] 2013 and [REDACTED] 2014. From [REDACTED] 2014 [REDACTED], he was [REDACTED] in Berbérati.⁵¹
38. In his statement,⁵² the witness discusses, *inter alia*, the Seleka taking power; his [REDACTED] Bossangoa [REDACTED] 2013; crimes allegedly committed by the Seleka; and the emergence of the Anti-Balaka rebellion. Moreover, P-2133 discusses the Anti-Balaka in Bossangoa; clashes between the Seleka and Anti-Balaka in Bossangoa, including in October 2013; the attack on 5 December 2013 in Bossangoa; the evacuation of Muslims from Bossangoa; several members of the Anti-Balaka leadership in Bossangoa and Benzambé namely, [REDACTED] ‘KEMA’ and ‘MANDAGO Alexis’; the situation in Berbérati, with alleged attacks against the Muslim population, which sought refuge at the Catholic church; the Muslims fleeing Berbérati in the aftermath of the alleged Anti-Balaka attacks; ‘Chiki-Chiki’ being the Anti-Balaka leader at that time in Berbérati; and other Anti-Balaka leaders in Berbérati.
39. The witness states that he knows that ‘NGAISSONA was the National Coordinator in BANGUI’.⁵³ Moreover, the witness indicates that he heard of Mr Ngaißona for the first time ‘after the 5th December attack’ and that he ‘never heard [REDACTED] speaking about NGAISSONA’ and that he does not know if they were in contact with each other. Furthermore, P-2133 states that he

OTP-2096-2137; CAR-OTP-2096-2214; CAR-OTP-2096-4260 to CAR-OTP-2096-4847; CAR-OTP-2096-5868; CAR-OTP-2096-6835 to CAR-OTP-2096-6908; CAR-OTP-2096-7016 to CAR-OTP-2096-7094; CAR-OTP-2096-7110 to CAR-OTP-2096-7130; CAR-OTP-2096-7135 to CAR-OTP-2096-7495; Videos, CAR-OTP-2095-8354; CAR-OTP-2095-8355; CAR-OTP-2095-9141; CAR-OTP-2096-2477; CAR-OTP-2096-2478; CAR-OTP-2096-2480 to CAR-OTP-2096-2490; CAR-OTP-2096-2493 to CAR-OTP-2096-2495; CAR-OTP-2096-2500 to CAR-OTP-2096-2504; and their respective transcriptions and translations, including CAR-OTP-2122-9551; CAR-OTP-2122-9553; CAR-OTP-2122-9579; CAR-OTP-2122-9582; CAR-OTP-2130-1245; CAR-OTP-2130-1247; CAR-OTP-2130-1383; CAR-OTP-2130-1386; CAR-OTP-2127-4526; CAR-OTP-2127-4528; CAR-OTP-2127-4620; CAR-OTP-2127-4623; CAR-OTP-2127-6284; CAR-OTP-2127-6413; CAR-OTP-2130-0331; CAR-OTP-2130-0378; Document, CAR-OTP-2096-9302.

⁵¹ Sixth Request, ICC-01/14-01/18-802-Conf-Corr, para. 26; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 12.

⁵² Statement, CAR-OTP-2093-0267.

⁵³ Statement, CAR-OTP-2093-0267, at 0291, para. 170.

‘assume[s] that there was a connection between the Anti-Balaka in BANGUI and the Anti-Balaka in BOSSANGO because both NGAISSONA and MOKOM are from the area of OUHAM’, and that ‘NGAISSONA became the National Coordinator of the Anti-Balaka and he must have been representing the Anti-Balaka of BOSSANGO as well’.⁵⁴ The witness does not mention Mr Yekatom.

40. The witness also discusses a photograph (CAR-OTP-2088-2206) in which he identifies several people from the Anti-Balaka and the Seleka, and document CAR-OTP-2003-1654, at 1736,⁵⁵ concerning a meeting.
41. The Chamber considers that P-2133’s references to Mr Ngaïssona’s alleged role as an Anti-Balaka coordinator are of limited and peripheral nature and are merely based on the witness’s assumptions. Moreover, the Chamber observes that the Ngaïssona Defence did not oppose the Sixth Request in relation to P-2133,⁵⁶ and that this part of P-2133’s statement would, in any case, not constitute the core of P-2133’s testimony.
42. In light of the above, the Chamber is satisfied that P-2133’s statement is suitable to be introduced pursuant to Rule 68(2)(b) of the Rules. However, it will not rely on paragraphs 87 to 88 and 170 for the purposes of establishing Mr Ngaïssona’s acts and conduct.
43. Furthermore, the Chamber considers that P-2133’s prior recorded testimony shows sufficient indicia of reliability. Notably, it was obtained by fulfilling the Formal Requirements.
44. As regards the associated items, the Chamber observes that the abovementioned items have been used and explained by the witness in his statement and thus form an integral part of it.
45. In light of these considerations, and noting that neither the Defence nor the CLRV object, the Chamber considers that the introduction of P-2133’s prior recorded testimony is not prejudicial to or inconsistent with the accused’s rights and that

⁵⁴ Statement, CAR-OTP-2093-0267, at 0279, paras 87-88.

⁵⁵ The Chamber notes that while the statement refers to CAR-OTP-2003-1736, the complete ERN of the item concerned is CAR-OTP-2003-1654, at 1736.

⁵⁶ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 6.

the interests of justice are better served by its introduction. In this regard, the Chamber particularly notes that this contributes to the expeditiousness of the proceedings and streamlines the presentation of evidence.

46. Accordingly, the Chamber grants the introduction of P-2133's statement⁵⁷ pursuant to Rule 68(2)(b) of the Rules, and further notes that the associated items CAR-OTP-2088-2206 and CAR-OTP-2003-1654, at page 1736 have already been recognised as submitted and therefore the Chamber need not rule on them again.

e. P-1442

47. Following the Prosecution's notice that it no longer intends to call P-1442 to testify,⁵⁸ the Chamber declared the Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-1442 pursuant to Rule 68(3)⁵⁹ moot.⁶⁰ Therefore, the Chamber also considers the Sixth Request with regard to P-1442 moot and will not address the submissions made in this regard.

f. P-0567

48. P-0567 held, during the relevant period, the following positions: [REDACTED];⁶¹ [REDACTED].⁶²
49. In his statement,⁶³ P-0567 discusses, *inter alia*, his [REDACTED]; the 5 December Bangui Attack and that he 'did not personally witness any crimes'; the 'volatile situation' in the aftermath of the 5 December Bangui Attack; and the visit [REDACTED] and its morgue after the attack. In addition, P-0567 provides information on his work in Bangui [REDACTED] crimes allegedly committed

⁵⁷ Statement, CAR-OTP-2093-0267; CAR-OTP-2107-6272 (Translation).

⁵⁸ Email from the Prosecution, 15 November 2022, at 13:38.

⁵⁹ Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-1442 pursuant to Rule 68(3), ICC-01/14-01/18-1521-Conf (public redacted version notified on 23 August 2022, ICC-01/14-01/18-1521-Red).

⁶⁰ Nineteenth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1647, P-2083, P-2082, P-2625, P-2582, P-1442 and P-1558, 21 December 2022, ICC-01/14-01/18-1712-Conf.

⁶¹ Statement, CAR-OTP-2059-0084, at 0086, para. 12.

⁶² Sixth Request, ICC-01/14-01/18-802-Conf-Corr, para. 39; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 13.

⁶³ Statement, CAR-OTP-2059-0084.

by the Anti-Balaka, and going [REDACTED] to different provinces (Bossangoa, Boali, Bossembélé, Bossemptélé and Yaloké) in the CAR [REDACTED]; his role [REDACTED] in 2014 and 2015; and the crimes allegedly committed by the Seleka. P-0567 further discusses alleged attacks against the Muslim population, including destruction of their properties and mosques; the Anti-Balaka allegedly ‘attacking the civilian population in general’; and the alleged Anti-Balaka attacks taking place in different provinces between mid-January and end of February 2014.

50. The witness states that ‘[i]n Bangui there was a com-zone named Rhombot’.⁶⁴ He further indicates that ‘Edward NGAISSONA was considered as the main Anti-Balaka co-ordinator for the whole country at the period that the 05 December 2013 Bangui attack started’, and that he believes that ‘later on his leadership was challenged’, but that he does not have any further information on this topic.⁶⁵
51. The witness also discusses a document outlining his personal history (Annex 1, CAR-OTP-2059-0112), a press release of the OHCHR (CAR-OTP-2001-0191), and a report (CAR-OTP-2009-4979, at 4980),⁶⁶ and drew a sketch (Annex 2, CAR-OTP-2041-0643).
52. The Chamber finds that P-0567’s references to Mr Ngaïssona’s alleged role as an Anti-Balaka coordinator and Mr Yekatom’s alleged role as an Anti-Balaka leader are of limited and peripheral nature. Notably, they concern general information and conclusions of the witness, and would in any case not constitute the core of P-0567’s testimony.
53. In light of the above, the Chamber considers that P-0567’s testimony is suitable for introduction under Rule 68(2)(b) of the Rules. However, it will not rely on paragraphs 146 and 147 for the purposes of establishing the accused’s acts and conduct.

⁶⁴ Statement, CAR-OTP-2059-0084, at 0106, para. 147.

⁶⁵ Statement, CAR-OTP-2059-0084, at 0106, para. 146.

⁶⁶ The Chamber notes that while the statement refers to CAR-OTP-2009-4980, the correct ERN of the item concerned is CAR-OTP-2009-4979, at 4980.

54. Furthermore, the Chamber considers that P-0567's prior recorded testimony shows sufficient indicia of reliability. Notably, it was obtained by fulfilling the Formal Requirements.
55. As regards the associated items, the Chamber observes that the abovementioned items have been used and explained by the witness in his statement and thus form an integral part of it.
56. In light of these considerations, and noting that neither the Defence nor the CLRV object, the Chamber considers that the introduction of P-0567's prior recorded testimony is not prejudicial to or inconsistent with the accused's rights and that the interests of justice are better served by its introduction. The Chamber particularly notes that this contributes to the expeditiousness of the proceedings and streamlines the presentation of evidence.
57. Accordingly, the Chamber grants the introduction of P-0567's statement⁶⁷ and associated items,⁶⁸ pursuant to Rule 68(2)(b) of the Rules.
58. The Chamber further instructs the Prosecution to review the necessity of the redactions applied to P-0567's statement, CAR-OTP-2059-0084, and to associated item CAR-OTP-2041-0643, and provide lesser redacted versions within two weeks of notification of the present decision.
59. Furthermore, the Prosecution is ordered to disclose item CAR-OTP-2009-4979, at 4980. In this respect, the Chamber defers its decision on associated items CAR-OTP-2041-0643 and CAR-OTP-2009-4979, at 4980. Should newly unredacted parts of P-0567's statement discuss associated items which are as yet undisclosed, the Prosecution is ordered to disclose them within two weeks of notification of this decision. The Defence may submit observations on the introduction of these items, as well as of item CAR-OTP-2041-0643 in its lesser redacted form, if any, within 10 days of disclosure.

⁶⁷ Statement, CAR-OTP-2059-0084; CAR-OTP-2122-2211 (Translation).

⁶⁸ Personal history, CAR-OTP-2059-0112; Press release, CAR-OTP-2001-0191.

g. P-1503

60. P-1503 was [REDACTED] at the relevant period.⁶⁹
61. In his statement,⁷⁰ the witness discusses, *inter alia*, his professional background [REDACTED] and working as [REDACTED]; the Seleka taking power in 2013; leaving to Zongo after the Seleka took power; his return to Bangui when former president Djotodia called for all military personnel to return to their barracks; Sekia being an area controlled by the Anti-Balaka; [REDACTED]; his appointment as [REDACTED] after Djotodia's resignation, where [REDACTED]; and the Anti-Balaka allegedly attacking a gendarmerie post in PK9. P-1503 provides information on several alleged Anti-Balaka members of Mr Yekatom's group, namely 'SATAN' and '*Coeur de Lion*' and provided to the investigators material related to Andjilo.
62. P-1503 refers to Mr Yekatom on several occasions,⁷¹ mentioning that the area around Sekia was controlled by the Anti-Balaka, that 'Rhombot was their chief', and that 'YEKATOM' 'was in charge of the whole area'.⁷² Moreover, the witness states that 'the first time that [REDACTED] YEKATOM [REDACTED] was at PK9' and that the witness [REDACTED]. Furthermore, the witness indicates that 'YEKATOM [REDACTED], and that '[i]n a couple of occasions when there were issues with the Anti-Balakas [REDACTED].⁷³ Moreover, the witness recognises 'Alfred YEKATOM' on a video that was shown to him.⁷⁴ The witness does not mention Mr Ngaïssona.
63. P-1503 also discusses video CAR-OTP-2012-0523 and provided a USB stick with several videos (Annex A: CAR-OTP-2049-0140; CAR-OTP-2049-0141;

⁶⁹ Sixth Request, ICC-01/14-01/18-802-Conf-Corr, para. 44; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 12.

⁷⁰ Statement, CAR-OTP-2046-0571.

⁷¹ Statement, CAR-OTP-2046-0571, at 0577, para. 47, at 0579, paras 57-59, at 0580, para. 62, at 0582, paras 80, 82.

⁷² Statement, CAR-OTP-2046-0571, at 0577, para. 47.

⁷³ Statement, CAR-OTP-2046-0571, at 0579, para. 59.

⁷⁴ Statement, CAR-OTP-2046-0571, at 0582, para. 82.

CAR-OTP-2049-0142; transcript CAR-OTP-2074-1954 and translation CAR-OTP-2074-1958).

64. The Chamber notes that the Ngaïssona Defence defers to the Yekatom Defence's position regarding the introduction of the statement and associated items of P-1503.⁷⁵ The Chamber further notes the Yekatom Defence's submission that the introduction of P-1503's statement 'would be prejudicial to the fairness of the proceedings as [it] attest[s] to the acts and conducts of the accused',⁷⁶ and that 'the statement as tendered unjustifiably and unfairly severs paragraphs beneficial to Mr. Yekatom, and therefore does not serve the interests of justice'.⁷⁷
65. The Chamber observes that P-1503 gives direct evidence on Mr Yekatom's alleged role as a leader of Anti-Balaka, [REDACTED], and the organisation and activities of the group allegedly led by Mr Yekatom.⁷⁸ In light of this information, and noting the Yekatom Defence's objections in this regard, the Chamber considers that P-1503's statement touches upon the acts and conduct of Mr Yekatom and is not suitable for introduction under Rule 68(2)(b) of the Rules.
66. Accordingly, the Chamber rejects the introduction of P-1503's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.

2. Seventh Request

67. In the Seventh Request, the Prosecution seeks the introduction of the prior recorded testimonies of witnesses P-1576, P-1739, P-1530, P-1932 and P-2973, including witness statements and associated items.

⁷⁵ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 17.

⁷⁶ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 20.

⁷⁷ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 42.

