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No. **ICC-01/14-01/18**
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TRIAL CHAMBER V

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

Public

**Decision on the Eighth Prosecution Submission Request from the Bar Table
(Audio-Visual Material)**

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) and (9), 69 and 74(2) of the Rome Statute (the ‘Statute’) and Rules 63 and 64 of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Decision on the Eighth Prosecution Submission Request from the Bar Table (Audio-Visual Material)’.

I. Procedural history

1. On 26 June 2023, the Office of the Prosecutor (the ‘Prosecution’) filed the ‘Prosecution’s Eight Application for Submission of Audio/Videos Evidence from the Bar Table’ (the ‘Request’).¹ The Prosecution requests formal submission of 117 audio-visual items, together with their related transcripts and translations, and items providing contextual information concerning certain audio-visual material (collectively, the ‘Items’).² The Prosecution submits, *inter alia*, that the Items are *prima facie* relevant to material issues at trial, reliable, and their formal submission would cause no prejudice to the defence.³
2. On 5 July 2023, the Yekatom Defence provided its position on each Item; it opposes the submission of four videos but not the remaining items (the ‘Yekatom Defence Response’).⁴

¹ ICC-01/14-01/18-1945-Conf (with one confidential annex, ICC-01/14-01/18-1945-Conf-Anx).

² Request, ICC-01/14-01/18-1945-Conf, para. 1.

³ Request, ICC-01/14-01/18-1945-Conf, paras 2-3; *see also* paras 11-36.

⁴ Yekatom Defence Response to the “Prosecution’s Eight Application for Submission of Audio/Videos Evidence from the Bar Table”, 26 June 2023, ICC-01/14-01/18-1945-Conf, 5 July 2023, ICC-01/14-01/18-1963-Conf (with confidential Annex A, ICC-01/14-01/18-1963-Conf-AnxA), paras 2, 23. The items opposed include CAR-OTP-2118-0415, CAR-OTP-2127-4357, CAR-OTP-2127-4410; CAR-OTP-2050-0648, CAR-OTP-2130-1216, CAR-OTP-2130-1347; CAR-OTP-2093-0830; CAR-OTP-2092-0989. In its annex, the Yekatom Defence additionally objects to items CAR-OTP-2093-0437 and CAR-OTP-2122-7415 by noting that its views concerning these items are the same as those provided for CAR-OTP-2093-0830. *See* Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, p. 61.

3. On 18 August 2023,⁵ the Ngaïssona Defence responded (the ‘Ngaïssona Defence Response’).⁶ It requests the Chamber to consider its objections when conducting its holistic assessment of the evidence.⁷

II. Analysis

4. The Chamber recalls the applicable law for submission of evidence from the bar table.⁸ Accordingly, the Chamber notes the participants’ arguments on the relevance and probative value of the Items and defers its consideration of these arguments to its deliberation of the judgment pursuant to Article 74(2) of the Statute. At this stage, the Chamber will only consider whether the Items are subject to any statutory exclusionary rules, including procedural bars, obstacles, and preconditions.
5. The Yekatom Defence and Ngaïssona Defence (collectively, the ‘Defence’) object respectively to certain audio-visual items and their related transcripts and translations, some of which have already been recognised as formally submitted by the Chamber. Therefore, the Chamber will first address these items before turning to the remaining items.

A. Items already recognised as formally submitted

6. At the outset, the Chamber notes that it need not rule on certain audio-visual items, along with their corresponding transcripts and translations, that are already recognised as formally submitted.⁹

⁵ The Single Judge granted extension of time to respond to 18 August 2023 for the Ngaïssona Defence. *See* Decision on the Defence Requests for Extension of Time to Respond to Bar Table Applications, 4 July 2023, ICC-01/14-01/18-1960, para. 7, p. 5.

⁶ Defence Response to the “Prosecution’s Eight Application for Submission of Audio/Videos Evidence from the Bar Table” ICC-01/14-01/18-1945-Conf, ICC-01/14-01/18-2035-Conf (with confidential Annex 1, ICC-01/14-01/18-2035-Conf-Anx1).