⁷⁸ Statement, CAR-OTP-2046-0571, at 0577, para. 47, at 0579, paras 57-59, at 0580, para. 62, at 0582, paras 80, 82.

68. The Chamber recalls that, in light of the Prosecution's request regarding P-2687,⁷⁹ it found the Seventh Request with respect to P-1932 to be moot.⁸⁰

i. Submissions

69. The Prosecution submits that the prior recorded testimonies of these witnesses fulfil all requirements under Rule 68(2)(b) of the Rules and that their introduction is warranted. Specifically, the Prosecution submits that the proposed prior recorded testimonies do not concern the acts or conduct of the accused, but are limited to 'evidence of [...] the crime base forming a part of the contextual elements for war crimes and crimes against humanity; in particular, the Anti-Balaka's engagement in an armed conflict throughout the relevant period and the group's course of conduct involving the multiple commission of crimes and acts against the Muslim civilian population of western CAR, including the pattern and intensity of their mistreatment, pursuant to a criminal organisational policy, and [...] the provenance of documentary evidence'.⁸¹ The Prosecution states that 'the evidence of the Five Witnesses concerns the campaign of retributive violence committed by the Anti-Balaka against Muslim civilians in specific towns and villages in western CAR pursuant to a criminal organisational policy' and that the evidence 'further goes to proof of the authenticity and reliability' of the evidence on call data records (the 'CDR') which the Prosecution intends to introduce at trial.⁸²
70. According to the Prosecution, (i) the tendered evidence further 'bears sufficient indicia of reliability and is relevant to and probative of matters at issue in the case'; (ii) the witnesses' accounts, except that of P-1932, were signed in accordance with Rule 111 of the Rules; (iii) the statements 'are internally consistent, and sufficiently corroborated by other evidence in the case'; and (iv)

⁷⁹ Prosecution's request for leave to add P-2687 to its Final Witness List and for the formal submission of his prior recorded testimony pursuant to Rule 68(2)(b), 29 June 2021, ICC-01/14-01/18-1043-Conf (with confidential Annexes A and B) (public redacted version notified on 30 June 2021, ICC-01/14-01/18-1043-Red).

⁸⁰ See Decision on the Prosecution Request to Add P-2687 to its Final Witness List, 27 September 2021, ICC-01/14-01/18-1118-Conf.

⁸¹ Seventh Request, ICC-01/14-01/18-808-Red, paras 4, 9.

⁸² Seventh Request, ICC-01/14-01/18-808-Red, para. 9.

their introduction pursuant to Rule 68(2)(b) of the Rules would ‘expedite these proceedings’, and would not unfairly prejudice the accused.⁸³ With regard to the associated items, the Prosecution avers that they are ‘an inseparable and indispensable part’ of the prior recorded testimonies and should therefore equally be submitted.⁸⁴

71. The Chamber recalls the CLRV’s submissions set out above.⁸⁵
72. The Yekatom Defence does not oppose the formal submission of the statements of P-1576, P-1739 and P-1530, as well as the associated items. The Chamber further recalls the Yekatom Defence’s submissions set out above.⁸⁶
73. However, the Yekatom Defence opposes the formal submission of the prior recorded testimonies and associated items of P-1932 and P-2973. The Chamber further recalls the Yekatom Defence’s arguments as set out above.⁸⁷
74. The Ngaïssona Defence, with respect to the introduction of the statement and associated items of P-1739, defers to the Chamber’s discretion in evaluating whether its introduction under Rule 68(2)(b) of the Rules ‘is not prejudicial or inconsistent with the rights of Mr Ngaïssona’.⁸⁸ Concerning P-1576 and P-1530, the Ngaïssona Defence defers to the Chamber’s discretion to grant the request, if certain passages which refer to the acts and conduct of Mr Ngaïssona are excluded.⁸⁹ Lastly, the Ngaïssona Defence opposes the introduction of the prior recorded testimonies and associated items of P-1932 and P-2973, as their introduction would be prejudicial to the rights of Mr Ngaïssona, and joins the arguments raised by the Yekatom Defence.⁹⁰

ii. Chamber’s determinations

⁸³ Seventh Request, ICC-01/14-01/18-808-Red, paras 3, 10, 41.

⁸⁴ Seventh Request, ICC-01/14-01/18-808-Red, para. 12.

⁸⁵ *See above*, 1. Sixth Request, i. Submissions, para. 8.

⁸⁶ *See above*, 1. Sixth Request, i. Submissions, para. 9.

⁸⁷ *See above*, 1. Sixth Request, i. Submissions, para. 10.

⁸⁸ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 6.

⁸⁹ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 7.

⁹⁰ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, paras 18-19,

a. P-1576

75. P-1576 is [REDACTED],⁹¹ who travelled several times to the CAR, between [REDACTED] 2013 and [REDACTED] 2016.
76. In his statement,⁹² the witness discusses, *inter alia*, his first trip to the CAR in [REDACTED] 2013 [REDACTED] the rising tensions between the Seleka and Anti-Balaka; his trip to Bossangoa in [REDACTED] 2013 and seeing a high number of displaced Christians in Bossangoa; travelling to Boy-Rabe [REDACTED] 2013; the 5 December Bangui Attack; being informed on 6 December 2013 that dead bodies were being brought to the Ali Babolo mosque in PK5; witnessing the destruction of the 'BOY-RABE' mosque by Christians; his second trip to the CAR in [REDACTED] 2014 and noticing that moving around became increasingly dangerous for Muslims, for fear of Anti-Balaka attacks; leaving Bangui on [REDACTED] 2014 and seeing Anti-Balaka committing exactions on the way to the Yaloké region; going to '*plusieurs enclaves des déplacés musulmans*' in Bangui [REDACTED] 2014; seeing displaced Muslims around the church in Boali; [REDACTED] pillaged buildings around Camp Kasai; travelling to Bozoum, Miskine, Boda, Bambari and Yaloké in 2014; and [REDACTED] 2014.
77. The witness states that '*[I]es autres noms des responsables Anti-Balaka qui revenaient tout le temps à cette période, étaient : Sébastien WENEZOU, porte-parole des Anti-Balaka; RHOMBOT et «12Puissances »*'.⁹³ The witness refers to Mr Ngaïssona, stating that [REDACTED] December 2014, [REDACTED].⁹⁴
78. The witness further provided a short biography prepared by him (Annex A, CAR-OTP-2060-0348), examples of reports on the CAR in which [REDACTED] were featured (Annex B, CAR-OTP-2060-0349 to CAR-OTP-2060-0354, CAR-OTP-2060-0358, CAR-OTP-2060-0362, CAR-OTP-2060-0365, CAR-OTP-2060-0368, and CAR-OTP-2060-0371), and discusses item CAR-OTP-2059-1707⁹⁵

⁹¹ Seventh Request, ICC-01/14-01/18-808-Conf, para. 14; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 10.

⁹² Statement, CAR-OTP-2060-0280.

⁹³ Statement, CAR-OTP-2060-0280, at 0287, para. 42.

⁹⁴ Statement, CAR-OTP-2060-0280, at 0287, para. 41.

⁹⁵ Statement, CAR-OTP-2060-0280, at 0288-89, paras 50-51.

and a list of names that was established in relation thereto (Annex C, CAR-OTP-2060-0372). In addition, he provided [REDACTED] are registered at: CAR-OTP-2061-4153 to CAR-OTP-2061-4172, CAR-OTP-2061-4174 to CAR-OTP-2061-4207, CAR-OTP-2061-4209 to CAR-OTP-2061-4212, CAR-OTP-2061-4214 to CAR-OTP-2061-4222, CAR-OTP-2061-4227 to CAR-OTP-2061-4247, CAR-OTP-2061-4249, CAR-OTP-2061-4253, CAR-OTP-2061-4255, CAR-OTP-2061-4257 to CAR-OTP-2061-4260, CAR-OTP-2061-4263 to CAR-OTP-2061-4291, CAR-OTP-4293 to CAR-OTP-2061-4303, CAR-OTP-2061-4306 to CAR-OTP-2061-4307, CAR-OTP-2061-4317 to CAR-OTP-2061-4319, CAR-OTP-2061-4323 to CAR-OTP-2061-4328, CAR-OTP-2061-4342 to CAR-OTP-2061-4344, CAR-OTP-2061-4346 to CAR-OTP-2061-4353, CAR-OTP-2061-4355 to CAR-OTP-2061-4379, CAR-OTP-2061-4381 to CAR-OTP-2061-4384, CAR-OTP-2061-4386 to CAR-OTP-2061-4387, CAR-OTP-2061-4389 to CAR-OTP-2061-4396, CAR-OTP-2061-4402 to CAR-OTP-2061-4404, CAR-OTP-2061-4424 to CAR-OTP-2061-4464, CAR-OTP-2061-4466 to CAR-OTP-2061-4495, CAR-OTP-2061-4500 to CAR-OTP-2061-4503, CAR-OTP-2061-4505 to CAR-OTP-2061-4523, and CAR-OTP-2075-0074, with the relevant metadata to be found between CAR-OTP-2061-1814 and CAR-OTP-2061-3907.⁹⁶

79. The Chamber takes note that the Yekatom Defence does not oppose the introduction of P-1576's prior recorded testimony and associated items.⁹⁷
80. Further, the Chamber notes that while the references to Mr Ngaïssona are limited in number, the witness gives direct evidence on Mr Ngaïssona's alleged role within the Anti-Balaka and his knowledge of the number of Anti-Balaka elements present throughout the CAR. In light of this information, and noting the Ngaïssona Defence's objections in this regard,⁹⁸ the Chamber considers that P-1576's prior recorded testimony touches upon the acts and conduct of the accused and is thus not suitable for introduction pursuant to Rule 68(2)(b) of the Rules.

⁹⁶ Statement, CAR-OTP-2060-0280, at 0288, paras 48-49.

⁹⁷ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 2.

⁹⁸ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 11.

81. Accordingly, the Chamber rejects the introduction of P-1576's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.
82. Nonetheless, the Chamber considers that P-1576's evidence, particularly paragraphs 18-19 and 41 of his statement, could assist the Chamber in its determination of the truth. Therefore, it finds it appropriate to *proprio motu* introduce his prior recorded testimony pursuant to Rule 68(3) of the Rules.
83. Noting that the abovementioned associated items have been used and explained by the witness in his statement and thus form an integral part of it, the Chamber grants the introduction of P-1576's statement⁹⁹ and associated items, pursuant to Rule 68(3) of the Rules, with the following exceptions: items CAR-OTP-2075-0074, CAR-OTP-2061-4172, CAR-OTP-2061-4291 and CAR-OTP-2061-4293 have already been recognised as submitted and therefore the Chamber need not rule on them again.¹⁰⁰ The Chamber's ruling is subject to the witness's appearance before the Chamber and his consent to the introduction of his testimony.
84. The Chamber notes that [REDACTED] mentioned in the witness's statement as having been provided by him appear not to have been disclosed while they appear in the item CAR-OTP-2075-0074. Additionally, item CAR-OTP-2059-1707 has not yet been disclosed. The Chamber defers its decision on these items and, in the interest of completeness of the record in respect of P-1576 in advance of his

⁹⁹ Statement, CAR-OTP-2060-0280.

¹⁰⁰ Biography, CAR-OTP-2060-0348 (Annex A); Examples of reports, CAR-OTP-2060-0349 to CAR-OTP-2060-0354, CAR-OTP-2060-0358, CAR-OTP-2060-0362, CAR-OTP-2060-0365, CAR-OTP-2060-0368, and CAR-OTP-2060-0371 (Annex B); List of names, CAR-OTP-2060-0372 (Annex C); Items, CAR-OTP-2061-4153 to CAR-OTP-2061-4171, CAR-OTP-2061-4174 to CAR-OTP-2061-4207, CAR-OTP-2061-4209 to CAR-OTP-2061-4212, CAR-OTP-2061-4214 to CAR-OTP-2061-4222, CAR-OTP-2061-4227 to CAR-OTP-2061-4247, CAR-OTP-2061-4249, CAR-OTP-2061-4253, CAR-OTP-2061-4255, CAR-OTP-2061-4257 to CAR-OTP-2061-4260, CAR-OTP-2061-4263 to CAR-OTP-2061-4290, CAR-OTP-4294 to CAR-OTP-2061-4303, CAR-OTP-2061-4306 to CAR-OTP-2061-4307, CAR-OTP-2061-4317 to CAR-OTP-2061-4319, CAR-OTP-2061-4323 to CAR-OTP-2061-4328, CAR-OTP-2061-4342 to CAR-OTP-2061-4344, CAR-OTP-2061-4346 to CAR-OTP-2061-4353, CAR-OTP-2061-4355 to CAR-OTP-2061-4379, CAR-OTP-2061-4381 to CAR-OTP-2061-4384, CAR-OTP-2061-4386 to CAR-OTP-2061-4387, CAR-OTP-2061-4389 to CAR-OTP-2061-4396, CAR-OTP-2061-4402 to CAR-OTP-2061-4404, CAR-OTP-2061-4424 to CAR-OTP-2061-4464, CAR-OTP-2061-4466 to CAR-OTP-2061-4495, CAR-OTP-2061-4500 to CAR-OTP-2061-4503, CAR-OTP-2061-4505 to CAR-OTP-2061-4523, and the relevant metadata to be found between CAR-OTP-2061-1814 and CAR-OTP-2061-3907.

potential testimony, orders the Prosecution to disclose them within 10 days of notification of this decision. The Defence may submit observations on the introduction of these items, if any, within 10 days of disclosure.

b. P-1530

85. P-1530 was a trader and [REDACTED] for the [REDACTED] in Bangui.¹⁰¹
86. In his statement,¹⁰² the witness discusses, *inter alia*, the 5 December Bangui Attack and the alleged systematic pillaging by the Anti-Balaka of Muslim houses; the alleged systematic killings committed by the Anti-Balaka of people considered traitors, meaning *‘les Centrafricains, même chrétiens, qui travaillaient chez les Gula [...] ou chez les musulmans’*; ‘docteur MADRESS’s house being pillaged because he belonged to the ethnic group ‘Gula’ [REDACTED]. The witness also provides information on different Anti-Balaka bases, including one at the house of ‘ANDJILO’s aunt in Boy-Rabe, one [REDACTED]. Lastly, the witness provides information on several Anti-Balaka members, namely ‘EMOTION’, ‘12 PUISSANCES’, ‘ANDJILO’ and ‘KONATE’.
87. Furthermore, the witness refers to Mr Ngaïssona, mentioning that he heard rumours that when ‘SAMBA-PANZA’ wanted to transmit a message to the Anti-Balaka, she talked to Mr Ngaïssona who was their representative towards the government, and that Mr Ngaïssona then further relied on ‘12 PUISSANCES’ rather than ‘ANDJILO’.¹⁰³ The witness does not mention Mr Yekatom.
88. P-1530 also drew two sketches of different Anti-Balaka bases (Annex A, CAR-OTP-2054-0265 and Annex B, CAR-OTP-2054-0266).

¹⁰¹ Seventh Request, ICC-01/14-01/18-808-Conf, para. 20; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 12.

¹⁰² Statement, CAR-OTP-2054-0249.

¹⁰³ Statement, CAR-OTP-2054-0249, at 0261, para. 55.

89. The Chamber notes the Ngaïssona Defence's submission that the introduction of P-1530's prior recorded testimony should not be granted unless paragraph 55 of P-1530's statement is excluded.¹⁰⁴
90. The Chamber notes that while Mr Ngaïssona is mentioned in relation to his alleged role as an Anti-Balaka coordinator, the reference is of limited and peripheral nature, is limited to what the witness heard¹⁰⁵ and would, in any case, not constitute the core of P-1530's testimony.
91. In light of the above, the Chamber is satisfied that P-1530's prior recorded testimony is suitable to be introduced pursuant to Rule 68(2)(b) of the Rules. However, it will not rely on paragraph 55 for the purposes of establishing Mr Ngaïssona's acts and conduct.
92. Additionally, the Chamber considers that P-1530's statement shows sufficient indicia of reliability. Notably, it was obtained by fulfilling the Formal Requirements.
93. As regards the associated items, the Chamber observes that the two abovementioned annexes have been used and explained by the witness in his statement and thus form an integral part of it.
94. In light of these considerations, and noting that neither the Yekatom Defence nor the CLRV object, the Chamber considers that the introduction of P-1530's prior recorded testimony is not prejudicial to or inconsistent with the accused's rights and that the interests of justice are better served by its introduction. It particularly notes that this contributes to the expeditiousness of the proceedings and streamlines the presentation of evidence.
95. Accordingly, the Chamber grants the introduction of P-1530's statement¹⁰⁶ and associated items,¹⁰⁷ pursuant to Rule 68(2)(b) of the Rules.

¹⁰⁴ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, paras 11, 14.

¹⁰⁵ Statement, CAR-OTP-2054-0249, at 0261, para. 55.

¹⁰⁶ Statement, CAR-OTP-2054-0249; CAR-OTP-2064-0235 (Translation).

¹⁰⁷ Sketch, CAR-OTP-2054-0265 (Annex A); Sketch, CAR-OTP-2054-0266 (Annex B).

c. P-1739

96. P-1739 is [REDACTED] (CAR-OTP-2049-0462) [REDACTED]. He was [REDACTED].¹⁰⁸
97. In his statement,¹⁰⁹ P-1739 discusses, *inter alia*, the historic background of the violence and conflict in CAR and the historic background of the Peuhl population being targeted. P-1739 also provides further information on [REDACTED] including information on violence committed against the Peuhl and Muslim communities, notably in the prefectures of Ombella-M'Poko, Lobaye, Sangha, Mandekadei, Nanamabere, Ouham Pende, Ouham and Ouaka; and the Peuhls fleeing to Chad and Cameroon as a result of the violence.¹¹⁰ The witness does not mention the accused.
98. The witness further discusses his CV (Annex A, CAR-OTP-2054-1108), a correspondence (Annex B, CAR-OTP-2054-1112), an explanatory document (Annex C, CAR-OTP-2054-1113), a memorandum (Annex D, CAR-OTP-2054-1115), and a press article (Annex E, CAR-OTP-2054-1118).
99. In light of the above, the Chamber is satisfied that P-1739's statement does not go to proof of the accused's acts and conduct within the meaning of Rule 68(2)(b) of the Rules and is thus suitable to be introduced under this provision. The Chamber also notes that it relates to contextual elements and does not concern charged incidents.
100. Furthermore, the Chamber considers that P-1739's statement shows sufficient indicia of reliability. Notably, it was obtained by fulfilling the Formal Requirements.
101. As regards the associated items, the Chamber observes that the abovementioned items have been used and explained by the witness in his statement and thus form an integral part of it.

¹⁰⁸ Seventh Request, ICC-01/14-01/18-808-Conf, para. 26; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 13.

¹⁰⁹ Statement, CAR-OTP-2054-1089.

¹¹⁰ Statement, CAR-OTP-2054-1089, at 1094-1105, paras 29-72.

102. In light of these considerations, and noting that neither the Defence nor the CLRV object, the Chamber considers that the introduction of P-1739's prior recorded testimony is not prejudicial to or inconsistent with the accused's rights and that the interests of justice are better served by its introduction. In this regard, the Chamber particularly notes that this contributes to the expeditiousness of the proceedings and streamlines the presentation of evidence.
103. Accordingly, the Chamber grants the introduction of P-1739's statement¹¹¹ and associated items pursuant to Rule 68(2)(b) of the Rules.¹¹²

d. P-2973

104. P-2973 is the [REDACTED] communication service provider [REDACTED] (the 'CSP1').¹¹³ At the relevant time, he was CSP1's [REDACTED].
105. In his statement,¹¹⁴ the witness discusses, *inter alia*, the CDR registration process at CSP1, the details registered during this process, and the procedure of CDR production; [REDACTED] in 2014; the registration of communications data for five years before transferring them to the digitalised archives where they are stocked indefinitely; the data being stocked in the data centre of CSP1 in Bangui; CSP1 having a legal duty to transfer a copy of all CDR information to the '*Autorité de régulation des communications électroniques et de la poste*' (ARCEP); the '*Base Transreceiving Stations (BTS)*' of CSP1 and their coverage; and the services provided by CSP1. The witness does not mention the accused.
106. The witness further discusses an example of CDR (CAR-OTP-2018-0622).¹¹⁵ Furthermore, the witness provides his CV (Annex A, CAR-OTP-2122-9883), a list of CDR data types (Annex B, CAR-OTP-2122-9884), a map of the CAR

¹¹¹ Statement, CAR-OTP-2054-1089.

¹¹² CV, CAR-OTP-2054-1108 (Annex A); Correspondence, CAR-OTP-2054-1112 (Annex B); Explanatory document, CAR-OTP-2054-1113 (Annex C); Memorandum, CAR-OTP-2054-1115 (Annex D); Press article, CAR-OTP-2054-1118 (Annex E); Item, CAR-OTP-2049-0462.

¹¹³ Seventh Request, ICC-01/14-01/18-808-Conf, para. 30; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 9.

¹¹⁴ Statement, CAR-OTP-2122-9874.

¹¹⁵ Statement, CAR-OTP-2122-9874, at 9879-80, paras 50-56.

indicating the cities with CSP1 coverage (Annex C, CAR-OTP-2122-9885), and a list of CSP1 cell tower sites (Annex D, CAR-OTP-2122-9886).

107. In light of the above, the Chamber is satisfied that P-2973's statement does not go to proof of the accused's acts and conduct within the meaning of Rule 68(2)(b) of the Rules.
108. The Ngaïssona Defence opposes the introduction of P-2973's statement, because it provides 'extensive evidence' on matters materially in dispute, and 'fully joins and supports the arguments raised by the Yekatom Defence'.¹¹⁶ The Yekatom Defence opposes the introduction of P-2973's statement under Rule 68(2)(b), arguing that it should be allowed to question the witness as (i) P-2973 can 'provide evidence as to the generation, storage, and extraction of the CDRs which may be tendered by the Prosecution';¹¹⁷ (ii) 'the Prosecution is effectively using the evidence of witnesses from [REDACTED] cellular service providers (CSP) in CAR to bootstrap the reliability of the entirety of their telecommunications evidence';¹¹⁸ and (iii) 'serious issues with regard to the integrity of the data, the difficulty in reading the different CDR formats, and the ambiguity and vagueness of the cell site data' have been raised by an 'experienced investigator'.¹¹⁹ Lastly, concerning the associated items, the Yekatom Defence requests that the CDR example discussed by P-2973 (CAR-OTP-2018-0622) 'not be formally submitted for the truth of [its] contents', 'unless and until' the Prosecution indicates its relevance and probative value.¹²⁰ It also argues that the three CDR-related documents annexed to P-2973's statement should not be formally submitted since the statement 'does not explain how the documents were produced, stored, and accessed, nor their purpose'.¹²¹
109. The Chamber notes the Defence's arguments regarding the disputed nature of CDR evidence in the present case, the fact that P-2973 provides technical

¹¹⁶ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, paras 18-19.

¹¹⁷ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, paras 5, 20, 60-61.

¹¹⁸ Yekatom Defence Response, ICC-01/14-01/18-845-Conf-Corr, para. 60.

¹¹⁹ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 63.

¹²⁰ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 64.

¹²¹ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 65.

explanations relevant to the CSP1, including the generation and storage of CDR, and further the Prosecution's intention to use the evidence provided by the witness to support its arguments in relation to a larger evidence collection.¹²² In light of this, the Chamber does not consider that the introduction of P-2973's prior recorded testimony under Rule 68(2)(b) of the Rules would serve the interests of justice in this particular instance.

110. Accordingly, the Chamber rejects the introduction of P-2973's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.

111. Nonetheless, the Chamber considers that P-2973's evidence could assist the Chamber in its determination of the truth. Moreover, noting that the Defence sought to question the witness,¹²³ the Chamber finds it appropriate to *proprio motu* introduce his prior recorded testimony pursuant to Rule 68(3) of the Rules.

112. Noting that Annexes A to D, and the CDR example have been used and explained by the witness in his statement and thus form an integral part of it, the Chamber grants the introduction of P-2973's statement¹²⁴ and associated items,¹²⁵ pursuant to Rule 68(3) of the Rules. The Chamber's ruling is subject to the witness's appearance before the Chamber and his consent to the introduction of his testimony.

3. Eighth Request

113. In the Eighth Request, the Prosecution seeks the introduction of the prior recorded testimonies of witnesses P-0342, P-1921, P-2050, P-2138, P-2432, P-2467 and P-2652, including statements and associated items.

i. Submissions

¹²² Seventh Request, ICC-01/14-01/18-808-Red, paras 31-33.

¹²³ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, paras 61-63; Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 19.

¹²⁴ Statement, CAR-OTP-2122-9874.

¹²⁵ CV, CAR-OTP-2122-9883 (Annex A); List of CDR data types, CAR-OTP-2122-9884 (Annex B); Map of the CAR indicating coverage, CAR-OTP-2122-9885 (Annex C); List of cell tower sites, CAR-OTP-2122-9886 (Annex D); Example of CDR, CAR-OTP-2018-0622.

114. The Prosecution submits that the prior recorded testimonies of these witnesses fulfil all requirements under Rule 68(2)(b) of the Rules and that their introduction is warranted. Specifically, the Prosecution submits that the proposed prior recorded testimonies do not concern the acts or conduct of the accused, but are limited to ‘evidence of the crime base forming a part of the contextual elements for war crimes and crimes against humanity; in particular, the Anti-Balaka’s engagement in an armed conflict throughout the relevant period and the group’s course of conduct involving the multiple commission of crimes and acts against the Muslim civilian population of western CAR, including the pattern and intensity of their mistreatment, pursuant to a criminal organisational policy’. The Prosecution states that the evidence of the seven witnesses concerns ‘the campaign of retributive violence committed by the Anti-Balaka against Muslim civilians in specific towns and villages in western CAR, pursuant to a criminal organisational policy, as confirmed’.¹²⁶
115. According to the Prosecution, (i) the tendered evidence ‘bears sufficient indicia of reliability and is relevant to and probative of matters at issue in the case’; (ii) the accounts of six witnesses were signed in accordance with Rule 111 of the Rules, and one was interviewed in the presence of counsel pursuant to Rule 112 of the Rules and Article 55(2) of the Statute; (iii) the statements ‘are internally consistent, and sufficiently corroborated by other evidence in the case’;¹²⁷ and (iv) their introduction pursuant to Rule 68(2)(b) of the Rules would ‘expedite these proceedings’, and would not unfairly prejudice the accused.¹²⁸ With regard to the associated items, the Prosecution submits that they form an ‘inseparable and indispensable part’ of the prior recorded testimonies and should therefore equally be submitted.¹²⁹
116. The Chamber recalls the CLRV’s submissions set out above.¹³⁰

¹²⁶ Eighth Request, ICC-01/14-01/18-812-Red, paras 4, 9.

¹²⁷ Eighth Request, ICC-01/14-01/18-812-Red, para. 10.

¹²⁸ Eighth Request, ICC-01/14-01/18-812-Red, para. 41.

¹²⁹ Eighth Request, ICC-01/14-01/18-812-Red, para. 12.

¹³⁰ *See above*, 1. Sixth Request, i. Submissions, para. 8.

117. The Yekatom Defence does not oppose the formal submission of the prior recorded testimonies and associated items of P-2050, P-2432, P-2467 and P-2652. The Chamber recalls the Yekatom Defence's arguments set out above.¹³¹ It further does not oppose the formal submission of the prior recorded testimony and associated items of P-0342, 'on the understanding that paragraphs 292-314 of CAR-OTP-2127-7319 are excluded from his tendered witness statement'.¹³² With respect to witness P-1921, the Yekatom Defence 'defers to the Ngaïssona Defence position concerning the appropriateness of formal submission via Rule 68(2)', but argues that if P-1921's prior recorded testimony and associated items are introduced, a supplementary statement and its annexes also be submitted.¹³³ Lastly, the Yekatom Defence opposes the formal submission of the prior recorded testimony and associated items of P-2138, arguing that its submission 'would be prejudicial to the fairness of the proceedings as [it] attest[s] to the acts and conducts of the accused and [is] material to core issues of the Prosecution's case', and that '[his] evidence should be elicited *viva voce* so as to allow the Defence to use it to challenge the credibility of other witnesses'.¹³⁴
118. The Ngaïssona Defence, with respect to the introduction of the statements and associated items of P-2467 and P-2652, defers to the Chamber's discretion in evaluating whether the introduction under Rule 68(2)(b) of the Rules 'is not prejudicial or inconsistent with the rights of Mr Ngaïssona'.¹³⁵ Concerning P-0342, the Ngaïssona Defence defers to the Chamber's discretion to grant the application on condition that 'the Chamber order the inclusion of certain excluded paragraphs from the Prosecution's application' that concern, *inter alia*, the pillaging of Mr Ngaïssona's warehouse.¹³⁶ For P-2432, the Ngaïssona Defence argues the request should not be granted 'unless the Chamber excludes certain paragraphs, which refer to the acts and conduct of Mr Ngaïssona'.¹³⁷ Lastly, the Ngaïssona Defence opposes the introduction of the prior recorded testimonies and

¹³¹ See above, 1. Sixth Request, i. Submissions, paras 9-10.

¹³² Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 9.

¹³³ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 13.

¹³⁴ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 20.

¹³⁵ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 6.

¹³⁶ Ngaïssona Defence Response, ICC-01/14-01/18-887-Conf, paras 7, 9-10.