⁷ Ngaïssona Defence Response, ICC-01/14-01/18-2035-Conf, para. 71.

⁸ Decision on the First Prosecution Submission Request from the Bar Table (Sexual and Gender Based Violence), 12 April 2022, ICC-01/14-01/18-1359, paras 10-12 *referring to* Initial Directions on the Conduct of the Proceedings, 26 August 2020, ICC-01/14-01/18-631 (the ‘Initial Directions’), paras 53-54, 62.

⁹ These include items CAR-OTP-2076-0717; CAR-OTP-2135-1740; CAR-OTP-2005-0129; CAR-OTP-2130-1307; CAR-OTP-2050-0648; CAR-OTP-2130-1216; CAR-OTP-2130-1347; CAR-OTP-2107-1708; CAR-OTP-2127-4353; CAR-OTP-2127-4403; CAR-OTP-2076-1114; CAR-OTP-00001435; CAR-OTP-00001438; CAR-OTP-2076-1115; CAR-OTP-00001436; CAR-OTP-00001439; CAR-OTP-2076-1116; CAR-OTP-0001434; CAR-OTP-2076-1117; CAR-OTP-00001437; CAR-OTP-00001440;

7. The Chamber notes that, while the underlying video CAR-OTP-2005-0129 is recognised as formally submitted, its transcript, namely item CAR-OTP-2130-1184, does not appear annotated in JEM as formally submitted.¹⁰ The Chamber recalls that recognising the formal submission of audio-visual material automatically includes recognising the formal submission of any associated transcripts or translations which were duly disclosed.¹¹ In line with these directions, and noting that this item was duly disclosed on 18 December 2020,¹² the Chamber directs the Registry to update the submission status of item CAR-OTP-2130-1184 in JEM.¹³
8. The Chamber further notes that video CAR-OTP-2118-0415 was recognised as formally submitted partially from 00:53:30 to 00:54:26 and from 00:59:48 to 01:00:07.¹⁴ While the Yekatom Defence does not raise any procedural bars in respect of this item, it ‘strongly opposes the Prosecution’s description’ of certain portions.¹⁵ Having reviewed the entirety of the item in light of the submissions by the parties, the Chamber finds that there are no procedural bars to its submission as a whole.
9. The Chamber notes that the Prosecution also requests formal submission of item CAR-OTP-2118-0414, which is a screenshot of the webpage from where the video CAR-OTP-2118-0415 was downloaded. Having reviewed the item, the Chamber finds that there are no procedural bars to recognising this item as

CAR-OTP-2076-1291; CAR-OTP-2076-1292; CAR-OTP-2118-0415 partially from 00:53:30 to 00:54:26, from 00:59:48 to 01:00:07; CAR-OTP-2096-2493; CAR-OTP-2130-0331; CAR-OTP-2130-0378; CAR-OTP-2096-2494; CAR-OTP-2122-9551; CAR-OTP-2122-9579; CAR-OTP-2095-9141; CAR-OTP-2127-6284; CAR-OTP-2127-6413; CAR-OTP-2096-2477; CAR-OTP-2130-1245; CAR-OTP-2130-1383; CAR-OTP-2096-2478; CAR-OTP-2130-1247; CAR-OTP-2130-1386.

¹⁰ See Decision on Submitted Materials for P-1786, email from the Chamber, 28 June 2023, at 11:40.

¹¹ Initial Directions, ICC-01/14-01/18-631, para. 64. See also Sixteenth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1042 and P-2354, 19 August 2022, ICC-01/14-01/18-1547-Conf (public redacted version notified the same day, ICC-01/14-01/18-1547-Red), paras 25-26.

¹² See Annex to the Prosecution’s Communication of the Disclosure of Evidence on 18 December 2020, ICC-01/14-01/18-787-Conf-Anx, p. 5.