¹³⁷ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, paras 7, 11, 16.

associated items of P-1921, P-2050 and P-2138, as their introduction would be prejudicial to the rights of Mr Ngaïssona.¹³⁸

ii. Chamber's determinations

a. P-0342

119. P-0342 was a [REDACTED] in Bangui during the relevant period.¹³⁹
120. In the statements,¹⁴⁰ P-0342 discusses, *inter alia*, the arrival of the Seleka in Ndele, Sibut and Bangui; looting by the Seleka; [REDACTED]; a Seleka attack in the '*quartier FATIMA*'; several Seleka members; the 5 December Bangui Attack; the camps of displaced people in Bossangoa and seeing many dead bodies in Bossangoa; [REDACTED] *BOY RABE*' and that he knew like everyone else that this is the [REDACTED] '*NGAISSONA*';¹⁴¹ that Mr Ngaïssona was a trader and his [REDACTED];¹⁴² and Mr Ngaïssona's warehouse [REDACTED] looted by the Seleka.¹⁴³
121. The witness further discusses pictures found [REDACTED],¹⁴⁴ selected from different albums therein. While providing information on those albums,¹⁴⁵ the witness discusses, *inter alia*, meeting different Seleka leaders and attending different Seleka meetings; the Seleka attempting to enter Bangui in March 2013; 'the first Seleka attack on *BOY RABE*'; clashes between the Seleka and the Anti-Balaka; the presence of child soldiers 'amongst the Seleka and the Anti-Balaka'; an Anti-Balaka attack in Zere; the 5 December Bangui Attack and 'seeing many dead bodies lying around in the streets'; and Muslims taking refuge in PK5 in January 2014. Furthermore, the witness provides information on the Anti-Balaka

¹³⁸ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 18.

¹³⁹ ICC-01/14-01/18-812-Conf, para. 14; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 11.

¹⁴⁰ Statements, CAR-OTP-2008-0499 and CAR-OTP-2116-0216.

¹⁴¹ Statement, CAR-OTP-2008-0499, at 0506-07, paras 52-53.

¹⁴² Statement, CAR-OTP-2116-0216, at 0234, para. 99.

¹⁴³ Statement, CAR-OTP-2008-0499, at 0506, para. 52.

¹⁴⁴ Statement, CAR-OTP-2116-0216, at 0218, para. 13.

¹⁴⁵ The witness discusses 35 albums, including photographs registered between CAR-OTP-2073-0085 to CAR-OTP-2073-0114; CAR-OTP-2073-0354 to CAR-OTP-2073-0395; CAR-OTP-2073-0327 to CAR-OTP-2073-0343; CAR-OTP-2073-0293 to CAR-OTP-2073-0305; CAR-OTP-2073-0252 to CAR-OTP-2073-0273; and CAR-OTP-2073-0274 to CAR-OTP-2073-0292.

members ‘DOUZE PUISSANCE’, ‘CHOCOLAT’, ‘ANDJILO’ and ‘EMOTION NAMSIO’.

122. The witness refers on several occasions to Mr Ngaïssona. When asked whether there ‘was someone in the overall command of the Anti-Balaka’, the witness responds that ‘Edouard NGAISSONA was the one in charge of the group’.¹⁴⁶ Moreover, the witness states that Mr Ngaïssona ‘used to be very close to BOZIZE’,¹⁴⁷ that he ‘was really badly affected by [REDACTED]’ and ‘wanted revenge and for that he called upon all the Anti-Balaka throughout the country to unify them and come attack BANGUI’.¹⁴⁸ The witness states that Mr Ngaïssona ‘was the only one who had the financial means to mobilize the group to achieve his objective’,¹⁴⁹ and that he ‘was indeed giving orders to the Anti-Balaka leaders, but he did not have complete control over the group leaders’, for example Andjilo.¹⁵⁰ The witness further [REDACTED] Mr Ngaïssona when the latter organised a conference at the Ledger Hotel ‘to announce that he was the leader of the Anti-Balaka’.¹⁵¹ The witness was also shown a video where he identifies ‘NGAISSONA’s warehouse in BOY RABE’.¹⁵²
123. In addition, the witness refers several times to Mr Yekatom, providing information on the location of Mr Yekatom’s base¹⁵³ and [REDACTED]. Mr Yekatom [REDACTED] ‘controlled the area between the barrier of PK9 until MBAIKI, that his elements had set up check points all along the way to check on the people travelling along this road’,¹⁵⁴ and that ‘the idea of the checkpoints was to prevent an infiltration by the Seleka’.¹⁵⁵ Moreover, [REDACTED] Mr Yekatom [REDACTED] ‘to upgrade the security, sending more elements to that area’.¹⁵⁶ The witness states that he [REDACTED].¹⁵⁷ The witness also discusses

¹⁴⁶ Statement, CAR-OTP-2116-0216, at 0267-68, para. 319.

¹⁴⁷ Statement, CAR-OTP-2116-0216, at 0267-68, para. 319.

¹⁴⁸ Statement, CAR-OTP-2116-0216, at 0267-68, para. 319.

¹⁴⁹ Statement, CAR-OTP-2116-0216, at 0267-68, para. 319.

¹⁵⁰ Statement, CAR-OTP-2116-0216, at 0267-68, para. 319.

¹⁵¹ Statement, CAR-OTP-2116-0216, at 0267-68, para. 319.

¹⁵² Statement, CAR-OTP-2116-0216, at 0268, para. 322; Video, CAR-OTP-2057-0160.

¹⁵³ Statement, CAR-OTP-2116-0216, at 0262, para. 293.

¹⁵⁴ Statement, CAR-OTP-2116-0216, at 0263, para. 295.

¹⁵⁵ Statement, CAR-OTP-2116-0216, at 0263, para. 296.

¹⁵⁶ Statement, CAR-OTP-2116-0216, at 0263, para. 296.

¹⁵⁷ Statement, CAR-OTP-2116-0216, at 0263, para. 298.

[REDACTED] Mr Yekatom [REDACTED] about allegations of women and truck drivers being racketeered on their way to Mbaiki, which Mr Yekatom denied, ‘[REDACTED] that his men were acting professionally and were not committing these types of looting’.¹⁵⁸ The witness met Mr Yekatom in [REDACTED] 2015,¹⁵⁹ [REDACTED],¹⁶⁰ and that [REDACTED].¹⁶¹

124. On occasion of the first meeting with Mr Yekatom, [REDACTED] (registered between CAR-OTP-2073-0279 to CAR-OTP-2073-0288). The witness also discusses a documentary, an interview (CAR-OTP-2057-0791 and a related screenshot CAR-OTP-2057-0787), and two videos (CAR-OTP-2057-0160). Moreover, the witness discusses several pictures and annexes to his statement, consisting of several pictures and screenshots (Annexes 1-3, 5, 15, CAR-OTP-2008-0528, CAR-OTP-2008-0534 to CAR-OTP-2008-0535, CAR-OTP-2008-0537, CAR-OTP-2008-0556), a screenshot of a video (Annex 4, CAR-OTP-2008-0536), several screenshots of pictures (Annex 6, CAR-OTP-2008-0538), several annotated screenshots (Annexes 7-14, 16 CAR-OTP-2008-0548 to CAR-OTP-2008-0555, CAR-OTP-2008-0557), and drew two sketches (Annexes 17-18, CAR-OTP-2008-0560 to CAR-OTP-2008-0561).
125. The Chamber notes that the Ngaïssona Defence defers to the Chamber’s discretion with regard to the introduction of the prior recorded testimony and associated items of P-0342, under the condition that ‘the Chamber order the inclusion of certain excluded paragraphs from the Prosecution’s application’ that concern, *inter alia*, the pillaging of Mr Ngaïssona’s warehouse. The Ngaïssona Defence further argues that the statements of P-0342 ‘contain many references to documents to which the Defence does not have access’ and that therefore ‘it is not in a position to fully appreciate the totality of P-0342’s statements’.¹⁶²
126. The Chamber takes note of the Yekatom Defence’s submission that it ‘does not oppose the formal submission of the prior recorded testimony of P-0342 on the

¹⁵⁸ Statement, CAR-OTP-2116-0216, at 0264-65, para. 308.

¹⁵⁹ Statement, CAR-OTP-2116-0216, at 0265, para. 309.

¹⁶⁰ Statement, CAR-OTP-2116-0216, at 0265, para. 310.

¹⁶¹ Statement, CAR-OTP-2116-0216, at 0265, para. 311.

¹⁶² Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, paras 7-10.

understanding that specified paragraphs are excluded from his tendered witness statements in accordance with the Eighth Request’, and that it reserves its right to be heard should they not be excluded.¹⁶³ In addition, the Yekatom Defence notes that ‘several paragraphs of the proposed P-0342 statement contain substantial comments on [REDACTED] to the Prosecution’ and that it ‘informed the Prosecution during *inter partes* communication that [REDACTED] were never disclosed, which rendered part of the statement incomprehensible’.¹⁶⁴

127. The Chamber further takes note of the Prosecution’s request to amend its Eighth Request with regard to P-0342, in which it seeks to exclude additional paragraphs from P-0342’s statements. It submits that the exclusion of these additional paragraphs will ‘better clarify the salient evidence of the witness on which the Prosecution intends to rely, which benefits the Parties, Participants, and the Chamber’.¹⁶⁵
128. The Chamber notes that P-0342 [REDACTED], and provides information on Mr Ngaïssona’s alleged role as Anti-Balaka coordinator and on Mr Yekatom’s alleged role within the Anti-Balaka, including the alleged control of certain areas and checkpoints by his elements. In light of this information, the Chamber considers that P-0342’s statement touches upon the acts and conduct of both accused. Further, the Chamber is of the view that this information cannot be considered limited or peripheral. Thus, it does not consider P-0342’s prior recorded testimony suitable for introduction under Rule 68(2)(b) of the Rules.
129. Accordingly, the Chamber rejects the introduction of P-0342’s prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.

b. P-1921

¹⁶³ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 3.

¹⁶⁴ Yekatom Defence Response, ICC-01/14-01/18-845-Conf-Corr, para. 3.

¹⁶⁵ Prosecution’s Request to amend its “Eighth Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b)” to exclude additional portions of P-0342’s Statements, 25 January 2021, ICC-01/14-01/18-850 (with one confidential annex ICC-01/14-01/18-850-Conf-Anx), para. 3.

130. P-1921 is a [REDACTED] who travelled several times to CAR during the relevant period.¹⁶⁶
131. In the statement,¹⁶⁷ the witness discusses, *inter alia*, [REDACTED] trips to CAR in [REDACTED] 2013, [REDACTED] 2014, [REDACTED] 2015 [REDACTED] 2016; arriving in Bangui a few days after the 5 December Bangui Attack and the situation there; [REDACTED] trip to CAR [REDACTED] 2014; visiting an internally displaced persons (the 'IDP') camp by the airport; and a visit to Bossangoa at the IDP camp at the church and speaking to some local leaders; the Anti-Balaka controlling accesses to PK5 and PK12; 'people hiding and trying to escape the neighbourhood' and fleeing to Cameroon; visiting Boda in [REDACTED] 2014 and the 'tense' and 'dire' situation there; and alleged attacks against Christian civilians by the Chadian MISCA. Furthermore, the statement discusses a [REDACTED] trip to CAR [REDACTED] 2014; the witness travelling several times to Bambari; seeing 'many children operating with the Anti-Balaka', including in certain compounds, estimating their ages to be 'around 14 or 15 years of age'; and a [REDACTED] trip to CAR [REDACTED] 2015 [REDACTED] 2016. The witness further provides information on a meeting with '12 PUISSANCES' and 'EMOTION' at 'NGAISSONA's' residence.
132. The witness makes several references to Mr Ngaïssona,¹⁶⁸ discussing a meeting with Mr Ngaïssona, [REDACTED] about the conflict and about the Anti-Balaka', and that Mr Ngaïssona was 'obviously supporting the Anti-Balaka, rejecting the Seleka and the way they had treated the population'. Furthermore, when asked about crimes, Mr Ngaïssona 'said that he did not know of any crimes committed by the Anti-Balaka' and when asked if he was controlling the Anti-Balaka, he was evasive and did not either confirm nor deny'. According to the witness, 'it was not clear what NGAISSONA's role actually was'.¹⁶⁹ P-1921 also states hearing that 'the Anti-Balaka HQ was in fact NGAISSONA's house' and that the

¹⁶⁶ Eighth Request, ICC-01/14-01/18-812-Conf, para. 18; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 10.

¹⁶⁷ Statement, CAR-OTP-2081-0072.

¹⁶⁸ Statement, CAR-OTP-2081-0072, at 0081, para. 49, at 0082, para. 53, at 0083, para. 57, at 0084, paras 62-65, at 0091, para. 98.

¹⁶⁹ Statement, CAR-OTP-2081-0072, at 0084, paras 62-65.

place where Mr Ngaïssona [REDACTED] was, according to him, his father's house.¹⁷⁰

133. Further, the witness refers to 'RHOMBOT', stating that 'the Anti-Balaka leader of the area around BOEING was RHOMBOT' and that '[t]his appeared to be general knowledge'.¹⁷¹ P-1921 discusses meeting 'RHOMBOT' and that '[h]e did not introduce himself, but he was pointed out to [them] by his elements that he was ROMBHOT', and '[i]t was obvious that he was in charge and that he had an air of authority about him'.¹⁷² According to the witness, his position was 'that the Anti-Balaka were simply defending their families against the SELEKA, and that the SELEKA and Muslims were foreigners and had to leave the country'. According to the witness, he 'insisted on the fact that DJOTODIA had to resign from the Presidency' and that 'there was some tension each time [REDACTED] in general terms about crimes alleged to have been committed by the Anti-Balaka'.¹⁷³
134. The witness further discusses various articles and hyperlinks to articles (Annexes A-C, and E CAR-OTP-2081-0095, CAR-OTP-2081-0108, CAR-OTP-2081-0114, and CAR-OTP-2081-0138); a photograph (Annex D, CAR-OTP-2081-0137); a list of digital media (Annex F, CAR-OTP-2081-0141); notes of contact details (Annex G, CAR-OTP-2081-0144) and an audio clip (CAR-OTP-2076-1083).¹⁷⁴ The witness further provided several audio files relating to [REDACTED], wave audio files, video material, and photographs (including the photographs registered between CAR-OTP-2081-1678 to CAR-OTP-2081-1691, CAR-OTP-2081-1719).
135. The Chamber notes the Ngaïssona Defence's opposition to the introduction of P-1921's prior recorded testimony and associated items,¹⁷⁵ 'as it would be prejudicial to the rights of Mr Ngaïssona'.¹⁷⁶ It submits that P-1921's evidence

¹⁷⁰ Statement, CAR-OTP-2081-0072, at 0091, para. 98.

¹⁷¹ Statement, CAR-OTP-2081-0072, at 0084-85, para. 66.

¹⁷² Statement, CAR-OTP-2081-0072, at 0085, para. 68.

¹⁷³ Statement, CAR-OTP-2081-0072, at 0085-86, para. 71.

¹⁷⁴ Statement, CAR-OTP-2081-0072, at 0083, para. 57.

¹⁷⁵ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, paras 18, 20.

¹⁷⁶ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 20.

relates to issues that are materially in dispute, as the Prosecution's Trial Brief relies on this evidence to show that Mr Ngaïssona's house was used as Anti-Balaka base, including to advance the argument that his alleged contribution encompassed taking steps to structure the Anti-Balaka by placing his residence at their disposal.¹⁷⁷ The Yekatom Defence does not oppose the introduction of P-1921's prior recorded testimony 'on the condition that a supplementary statement taken during an interview conducted by the Defence be included with the testimony'.¹⁷⁸

136. The Chamber notes that P-1921 indicates having [REDACTED] both of the accused. P-1921 provides direct evidence on 'RHOMBOT's alleged role as Anti-Balaka leader as well as on Mr Ngaïssona's alleged role as Anti-Balaka coordinator, and indicates that during their meeting, Mr Ngaïssona talked about the conflict in CAR and the Anti-Balaka. The Chamber is of the view that these matters touch upon the acts and conduct of both accused. The Chamber further observes that P-1921 provides information on Mr Ngaïssona's properties and their alleged use by the Anti-Balaka. Thus, it does not consider P-1921's prior recorded testimony suitable for introduction under Rule 68(2)(b) of the Rules.

137. Accordingly, the Chamber rejects the introduction of P-1921's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.

c. P-2050

138. P-2050 is a [REDACTED] who travelled several times to the CAR during the relevant period.¹⁷⁹

139. In her statement,¹⁸⁰ P-2050 discusses, *inter alia*, [REDACTED] CAR from [REDACTED] 2013; meeting various politicians, staff from NGOs and people from private companies; meeting several Seleka members; going to Boy-Rabe; her visit to [REDACTED]; [REDACTED] 2014 and [REDACTED] 'the MOLE

¹⁷⁷ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 22.

¹⁷⁸ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, paras 4, 13-14. *See* ICC-01/14-01/18-845-Conf-AnxA.

¹⁷⁹ Eighth Request, ICC-01/14-01/18-812-Conf, para. 22; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 11.

¹⁸⁰ Statement, CAR-OTP-2076-0911.

IDP camp’ in Zongo; [REDACTED] ‘EMOTION’ and ‘12 PUISSANCES’ at Mr Ngaïssona’s house in Boy-Rabe; [REDACTED] PK5 and [REDACTED] the ‘Ali BABOLO’ mosque; and [REDACTED] Sibut, [REDACTED] that the Muslim neighbourhood ‘was completely destroyed, including the mosque’, and being told that the mosque and Muslims’ houses had been destroyed by the Anti-Balaka.

140. The witness makes several references to Mr Ngaïssona. She discusses hearing that ‘when the Seleka passed DAMARA (km 55), people were called in the Stadium to get machetes, and that therefore it was probably NGAISSONA who organised it (since he was the sport minister)’.¹⁸¹ She further discusses [REDACTED] ‘NGAISSONA’s house in BOY-RABE’ on [REDACTED] 2013,¹⁸² and being told that ‘there were militiamen of BOZIZE in BOY-RABE at the time and that NGAISSONA, before he left BANGUI had ordered to set up a militia’.¹⁸³ She describes [REDACTED] as ‘the biggest in the area’, and she further states that she knows ‘that it was NGAISSONA’s since it [REDACTED], and that the residence and Mr Ngaïssona’s warehouse had been looted by the Seleka.’¹⁸⁴ The witness also explains that [REDACTED] that Mr Ngaïssona was in Douala or Yaoundé and paid the guard to protect the property.¹⁸⁵ The witness also [REDACTED] ‘EMOTION GOMEZ’ on [REDACTED] 2014 going [REDACTED]¹⁸⁶ and she ‘[REDACTED] 2013’.¹⁸⁷ P-2050 states [REDACTED] ‘EMOTION’ that ‘it was the Anti-Balaka headquarter’ and [REDACTED] if it was ‘NGAISSONA’s house’, [REDACTED], calling him “*coordinateur*” and that ‘NGAISSONA’s [REDACTED] 2013’.¹⁸⁸ P-2050 also states that ‘12 PUISSANCES [REDACTED] which area he was controlling in NGAISSONA’s compound’.¹⁸⁹ The witness does not mention Mr Yekatom.

141. Moreover, the witness discusses one article (Annex A, CAR-OTP-2076-0945), a sketch of [REDACTED] (Annex B, CAR-OTP-2076-0947), copies of notebooks

¹⁸¹ Statement, CAR-OTP-2076-0911, at 0914, para. 17.

¹⁸² Statement, CAR-OTP-2076-0911, at 0914, para. 19.

¹⁸³ Statement, CAR-OTP-2076-0911, at 0918-19, para. 44.

¹⁸⁴ Statement, CAR-OTP-2076-0911, at 0919, paras 45-46, 48.

¹⁸⁵ Statement, CAR-OTP-2076-0911, at 0919, para. 47.

¹⁸⁶ Statement, CAR-OTP-2076-0911, at 0916, para. 29, at 0930, paras 99-100.

¹⁸⁷ Statement, CAR-OTP-2076-0911, at 0930, para. 101.

¹⁸⁸ Statement, CAR-OTP-2076-0911, at 0930, para. 101.

¹⁸⁹ Statement, CAR-OTP-2076-0911, at 0933, para. 123.

(Annex C, CAR-OTP-2076-0948, and Annex D, CAR-OTP-2076-1002), a sketch of Mr Ngaïssona's compound (Annex E, CAR-OTP-2076-1045), newspaper articles (CAR-OTP-2072-1263, CAR-OTP-2001-4441 and CAR-OTP-2076-0717), several photographs and videos shown to her, and an SD card with audio recordings and photographs (Annex F, with photographs registered at: CAR-OTP-2076-1197 to CAR-OTP-2076-1198, CAR-OTP-2076-1200 to CAR-OTP-2076-1205, CAR-OTP-2076-1241 to CAR-OTP-2076-1252, CAR-OTP-2076-1254 to CAR-OTP-2076-1271, CAR-OTP-2076-1275 to CAR-OTP-2076-1283, CAR-OTP-2076-1290 to CAR-OTP-2076-1293, CAR-OTP-2076-1295 to CAR-OTP-2076-1296, CAR-OTP-2076-1347 to CAR-OTP-2076-1348, CAR-OTP-2076-1353 to CAR-OTP-2076-1354, CAR-OTP-2076-1370 to CAR-OTP-2076-1371, CAR-OTP-2076-1376 to CAR-OTP-2076-1378, CAR-OTP-2076-1382 to CAR-OTP-2076-1384, CAR-OTP-2076-1407, CAR-OTP-2076-1410 to CAR-OTP-2076-1422; audio recordings: CAR-OTP-2076-1059, CAR-OTP-2076-1062, CAR-OTP-2076-1082 to CAR-OTP-2076-1084, CAR-OTP-2076-1097, CAR-OTP-2076-1101, CAR-OTP-2076-1105, CAR-OTP-2076-1114 to CAR-OTP-2076-1119, CAR-OTP-2076-1122 to CAR-OTP-2076-1123, CAR-OTP-2076-1125; transcripts of the recordings: CAR-OTP-2087-8910, CAR-OTP-2087-8914, CAR-OTP-2087-8944, CAR-OTP-2087-8960, CAR-OTP-2122-9212, CAR-OTP-2122-9223, CAR-OTP-00001434 to CAR-OTP-00001440).

142. The Chamber notes that the Ngaïssona Defence opposes the introduction of P-2050's prior recorded testimony and associated items,¹⁹⁰ arguing that the evidence relates to issues that are materially in dispute, as the Prosecution's Trial Brief relies on her evidence to show that Mr Ngaïssona's house was used as Anti-Balaka base, including to advance the argument that his alleged contribution encompassed taking steps to structure the Anti-Balaka by placing his residence at their disposal.¹⁹¹ The Ngaïssona Defence further submits that it would require to question the witness on certain discrete issues.¹⁹²

¹⁹⁰ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 18.

¹⁹¹ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 22.

¹⁹² Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 23.

143. The Chamber is of the view that the references to Mr Ngaïssona, in particular as regards his alleged presence in Douala or Yaoundé during the relevant time, as well as his alleged role as coordinator of the Anti-Balaka, albeit based on hearsay, go to the acts and conduct of the accused, as described in the confirmed charges or which are otherwise relied upon by the Prosecution to establish Mr Ngaïssona's criminal responsibility. In light of the above, the Chamber is of the view that the information provided by the witness in this regard touches upon Mr Ngaïssona's acts and conduct within the meaning of Rule 68(2)(b) of the Rules. The Chamber further notes that the witness provides evidence on the alleged use of Mr Ngaïssona's residence by the Anti-Balaka. Thus, it does not consider P-2050's prior recorded testimony suitable for introduction under this provision.
144. Accordingly, the Chamber rejects the introduction of P-2050's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.
145. Nonetheless, the Chamber considers that P-2050's evidence, particularly paragraphs 28-29, 44-48, 88-89, 91, and 95-132 of her statement, could assist the Chamber in its determination of the truth. Moreover, noting that the Ngaïssona Defence seeks to question the witness,¹⁹³ it finds it appropriate to *proprio motu* introduce her prior recorded testimony pursuant to Rule 68(3) of the Rules.
146. Noting that the abovementioned items have been used and explained by the witness in her statement and thus form an integral part of it, the Chamber grants the introduction of P-2050's statement¹⁹⁴ and associated items, pursuant to Rule 68(3) of the Rules, with the following exceptions: items CAR-OTP-2076-1082, CAR-OTP-2076-1083, CAR-OTP-2076-1275, CAR-OTP-2076-1282, CAR-OTP-2087-8944, CAR-OTP-2087-8960, CAR-OTP-2001-4441 and CAR-OTP-2076-0717 have already been recognised as submitted and therefore the Chamber need not rule on them again.¹⁹⁵ The Chamber's ruling is subject to the

¹⁹³ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 23.

¹⁹⁴ Statement, CAR-OTP-2076-0911; CAR-OTP-2118-4377 (Translation).

¹⁹⁵ Article, CAR-OTP-2076-0945 (Annex A); Sketch, CAR-OTP-2076-0947 (Annex B); Copies of notebooks, CAR-OTP-2076-0948 (Annex C) and CAR-OTP-2076-1002 (Annex D); Sketch, CAR-OTP-2076-1045 (Annex E); Photographs, CAR-OTP-2076-1197 to CAR-OTP-2076-1198, CAR-OTP-2076-1200 to CAR-OTP-2076-1205, CAR-OTP-2076-1241 to CAR-OTP-2076-1252, CAR-OTP-2076-1254 to CAR-OTP-2076-1271, CAR-OTP-2076-1276 to CAR-OTP-2076-1281, CAR-OTP-2076-1283,

witness's appearance before the Chamber and her consent to the introduction of her testimony.

147. Finally, noting that the items discussed in paragraphs 168 to 175 of P-2050's statement, CAR-OTP-2076-0911, have not yet been disclosed to the Defence, the Chamber defers its decision on these items and orders the Prosecution to disclose them within 10 days of notification of this decision. The Defence may submit observations on the introduction of these items, if any, within 10 days of disclosure.

d. P-2138

148. P-2138 was [REDACTED] at the relevant time.¹⁹⁶

149. In his interview,¹⁹⁷ the witness discusses, *inter alia*, the situation in Bangui in 2013, including the 5 December Bangui Attack and the situation in Bangui deteriorating in its aftermath; killings of Christians by Muslims and other exactions allegedly committed by Muslims and 'Peuls'; [REDACTED] Bossemptélé and clashes between the Seleka and the Anti-Balaka in Bossemptélé; [REDACTED]; the arrival of the Anti-Balaka in Gaga and the Anti-Balaka attacks there; [REDACTED]; Muslims committing exactions when hearing that the Anti-Balaka were arriving; [REDACTED] Anti-Balaka attacks on Boda, with [REDACTED]; crimes allegedly committed by the Anti-Balaka in Boda; the death of 'Coeur de Lion'; 'WITTE' and his role within the Anti-Balaka;

CAR-OTP-2076-1290 to CAR-OTP-2076-1293, CAR-OTP-2076-1295 to CAR-OTP-2076-1296, CAR-OTP-2076-1347 to CAR-OTP-2076-1348, CAR-OTP-2076-1353 to CAR-OTP-2076-1354, CAR-OTP-2076-1370 to CAR-OTP-2076-1371, CAR-OTP-2076-1376 to CAR-OTP-2076-1378, CAR-OTP-2076-1382 to CAR-OTP-2076-1384, CAR-OTP-2076-1407, CAR-OTP-2076-1410 to CAR-OTP-2076-1422; Audio recordings: CAR-OTP-2076-1059, CAR-OTP-2076-1062, CAR-OTP-2076-1084, CAR-OTP-2076-1097, CAR-OTP-2076-1101, CAR-OTP-2076-1105, CAR-OTP-2076-1114 to CAR-OTP-2076-1119, CAR-OTP-2076-1122 to CAR-OTP-2076-1123, CAR-OTP-2076-1125; Transcripts of the recordings: CAR-OTP-2087-8910, CAR-OTP-2087-8914, CAR-OTP-2122-9212, CAR-OTP-2122-9223, CAR-OTP-00001434 to CAR-OTP-00001440; Newspaper article CAR-OTP-2072-1263.

¹⁹⁶ Eighth Request, ICC-01/14-01/18-812-Conf, para. 28, Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 1.

¹⁹⁷ Interview transcripts, CAR-OTP-2092-3927; CAR-OTP-2092-3949; CAR-OTP-2092-3976; CAR-OTP-2092-4004; CAR-OTP-2092-4036; CAR-OTP-2092-4048; CAR-OTP-2092-4077; CAR-OTP-2092-4106; CAR-OTP-2092-4143; CAR-OTP-2092-4174; CAR-OTP-2092-4188; CAR-OTP-2092-4221; CAR-OTP-2092-4251; CAR-OTP-2092-4287; CAR-OTP-2092-4314; CAR-OTP-2092-4340; CAR-OTP-2092-4349; CAR-OTP-2092-4367; CAR-OTP-2092-4386.

Anti-Balaka attacks in Ngaramo and Yaloké; [REDACTED] the Anti-Balaka attack on Boguere, the Anti-Balaka group there and crimes allegedly committed by them; some Anti-Balaka members allegedly raping women in Boda and Boguere; [REDACTED]; the Anti-Balaka from Bossembélé and Bossemptélé taking goods from humanitarian vehicles; [REDACTED]; the communication between different Anti-Balaka groups [REDACTED]; several Anti-Balaka members, including [REDACTED]; and [REDACTED].

150. The witness makes several references to ‘Rombhot’, stating, *inter alia*, that he was the ‘chef’ of the ‘ANTI-BALAKAs in BIMBO’¹⁹⁸ and [REDACTED] ‘Rombhot’ and ‘*Coeur de Lion*’ participated in an attack on Boda during which ‘*Coeur de Lion*’ died [REDACTED].¹⁹⁹
151. Further, the witness refers to Mr Ngaïssona, stating, *inter alia*, that people ‘like NGAÏSSONA and KONATÉ, they are ... politicising everything’, they say they are guarantors for all the Anti-Balaka, but they do not fight, do not distribute weapons and ammunition, and that they made them meet in Bangui to make badges, but he realised it was all fictitious,²⁰⁰ and that one needed to pay 5000 CFA for a badge;²⁰¹ that ‘all the Christians ended up being considered as ANTI-BALAKA’ and ‘[e]ven NGAÏSSONA and BOZIZÉ said themselves that all the Christians, all the ones who rebelled were ANTI-BALAKAs’.²⁰²
152. Furthermore, the witness discusses a map on which he marked several locations (Annex A, CAR-OTP-2082-0528), a sketch of Boda (Annex B, CAR-OTP-2082-0529), several articles (CAR-OTP-2001-4059, CAR-OTP-2001-4233, CAR-

¹⁹⁸ Interview transcript, CAR-OTP-2092-3976, at 4000, lines 904-925; CAR-OTP-2092-4133, at 4162-63, lines 703-716.

¹⁹⁹ Interview transcript, CAR-OTP-2092-4004, at 4006, lines 68-72, at 4008-09, lines 134-181, at 4011, lines 248-258, at 4033, lines 1047-1062; CAR-OTP-2092-4143, at 4155-57, lines 428-498, at 4160-61, lines 622-652, at 4162-64, lines 675-765; CAR-OTP-2092-4188, at 4189-4201, lines 39-498, at 4205, lines 617-644, at 4206-4212, lines 661-895, at 4215, lines 997-1005; CAR-OTP-2092-4221, at 4222-23, lines 24-68; CAR-OTP-2092-4314, at 4331, lines 613-623; CAR-OTP-2092-4340, at 4345, lines 179-190.

²⁰⁰ Interview transcript, CAR-OTP-2092-4036, at 4040-41, lines 150-189, at 4042, lines 208-213; CAR-OTP-2092-4314, at 4333-34, lines 710-726, at 4336-38, lines 829-875.

²⁰¹ Interview transcript, CAR-OTP-2092-4174, at 4186, lines 397-413; CAR-OTP-2092-4314, at 4334, lines 737-754, at 4336, lines 816-825.

²⁰² Interview transcript, CAR-OTP-2092-4251, at 4262-63, lines 429-442.

OTP-2055-1938), a report (CAR-OTP-2061-1592), two videos (CAR-OTP-2025-0044, CAR-OTP-2055-1915), and a notebook (CAR-OTP-2082-0565).

153. The Yekatom Defence opposes the introduction of P-2138's prior recorded testimony and associated items, arguing that his statement 'is insufficiently reliable for formal submission under Rule 68(2)' and 'directly contradicts multiple Prosecution witnesses, especially on the Boda attack', including in relation to the question whether Mr Yekatom would have been present at this attack.²⁰³ The Ngaïssona Defence opposes the introduction of P-2138's prior recorded testimony, arguing that P-2138's evidence 'goes to the heart of core issues in dispute in this case, namely whether the Anti-Balaka could be considered an organization under Article 7 and whether the National Coordination and specifically Mr Ngaïssona had any power over the Anti-Balaka in the provinces'.²⁰⁴
154. The Chamber notes that the witness provides information on the actions of Mr Yekatom and Mr Ngaïssona, as described in the confirmed charges or which are otherwise relied upon by the Prosecution to establish their criminal responsibility. In particular, the Chamber notes that the witness provides information on Mr Yekatom's alleged role within the Anti-Balaka, including his alleged involvement in attacks, as well as on Mr Ngaïssona's alleged role as Anti-Balaka coordinator. The Chamber is of the view that these matters touch upon Mr Yekatom's and Mr Ngaïssona's acts and conduct. Further, the Chamber is of the view that this information cannot be considered limited or peripheral. Thus, it does not consider P-2138's prior recorded testimony suitable for introduction under Rule 68(2)(b) of the Rules.
155. Accordingly, the Chamber rejects the introduction of P-2138's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.

e. P-2432

²⁰³ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, paras 53-54.

²⁰⁴ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 24.

156. P-2432 is [REDACTED].²⁰⁵
157. In the statement,²⁰⁶ P-2432 discusses, *inter alia*, a trip to the CAR in [REDACTED] 2014; meeting [REDACTED] on the ground; the Anti-Balaka committing exactions against the Muslims, and the Muslims leaving for Chad, Cameroon and other countries; [REDACTED] an Anti-Balaka meeting in Boy-Rabe; and trips to [REDACTED].
158. Furthermore, P-2432 refers on several occasions to Mr Ngaïssona²⁰⁷ and discusses [REDACTED] the Anti-Balaka leaders ‘NGAISSONA, Brice EMOTION and [REDACTED]’²⁰⁸ and Mr Ngaïssona being [REDACTED].²⁰⁹ P-2432 also provides information on meeting Mr Ngaïssona [REDACTED] 2014 [REDACTED],²¹⁰ and indicates that Mr Ngaïssona [REDACTED] coordinator of the Anti-Balaka [REDACTED] Anti-Balaka as a very organised movement [REDACTED].²¹¹ P-2432 states that Mr Ngaïssona [REDACTED] the DDR, [REDACTED] and that [REDACTED]. According to the witness, Mr Ngaïssona did not mention the crimes committed by the Anti-Balaka.²¹² P-2432 also discusses an Anti-Balaka meeting on [REDACTED] 2014 during which Mr Ngaïssona was not present.²¹³ Asked about ‘Alfred YEKATOM’, P-2432 states knowing the name ‘YEKATOM Alfred’, but never saw him nor knows anything about him.²¹⁴
159. The witness moreover provides information on several articles (Annex 1, CAR-OTP-2117-0667; Annex 2, CAR-OTP-2117-0670; Annex 3, CAR-OTP-2117-0673; Annex 4, CAR-OTP-2117-0675; Annex 5, CAR-OTP-2117-0678; Annex 6, CAR-OTP-2117-0681; Annex 7, CAR-OTP-2117-0684; Annex 8, CAR-OTP-

²⁰⁵ Eighth Request, ICC-01/14-01/18-812-Conf, para. 30; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 10.

²⁰⁶ Statement, CAR-OTP-2117-0645.

²⁰⁷ Statement, CAR-OTP-2117-0645, at 0649-52, paras 20-36, at 0652, paras 39-40, at 0653, paras 42, 44, at 0660-61, para. 75.

²⁰⁸ Statement, CAR-OTP-2117-0645, at 0649, para. 20.

²⁰⁹ Statement, CAR-OTP-2117-0645, at 0649, para. 21.

²¹⁰ Statement, CAR-OTP-2117-0645, at 0649-51, paras 23-31.

²¹¹ Statement, CAR-OTP-2117-0645, at 0649, para. 25.

²¹² Statement, CAR-OTP-2117-0645, at 0652, para. 35.

²¹³ Statement, CAR-OTP-2117-0645, at 0652-53, paras 40-44.

²¹⁴ Statement, CAR-OTP-2117-0645, at 0663, paras 82-83.

2117-0687; Annex 9, CAR-OTP-2117-0689; Annex 10, CAR-OTP-2117-0691; Annex 11, CAR-OTP-2117-0693; Annex 12, CAR-OTP-2117-0696; Annex 13, CAR-OTP-2117-0698; Annex 14, CAR-OTP-2117-0701; Annex 15, CAR-OTP-2117-0704; Annex 16, CAR-OTP-2117-0706; Annex 17, CAR-OTP-2117-0708), as well as a blog post (Annex 18, CAR-OTP-2117-0710).

160. The Chamber notes that the Ngaïssona Defence defers to the Chamber on the introduction of P-2432's statement and associated items, provided that paragraphs 23-39 and 44 of P-2432's statement are excluded.²¹⁵ It requests the exclusion of these paragraphs as they relate to P-2432's meeting and [REDACTED] according to the witness, [REDACTED].²¹⁶ According to the Ngaïssona Defence, this goes 'to the heart of the charges, namely the role Mr Ngaïssona had as the National Coordinator, and whether he had any control over the organization'.²¹⁷
161. The Chamber notes that the witness provides a significant amount of information on Mr Ngaïssona's alleged role as Anti-Balaka coordinator. Moreover, it is worth noting that the witness [REDACTED] Mr Ngaïssona, and apparently had [REDACTED] Mr Ngaïssona at the relevant time, [REDACTED]. In light of this information, the Chamber is of the view that these matters touch upon Mr Ngaïssona's acts and conduct. Thus, it does not consider P-2432's prior recorded testimony suitable for introduction under Rule 68(2)(b) of the Rules.
162. Accordingly, the Chamber rejects the introduction of P-2432's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.

f. P-2467

163. P-2467 was [REDACTED] and [REDACTED] during the relevant period.²¹⁸

²¹⁵ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, paras 7, 11, 16.

²¹⁶ Ngaïssona Defence Response, ICC-01/14-01/18-887-Conf, para. 16.

²¹⁷ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 16.

²¹⁸ Eighth Request, ICC-01/14-01/18-812-Conf, para. 34; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, pp. 12-13.

164. In his statement,²¹⁹ P-2467 discusses, *inter alia*, his two [REDACTED] to the CAR [REDACTED], from [REDACTED];²²⁰ and two HRW reports. When discussing these items, P-2467 provided further comments on killings, pillaging and looting committed by the Seleka between March and June 2013; the Seleka being in control in Bossangoa during his visit there in 2013; on ‘horrendous’ crimes being committed since March 2013, and that a lot of people should be ‘prosecuted for those crimes’; not having ‘directly observed’ ‘radical anti-Muslim rhetoric’ or ‘deadly attacks’ against Muslims by the Anti-Balaka, but having received this information from victims of Anti-Balaka attacks that he talked to; and on the violence allegedly committed by the Anti-Balaka against the Muslims, describing it as ‘an emerging phenomenon’ in November 2013. The witness does not mention the accused.
165. In addition to the [REDACTED] statement (CAR-OTP-2081-0496) and the two HRW reports (CAR-OTP-2001-2043 and CAR-OTP-2001-1870), the witness provides his CV (Annex 1, CAR-OTP-2109-0532), discusses several [REDACTED] (Annex 2, CAR-OTP-2109-0534; Annex 3, CAR-OTP-2109-0535; Annex 4, CAR-OTP-2109-0536; Annex 5, CAR-OTP-2109-0537; Annex 6, CAR-OTP-2109-0538; Annex 7, CAR-OTP-2109-0539; Annex 8, CAR-OTP-2109-0540; CAR-OTP-2109-0371 to CAR-OTP-2109-0394 and CAR-OTP-2109-0396 to CAR-OTP-2109-0416); and two articles (CAR-OTP-2108-0597 and CAR-OTP-2001-1973).
166. In light of the above, the Chamber is satisfied that P-2467’s statement does not go to proof of the accused’s acts and conduct within the meaning of Rule 68(2)(b) of the Rules and is thus suitable to be introduced under this provision. The Chamber also notes that the statement relates to issues that are not materially in dispute.²²¹ Furthermore, the Chamber considers that P-2467’s statement shows sufficient indicia of reliability. Notably, it was obtained by fulfilling the Formal Requirements.

²¹⁹ Statement, CAR-OTP-2109-0520.

²²⁰ Statement, CAR-OTP-2109-0520, at 0522-25, paras 14-19, 21-23, at 0526, paras 28, 30, 33, at 0527, para. 36.

²²¹ In this regard, the Chamber notes that neither of the Defence teams has raised specific objections to the introduction of the prior recorded testimony of P-2467.

167. As regards the associated items, the Chamber observes that the abovementioned items have been used and explained by the witness in his statement and thus form an integral part of it.
168. In light of these considerations, and noting that neither the Defence nor the CLRV object, the Chamber considers that the introduction of P-2467's prior recorded testimony is not prejudicial to or inconsistent with the accused's rights and that the interests of justice are better served by its introduction. It particularly notes that this contributes to the expeditiousness of the proceedings and streamlines the presentation of evidence.
169. Accordingly, the Chamber grants the introduction of P-2467's statement²²² and associated items pursuant to Rule 68(2)(b) of the Rules, with the following exceptions: CAR-OTP-2001-2043, CAR-OTP-2001-1870, CAR-OTP-2109-0407 and CAR-OTP-2109-0408 have already been recognised as submitted and therefore the Chamber need not rule on them again.²²³

g. P-2652

170. P-2652 was a [REDACTED] in Bossangoa as well as [REDACTED] Bossangoa during the relevant period.²²⁴
171. In his statement,²²⁵ P-2652 discusses, *inter alia*, the arrival of the Seleka in Bossangoa on 22 March 2013 and people leaving Bossangoa; going to Bangui [REDACTED] March 2013; hearing about 'auto-defence groups fighting against the SELEKA' at the end of July, early August 2013; his trip to Bossangoa in August 2013; going to 'ECOLE LIBERTE', 'where all the Muslims from the surrounding villages had fled to' and the 'residence of the Bishop (EVÊCHÉ)

²²² Statement, CAR-OTP-2109-0520; CAR-OTP-2122-4952 (Translation).

²²³ [REDACTED] statement, CAR-OTP-2081-0496; CV, CAR-OTP-2109-0532 (Annex 1); [REDACTED], CAR-OTP-2109-0534 (Annex 2); [REDACTED], CAR-OTP-2109-0535 (Annex 3); [REDACTED], CAR-OTP-2109-0536 (Annex 4); [REDACTED], CAR-OTP-2109-0537 (Annex 5); [REDACTED], CAR-OTP-2109-0538 (Annex 6); [REDACTED], CAR-OTP-2109-0539 (Annex 7); [REDACTED], CAR-OTP-2109-0540 (Annex 8); [REDACTED], CAR-OTP-2109-0371 to CAR-OTP-2109-0394, CAR-OTP-2109-0396 to CAR-OTP-2109-0406, CAR-OTP-2109-0409 to CAR-OTP-2109-0416; and Articles, CAR-OTP-2108-0597 and CAR-OTP-2001-1973.

²²⁴ Eighth Request, ICC-01/14-01/18-812-Conf, para. 38; Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 5.

²²⁵ Statement, CAR-OTP-2126-0175.

where the displaced Christian population were staying’; the Seleka burning and destroying houses in Bossangoa; clashes in Bouca in October 2013, the 5 December Bangui Attack; the 5 December 2013 attack on Bossangoa; his return to Bossangoa after the 5 December Bangui Attack; observing ‘many ANTI-BALAKA checkpoints’ on the road from Bangui up to Boali; the difficult living conditions of the displaced people in Bossangoa; encounters with the Anti-Balaka in Bossangoa; and the evacuation of the ‘Muslims from ECOLE LIBERTE site’ to Chad.

172. P-2652 states, when asked about Mr Ngaïssona, that he does not know him but that he heard that ‘after the fights of the 5 December, he became the leader of the ANTI-BALAKA’.²²⁶ The witness does not mention Mr Yekatom.
173. The Chamber is of the view that the reference to Mr Ngaïssona is limited to what the witness heard, and in any event concerns generic information about Mr Ngaïssona allegedly becoming the leader of the Anti-Balaka. Moreover, the Chamber observes that the Ngaïssona Defence did not oppose the Eighth Request in relation to P-2652,²²⁷ and that this part of P-2562’s statement would, in any case, not constitute the core of P-2652’s testimony.
174. In light of the above, the Chamber is satisfied that P-2652’s prior recorded testimony is suitable to be introduced pursuant to Rule 68(2)(b) of the Rules. However, it will not rely on paragraph 81 for the purposes of establishing Mr Ngaïssona’s acts and conduct.
175. Furthermore, the Chamber finds that P-2652’s statement shows sufficient indicia of reliability. Notably, it was obtained by fulfilling the Formal Requirements.
176. In light of these considerations, and noting that neither the Defence nor the CLRV object,²²⁸ the Chamber considers that the introduction of P-2652’s prior recorded testimony is not prejudicial to or inconsistent with the accused’s rights and that the interests of justice are better served by its introduction. Furthermore, the

²²⁶ Statement, CAR-OTP-2126-0175, at 0190, para. 81.

²²⁷ Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 6.

²²⁸ Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 2; Ngaïssona Defence Response, ICC-01/14-01/18-887-Red, para. 6.

Chamber notes that this contributes to the expeditiousness of the proceedings and streamlines the presentation of evidence.

177. Accordingly, the Chamber grants the introduction of P-2652's statement²²⁹ pursuant to Rule 68(2)(b) of the Rules.

4. Ninth Request concerning P-2687

i. Submissions

178. In the Ninth Request,²³⁰ which was partially granted by the Chamber in relation to the addition of P-2687 to the Final Witness List,²³¹ the Prosecution seeks the formal submission of P-2687's prior recorded testimony and associated items pursuant to Rule 68(2)(b) of the Rules.²³²

179. The Prosecution submits that the formal submission of P-2687's 'Declaration' is warranted and 'appropriate in the circumstances'. According to the Prosecution, the tendered evidence provides relevant and probative evidence that would assist the Chamber, parties and participants in their assessment of the CDR evidence, and 'puts forward facts that may not otherwise be shown or demonstrable, of which the Chamber would otherwise be deprived given P-1932's refusal to sign his statement'.²³³ The Prosecution submits that it causes no undue prejudice to the Defence, arguing that 'the material contained in P-2687's Declaration is in no way new; it was already provided to the Defence by the disclosure deadline of 9 November 2020 through P-1932's unsigned statement',²³⁴ and that it 'contains the same substantive information [...] and incorporates the same associated exhibits'.²³⁵

²²⁹ Statement, CAR-OTP-2126-0175; CAR-OTP-2122-4930 (Translation).

²³⁰ Ninth Request, ICC-01/14-01/18-1043-Conf (with confidential Annexes A and B) (public redacted version notified on 30 June 2021, ICC-01/14-01/18-1043-Red).

²³¹ Decision on the Prosecution Request to Add P-2687 to its Final Witness List, 27 September 2021, ICC-01/14-01/18-1118-Conf, para. 14.

²³² The Chamber recalls that it deferred its decision on the Prosecution's request to introduce P-2687's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules. *See* Decision on the Prosecution Request to Add P-2687 to its Final Witness List, 27 September 2021, ICC-01/14-01/18-1118-Conf, para. 15.

²³³ Ninth Request, ICC-01/14-01/18-1043-Red, para. 7.

²³⁴ Ninth Request, ICC-01/14-01/18-1043-Red, para. 10.

²³⁵ Ninth Request, ICC-01/14-01/18-1043-Red, para. 8.

180. The Yekatom Defence opposes the formal submission of P-2687's prior recorded testimony and associated items, submitting that the admission 'of the prior recorded testimony of P-2687 via Rule 68(2) would be prejudicial to the rights of Mr Yekatom to challenge evidence in cross-examination as his testimony could have an essential influence on the Chamber's assessment of the reliability of the [...] telecommunications evidence in this case'.²³⁶ It argues that 'as is apparent from his statement, P-2687's evidence is primarily indirect evidence based on P-1932's assertions', yet it 'cannot be automatically inferred from P-2687's position [...] that he possesses personal knowledge on technical data extraction and storage'.²³⁷ It submits that it should therefore 'have the opportunity to question P-2687's [sic] on his personal knowledge of the relevant technical issues and the extent of his ability to assist the Chamber'.²³⁸ As regards the associated items, the Yekatom Defence argues that should the Chamber grant the introduction of P-2687's testimony pursuant to Rule 68(2)(b) or 68(3) of the Rules, the items 'are not formally submitted for the truth of their contents', meaning 'not for the purposes of demonstrating telephone contact, that calls were made or received at certain times or from certain locations, et cetera'.²³⁹
181. The Ngaïssona Defence opposes the formal submission of P-2687's statement and associated items, arguing that P-2687's declaration 'fails to meet even the most basic procedural and substantive requirements for submission of prior recorded testimony pursuant to rule 68(2)(b) of the Rules', as it does not comply with 'the requirement provided in rule 68(2)(b)(ii)', nor of 'rule 111(1)'.²⁴⁰ It submits that P-2687's statement is 'a near literal reproduction of P-1932's unsworn statement', and that the Prosecution 'attempts to circumvent' the regime under Rule 68(2)(b) of the Rules 'by seeking to submit into evidence P-1932's unsworn statement through another person, who holds an entirely different position within the organisation',²⁴¹ yet the two witnesses are not interchangeable as it 'can be assumed that P-2687 does not necessarily hold the same level

²³⁶ Yekatom Defence Response to the Ninth Request, ICC-01/14-01/18-1060-Red, para. 8.

²³⁷ Yekatom Defence Response to the Ninth Request, ICC-01/14-01/18-1060-Red, para. 9.

²³⁸ Yekatom Defence Response to the Ninth Request, ICC-01/14-01/18-1060-Red, para. 9.

²³⁹ Yekatom Defence Response to the Ninth Request, ICC-01/14-01/18-1060-Red, para. 11.

²⁴⁰ Ngaïssona Defence Response to the Ninth Request, ICC-01/14-01/18-1059-Red, paras 2, 21-22.

²⁴¹ Ngaïssona Defence Response to the Ninth Request, ICC-01/14-01/18-1059-Red, para. 23.

[REDACTED] as P-1932'.²⁴² Moreover, the Ngaïssona Defence submits that (i) the Prosecution 'had not made specific submissions' to support its request, 'but rather, incorporates by reference its previous submissions in relation to the submission of P-1932's statement';²⁴³ (ii) the 'Prosecution's argument that P-1932's/P-2687's evidence is "cumulative to and corroborated by" other witness testimony is flawed'; and (iii) 'the only remedy to mitigate the prejudice to Mr Ngaïssona's fair trial rights would be for P-2687 to provide *viva voce* evidence'.²⁴⁴

ii. Chamber's determinations

182. P-2687 is the [REDACTED] (the 'CSP2').²⁴⁵

183. In his statement,²⁴⁶ P-2687 provides information on, *inter alia*, the CDR registration process at CSP2, the data registered during this process, and the procedure of producing CDR; the registration of communication data on two servers located in CSP2's data centre in Bangui; the data registered during calls and messages of clients of the company; the '*Antennes-relais (BTS)*', '*cellules*' and coverage; the change of infrastructure of CSP2; and the services provided by CSP2. The witness does not mention the accused.

184. Moreover, P-2687 commented on a series of CDR examples (CAR-OTP-2019-1364, CAR-OTP-2019-2839, CAR-OTP-2046-0714, CAR-OTP-2046-0734, CAR-OTP-2089-1748, CAR-OTP-2112-1431, and CAR-OTP-2054-1481). P-2687 indicates that these CDR examples have previously been shown to [REDACTED] from CSP2 who provided explanations on their format and data, and states further that he agrees with the explanations and conclusions included in paragraphs 40-63 and 71-77 of his statement.²⁴⁷

²⁴² Ngaïssona Defence Response to the Ninth Request, ICC-01/14-01/18-1059-Conf, paras 23-24.

²⁴³ Ngaïssona Defence Response to the Ninth Request, ICC-01/14-01/18-1059-Red, para. 25.

²⁴⁴ Ngaïssona Defence Response to the Ninth Request, ICC-01/14-01/18-1059-Red, para. 27.

²⁴⁵ Ninth Request, ICC-01/14-01/18-1043-Red, para. 2.

²⁴⁶ Statement, CAR-OTP-2134-0124.

²⁴⁷ Statement, CAR-OTP-2134-0124, at 0128, para. 40, at 0131, para. 70.

185. In light of the above, the Chamber is satisfied that P-2687's statement does not go to proof of the accused's acts and conduct within the meaning of Rule 68(2)(b) of the Rules.
186. However, the Chamber notes the Defence's arguments regarding the disputed nature of CDR evidence in the present case, the fact that P-2687 provides technical explanations relevant to the CSP2, including the generation and storage of CDR, and further the Prosecution's intention to use the evidence provided by the witness to support its arguments in relation to a larger evidence collection.²⁴⁸ In light of this, the Chamber does not consider the introduction of P-2687's prior recorded testimony under Rule 68(2)(b) of the Rules would serve the interests of justice in this particular instance.
187. Accordingly, the Chamber rejects the introduction of P-2678's prior recorded testimony pursuant to Rule 68(2)(b) of the Rules.
188. Nonetheless, the Chamber considers that P-2678's evidence could assist the Chamber in its determination of the truth. Moreover, noting that the Defence sought to question the witness,²⁴⁹ it finds it appropriate to *proprio motu* introduce his prior recorded testimony pursuant to Rule 68(3) of the Rules.
189. The Chamber takes note of the Yekatom Defence's argument that should the Chamber introduce P-2687's statement pursuant to Rule 68(2) or Rule 68(3) of the Rules, the associated items not be 'formally submitted for the truth of their contents' as the Prosecution has not indicated their relevance,²⁵⁰ and that they should not be used for 'the purposes of demonstrating telephone contact, that calls were made or received at certain times or from certain locations'.²⁵¹ The Chamber stresses that the Defence will have the opportunity to fully examine the witness in court, and that it remains free to further explore any issues related to the CDR

²⁴⁸ Ninth Request, ICC-01/14-01/18-1043-Red, para. 9, and the references therein.

²⁴⁹ Ngaïssona Defence Response to the Ninth Request, ICC-01/14-01/18-1059-Red, para. 28; Yekatom Defence Response to the Ninth Request, ICC-01/14-01/18-1060-Red, para. 9.

²⁵⁰ Yekatom Defence Response to the Ninth Request, ICC-01/14-01/18-1060-Red, para. 11. *See* Yekatom Defence Response, ICC-01/14-01/18-845-Corr-Red, para. 64.

²⁵¹ Yekatom Defence Response to the Ninth Request, ICC-01/14-01/18-1060-Red, para. 11.

evidence with the witness. Furthermore, the Chamber recalls that it will assess all of the evidence holistically during its judgment deliberation.

190. Noting that the CDR examples have been used and explained by the witness in his statement and thus form an integral part of it, the Chamber grants the introduction of P-2687's statement ²⁵² and associated items, pursuant to Rule 68(3) of the Rules, with the following exceptions: items CAR-OTP-2019-1364, CAR-OTP-2019-2839, CAR-OTP-2112-1431, and CAR-OTP-2054-1481 have already been recognised as submitted and therefore the Chamber need not rule on them again. ²⁵³ The Chamber's ruling is subject to the witness's appearance before the Chamber and his consent to the introduction of his testimony.

²⁵² Statement, CAR-OTP-2134-0124.

²⁵³ CDR examples, CAR-OTP-2046-0714; CAR-OTP-2046-0734 and CAR-OTP-2089-1748.

FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES that, subject to the receipt of the respective declarations under Rule 68(2)(b)(ii) and (iii) of the Rules, the prior recorded testimonies of the following witnesses are introduced into evidence, pursuant to Rule 68(2)(b) of the Rules:

- **P-0365**: Statement, CAR-OTP-2122-9042; Translation, CAR-OTP-2122-9786 and associated item CAR-OTP-2121-2577.

- **P-0505**: Statement, CAR-OTP-2014-0129; Translation, CAR-OTP-2122-4769 and associated items CAR-OTP-2014-0140 (Annex I); CAR-OTP-2095-0005; CAR-OTP-2095-0006; CAR-OTP-2095-0034 to CAR-OTP-2095-0036; CAR-OTP-2095-0047; CAR-OTP-2095-0052; CAR-OTP-2095-0075; CAR-OTP-2095-0079; CAR-OTP-2095-0085; CAR-OTP-2095-0094; CAR-OTP-2095-0127; CAR-OTP-2095-0141; CAR-OTP-2095-0180; CAR-OTP-2095-0497; CAR-OTP-2095-0585; CAR-OTP-2095-0639; CAR-OTP-2095-0978; CAR-OTP-2095-0985; CAR-OTP-2095-0991; CAR-OTP-2095-0992; CAR-OTP-2095-1000; CAR-OTP-2095-1023; CAR-OTP-2095-1030; CAR-OTP-2095-1094; CAR-OTP-2095-1096 to CAR-OTP-2095-1290; CAR-OTP-2095-1308 to CAR-OTP-2095-1339; CAR-OTP-2095-1351 to CAR-OTP-2095-1441; CAR-OTP-2095-1445 to CAR-OTP-2095-1490; CAR-OTP-2095-1497 to CAR-OTP-2095-1499; CAR-OTP-2095-1503 to CAR-OTP-2095-1514; CAR-OTP-2095-1517 to CAR-OTP-2095-1555; CAR-OTP-2095-2329; CAR-OTP-2095-2330; CAR-OTP-2095-2351; CAR-OTP-2095-2357 to CAR-OTP-2095-2530; CAR-OTP-2095-2598; CAR-OTP-2095-2617; CAR-OTP-2095-3714 to CAR-OTP-2095-3840; CAR-OTP-2095-3871; CAR-OTP-2095-3872; CAR-OTP-2095-3890; CAR-OTP-2095-3905; CAR-OTP-2095-4026; CAR-OTP-2095-4064; CAR-OTP-2095-4216; CAR-OTP-2095-4238; CAR-OTP-2095-4248; CAR-OTP-2095-4304 to CAR-OTP-2095-4325; CAR-OTP-2095-4452; CAR-OTP-2095-4455; CAR-OTP-2095-4473; CAR-OTP-2095-4531; CAR-OTP-2095-4595; CAR-OTP-2095-4607; CAR-OTP-2095-4678; CAR-OTP-2095-4687; CAR-OTP-2095-4693; CAR-OTP-2095-4718; CAR-OTP-2095-4726; CAR-OTP-2095-4730; CAR-OTP-2095-4733; CAR-OTP-2095-4748; CAR-OTP-2095-4774; CAR-OTP-2095-4788; CAR-OTP-2095-4835; CAR-OTP-2095-4984; CAR-OTP-2095-5057 to CAR-OTP-2095-5119; CAR-OTP-2095-5121; CAR-OTP-2095-5141 to CAR-OTP-2095-5143; CAR-OTP-2095-5159; CAR-OTP-

2095-5177 to CAR-OTP-2095-5401; CAR-OTP-2095-5418 to CAR-OTP-2095-5676; CAR-OTP-2095-7483 to CAR-OTP-2095-7671; CAR-OTP-2095-7731 to CAR-OTP-2095-7735; CAR-OTP-2095-7812; CAR-OTP-2095-7933; CAR-OTP-2095-7954; CAR-OTP-2095-7960; CAR-OTP-2095-7970; CAR-OTP-2095-7976; CAR-OTP-2095-7978; CAR-OTP-2095-8010; CAR-OTP-2095-8393; CAR-OTP-2095-8399; CAR-OTP-2095-8401; CAR-OTP-2095-8405; CAR-OTP-2095-8417; CAR-OTP-2095-8423; CAR-OTP-2095-8450; CAR-OTP-2095-8463; CAR-OTP-2095-8474; CAR-OTP-2095-8477; CAR-OTP-2095-8489; CAR-OTP-2095-8496; CAR-OTP-2095-8498; CAR-OTP-2095-8665; CAR-OTP-2095-8697; CAR-OTP-2095-8735; CAR-OTP-2095-8774 to CAR-OTP-2095-8781; CAR-OTP-2095-8783; CAR-OTP-2095-8787; CAR-OTP-2095-8803; CAR-OTP-2095-8822; CAR-OTP-2095-8884; CAR-OTP-2095-8889; CAR-OTP-2095-8934; CAR-OTP-2095-8971; CAR-OTP-2095-8975; CAR-OTP-2095-9001; CAR-OTP-2095-9003; CAR-OTP-2095-9032; CAR-OTP-2095-9048; CAR-OTP-2095-9192; CAR-OTP-2095-9228; CAR-OTP-2095-9259; CAR-OTP-2095-9263; CAR-OTP-2095-9292; CAR-OTP-2095-9304; CAR-OTP-2095-9309; CAR-OTP-2095-9312; CAR-OTP-2095-9391; CAR-OTP-2095-9437; CAR-OTP-2095-9439; CAR-OTP-2095-9445; CAR-OTP-2095-9446; CAR-OTP-2095-9455; CAR-OTP-2095-9459; CAR-OTP-2095-9460; CAR-OTP-2095-9554; CAR-OTP-2095-9556; CAR-OTP-2095-9571; CAR-OTP-2095-9592; CAR-OTP-2095-9647; CAR-OTP-2095-9656; CAR-OTP-2095-9730; CAR-OTP-2095-9754; CAR-OTP-2095-9839; CAR-OTP-2095-9841; CAR-OTP-2095-9851; CAR-OTP-2095-9853; CAR-OTP-2095-9864; CAR-OTP-2095-9924; CAR-OTP-2096-0123; CAR-OTP-2096-0269; CAR-OTP-2096-0287; CAR-OTP-2096-0631; CAR-OTP-2096-0699; CAR-OTP-2096-0801; CAR-OTP-2096-0814; CAR-OTP-2096-0828; CAR-OTP-2096-0921; CAR-OTP-2096-0926; CAR-OTP-2096-1105; CAR-OTP-2096-1121 to CAR-OTP-2096-1127; CAR-OTP-2096-1142; CAR-OTP-2096-1153; CAR-OTP-2096-1159; CAR-OTP-2096-1213; CAR-OTP-2096-1214; CAR-OTP-2096-1259; CAR-OTP-2096-1261; CAR-OTP-2096-1267; CAR-OTP-2096-1279; CAR-OTP-2096-1287; CAR-OTP-2096-1328; CAR-OTP-2096-1396; CAR-OTP-2096-1406; CAR-OTP-2096-1475 to CAR-OTP-2096-1652; CAR-OTP-2096-1698; CAR-OTP-2096-1994; CAR-OTP-2096-1998; CAR-OTP-2096-2003; CAR-OTP-2096-2005; CAR-OTP-2096-2038; CAR-OTP-2096-2045; CAR-OTP-2096-2059; CAR-OTP-2096-2095; CAR-OTP-2096-2102; CAR-OTP-2096-2137; CAR-OTP-2096-2214; CAR-OTP-2096-4260 to

CAR-OTP-2096-4847; CAR-OTP-2096-5868; CAR-OTP-2096-6835 to CAR-OTP-2096-6908; CAR-OTP-2096-7016 to CAR-OTP-2096-7094; CAR-OTP-2096-7110 to CAR-OTP-2096-7130; CAR-OTP-2096-7135 to CAR-OTP-2096-7495; Videos, CAR-OTP-2095-8354; CAR-OTP-2095-8355; CAR-OTP-2095-9141; CAR-OTP-2096-2477; CAR-OTP-2096-2478; CAR-OTP-2096-2480 to CAR-OTP-2096-2490; CAR-OTP-2096-2493 to CAR-OTP-2096-2495; CAR-OTP-2096-2500 to CAR-OTP-2096-2504; CAR-OTP-2122-9551; CAR-OTP-2122-9553; CAR-OTP-2122-9579; CAR-OTP-2122-9582; CAR-OTP-2130-1245; CAR-OTP-2130-1247; CAR-OTP-2130-1383; CAR-OTP-2130-1386; CAR-OTP-2127-4526; CAR-OTP-2127-4528; CAR-OTP-2127-4620; CAR-OTP-2127-4623; CAR-OTP-2127-6284; CAR-OTP-2127-6413; CAR-OTP-2130-0331; CAR-OTP-2130-0378; and CAR-OTP-2096-9302.

- **P-2133:** Statement, CAR-OTP-2093-0267 and Translation, CAR-OTP-2107-6272. However, the Chamber will not rely on paragraphs 87 to 88 and 170 for the purposes of establishing Mr Ngaissona's acts and conduct.
- **P-0567:** Statement, CAR-OTP-2059-0084; Translation, CAR-OTP-2122-2211 and associated items CAR-OTP-2059-0112 (Annex A) and CAR-OTP-2001-0191. However, the Chamber will not rely on paragraphs 146 and 147 for the purposes of establishing the accused's acts and conduct.
- **P-1530:** Statement, CAR-OTP-2054-0249; Translation, CAR-OTP-2064-0235 and associated items CAR-OTP-2054-0265 (Annex A) and CAR-OTP-2054-0266 (Annex B). However, the Chamber will not rely on paragraph 55 of the statement for the purposes of establishing Mr Ngaissona's acts and conduct.
- **P-1739:** Statement, CAR-OTP-2054-1089; and associated items CAR-OTP-2054-1108 (Annex A); CAR-OTP-2054-1112 (Annex B); CAR-OTP-2054-1113 (Annex C); CAR-OTP-2054-1115 (Annex D); CAR-OTP-2054-1118 (Annex E); and CAR-OTP-2049-0462.
- **P-2467:** Statement, CAR-OTP-2109-0520; Translation, CAR-OTP-2122-4952 and associated items CAR-OTP-2109-0532 (Annex 1); CAR-OTP-2109-0534 (Annex 2); CAR-OTP-2109-0535 (Annex 3); CAR-OTP-2109-0536 (Annex 4); CAR-OTP-2109-0537 (Annex 5); CAR-OTP-2109-0538 (Annex 6); CAR-OTP-2109-

0539 (Annex 7); CAR-OTP-2109-0540 (Annex 8); CAR-OTP-2109-0371 to CAR-OTP-2109-0394; CAR-OTP-2109-0396 to CAR-OTP-2109-0406; CAR-OTP-2109-0409 to CAR-OTP-2109-0416; CAR-OTP-2108-0597; CAR-OTP-2001-1973 and CAR-OTP-2081-0496.

- **P-2652:** Statement, CAR-OTP-2126-0175 and Translation, CAR-OTP-2122-4930. However, the Chamber will not rely on paragraph 81 of the statement for the purposes of establishing Mr Ngaïssona's acts and conduct.

REJECTS the requests to introduce the prior recorded testimonies of the following witnesses pursuant to Rule 68(2)(b) of the Rules:

- **P-2671**
- **P-1503**
- **P-1576**
- **P-2973**
- **P-0342**
- **P-1921**
- **P-2050**
- **P-2138**
- **P-2432**
- **P-2687**

DECIDES that, subject to the fulfilment of the legal requirements of Rule 68(3) of the Rules, the prior recorded testimonies of the following witnesses will be introduced pursuant to Rule 68(3) of the Rules:

- **P-1576:** Statement, CAR-OTP-2060-0280 and associated items CAR-OTP-2060-0348 (Annex A); CAR-OTP-2060-0371 (Annex B); CAR-OTP-2060-0372 (Annex C); CAR-OTP-2060-0349 to CAR-OTP-2060-0354; CAR-OTP-2060-0358; CAR-OTP-2060-0362; CAR-OTP-2060-0365; CAR-OTP-2060-0368; CAR-OTP-2061-4153 to CAR-OTP-2061-4171; CAR-OTP-2061-4174 to CAR-OTP-2061-4207; CAR-OTP-2061-4209 to CAR-OTP-2061-4212; CAR-OTP-2061-4214 to CAR-OTP-2061-4222; CAR-OTP-2061-4227 to CAR-OTP-2061-4247; CAR-OTP-2061-4249; CAR-OTP-2061-4253; CAR-OTP-2061-4255; CAR-OTP-2061-4257 to CAR-OTP-2061-4260; CAR-OTP-2061-4263 to CAR-OTP-2061-4290; CAR-

OTP-2061-4294 to CAR-OTP-2061-4303; CAR-OTP-2061-4306; CAR-OTP-2061-4307; CAR-OTP-2061-4317 to CAR-OTP-2061-4319; CAR-OTP-2061-4323 to CAR-OTP-2061-4328; CAR-OTP-2061-4342 to CAR-OTP-2061-4344; CAR-OTP-2061-4346 to CAR-OTP-2061-4353; CAR-OTP-2061-4355 to CAR-OTP-2061-4379; CAR-OTP-2061-4381 to CAR-OTP-2061-4384; CAR-OTP-2061-4386 to CAR-OTP-2061-4387; CAR-OTP-2061-4389 to CAR-OTP-2061-4396; CAR-OTP-2061-4402 to CAR-OTP-2061-4404; CAR-OTP-2061-4424 to CAR-OTP-2061-4464; CAR-OTP-2061-4466 to CAR-OTP-2061-4495; CAR-OTP-2061-4500 to CAR-OTP-2061-4503; CAR-OTP-2061-4505 to CAR-OTP-2061-4523; with the relevant metadata to be found between CAR-OTP-2061-1814 to CAR-OTP-2061-3907.

- **P-2973:** Statement, CAR-OTP-2122-9874; and associated items CAR-OTP-2122-9883 (Annex A); CAR-OTP-2122-9884 (Annex B); CAR-OTP-2122-9885 (Annex C); CAR-OTP-2122-9886 (Annex D), and CAR-OTP-2018-0622.

- **P-2050:** Statement, CAR-OTP-2076-0911; Translation, CAR-OTP-2118-4377; and associated items CAR-OTP-2076-0945 (Annex A); CAR-OTP-2076-0947 (Annex B); CAR-OTP-2076-0948 (Annex C); CAR-OTP-2076-1002 (Annex D); CAR-OTP-2076-1045 (Annex E); CAR-OTP-2076-1197; CAR-OTP-2076-1198; CAR-OTP-2076-1200 to CAR-OTP-2076-1205; CAR-OTP-2076-1241 to CAR-OTP-2076-1252; CAR-OTP-2076-1254 to CAR-OTP-2076-1271; CAR-OTP-2076-1276 to CAR-OTP-2076-1281; CAR-OTP-2076-1283; CAR-OTP-2076-1290 to CAR-OTP-2076-1293; CAR-OTP-2076-1295 to CAR-OTP-2076-1296; CAR-OTP-2076-1347; CAR-OTP-2076-1348; CAR-OTP-2076-1353; CAR-OTP-2076-1354; CAR-OTP-2076-1370; CAR-OTP-2076-1371; CAR-OTP-2076-1376 to CAR-OTP-2076-1378; CAR-OTP-2076-1382 to CAR-OTP-2076-1384; CAR-OTP-2076-1407; CAR-OTP-2076-1410 to CAR-OTP-2076-1422; CAR-OTP-2076-1059; CAR-OTP-2076-1062; CAR-OTP-2076-1084; CAR-OTP-2076-1097; CAR-OTP-2076-1101; CAR-OTP-2076-1105; CAR-OTP-2076-1114 to CAR-OTP-2076-1119; CAR-OTP-2076-1122 to CAR-OTP-2076-1123; CAR-OTP-2076-1125; CAR-OTP-2087-8910; CAR-OTP-2087-8914; CAR-OTP-2122-9212; CAR-OTP-2122-9223; CAR-OTP-00001434 to CAR-OTP-00001440; and CAR-OTP-2072-1263.

- **P-2687:** Statement, CAR-OTP-2134-0124 and associated items CAR-OTP-2046-0714, CAR-OTP-2046-0734, and CAR-OTP-2089-1748.

CONSIDERS the Sixth Request with regard to P-1442 moot;

ORDERS the Registry to reflect in JEM that the witnesses' prior recorded testimonies have been introduced as soon as a declaration under Rule 68(2)(b)(ii) and (iii) of the Rules has been filed; and to link these declarations to the prior recorded testimonies and mark them with the 'Related to Witness' field;

INSTRUCTS the Prosecution to review the necessity of the redactions applied to P-0567's statement, CAR-OTP-2059-0084, and associated item CAR-OTP-2041-0643 and provide lesser redacted versions within two weeks of notification of the present decision;

ORDERS the Prosecution to disclose item CAR-OTP-2009-4979, at 4980 and any associated items included in newly unredacted parts of P-0567's statement within two weeks of notification of this decision;

ORDERS the Defence to submit its observations on the introduction of these items, as well as of item CAR-OTP-2041-0643 in its lesser redacted form, if any, within 10 days of disclosure;

ORDERS the Prosecution to disclose the items mentioned in paragraph 84 of the present decision, related to P-1576's statement within 10 days of notification of this decision;




ORDERS the Defence to submit observations on the introduction of the items mentioned in paragraph 84 of the present decision, related to P-1576's statement within 10 days of their disclosure;

ORDERS the Prosecution to disclose the items discussed in paragraphs 168 to 175 of P-2050's statement, CAR-OTP-2076-0911, within 10 days of notification of this decision;

ORDERS the Defence to submit its observations on the introduction of the items discussed in paragraphs 168 to 175 of P-2050's statement, CAR-OTP-2076-0911, if any, within 10 days of their disclosure; and

REMINDS the Prosecution of its directions to publish public redacted versions of the prior recorded testimonies (*see* in particular, emails from the Chamber on 3 June 2021, at 15:58 and 20 August 2021, at 10:16).

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

 _____ Judge Péter Kovács	 _____ Judge Bertram Schmitt Presiding Judge	 _____ Judge Chang-ho Chung
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Dated 5 June 2023

At The Hague, The Netherlands