¹³ See also Decision on Submitted Materials for P-2556, email from the Chamber, 1 March 2023, at 12:12.

¹⁴ Decision on Submitted Materials for P-1823, email decision from the Chamber, 1 June 2023, at 11:47. Relatedly, for the transcription and translation respectively, the Chamber recognised the submission of CAR-OTP-2127-4357, at 4376, lines 684 to 694; at 4378, lines 760 to 763 (*‘long du pays’*); and CAR-OTP-2127-4410, at 4432, lines 760 to 770; at 4434, lines 837 to 840 (*‘long du pays’*).

¹⁵ Yekatom Defence Response, ICC-01/14-01/18-1963-Conf, paras 11-19; Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, pp. 52-55.

formally submitted. Further noting that there are no objections from the Defence, the Chamber also recognises item CAR-OTP-2118-0414 as formally submitted.

10. Relatedly, the Chamber notes that video CAR-OTP-2126-2478 is the Spanish version with English subtitles of the video CAR-OTP-2118-0415, which exists in French. Accordingly, the Chamber recognises as formally submitted both versions of the video together with its related items, respectively, CAR-OTP-2118-0415, CAR-OTP-2126-2478, CAR-OTP-2127-4357, CAR-OTP-2127-4410 and CAR-OTP-2118-0414.
11. The Chamber will consider the Yekatom Defence's views on these items and their respective transcripts and translations in the context of its deliberations pursuant to Article 74 of the Statute.¹⁶ The Chamber notes that, given that they are different versions of the same documentary, the Yekatom Defence's arguments concerning CAR-OTP-2118-0415 also apply to CAR-OTP-2126-2478; so, it will consider these arguments also when assessing the latter.
12. In respect of item CAR-OTP-2005-0129, the Chamber will consider the Yekatom Defence's additional submissions on the Prosecution's description of this item.¹⁷

B. Items submitted but pending fulfilment of requirements pursuant to Rule 68(2)(b) of the Rules

13. The Chamber notes that certain audio-visual material has already been recognised as submitted, pending certification of the concerned witnesses by the Prosecution, pursuant to Rule 68(2)(b) of the Rules.¹⁸ The Chamber notes that these items have

¹⁶ Yekatom Defence Response, ICC-01/14-01/18-1963-Conf, paras 7-9, 11-19; Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, pp. 52-60.

¹⁷ Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, pp. 52-55. Request, ICC-01/14-01/18-1945-Conf, paras 11-19.

¹⁸ This concerns items related to three witnesses P-2377: CAR-OTP-2108-0745; CAR-OTP-2118-6319; CAR-OTP-2108-0949; CAR-OTP-2122-8745; CAR-OTP-2122-8781; CAR-OTP-2108-1306; CAR-OTP-2127-6789; CAR-OTP-2108-1454; CAR-OTP-2122-9643; CAR-OTP-2122-9712; CAR-OTP-2108-1461; CAR-OTP-2122-7425; CAR-OTP-2108-0678; CAR-OTP-2130-0333; CAR-OTP-2130-0381; CAR-OTP-2108-1285; CAR-OTP-2127-4139; CAR-OTP-2127-4181; CAR-OTP-2108-1299; CAR-OTP-2130-1259; CAR-OTP-2130-1403; CAR-OTP-2108-1307; CAR-OTP-2108-1312; CAR-OTP-2127-6793; CAR-OTP-2108-1313; CAR-OTP-2130-0349; CAR-OTP-2130-0405; CAR-OTP-2108-1314; CAR-OTP-2127-4142; CAR-OTP-2127-4185. P-2416: CAR-OTP-2106-0684; CAR-OTP-2118-0015; CAR-OTP-2125-0525. P-0595: CAR-OTP-2019-1230; CAR-OTP-2082-0278; CAR-OTP-2082-0285.

been provided and/or were discussed by the respective witnesses in their statements.

14. In respect of certain items provided by P-2377 in particular, the Ngaiissona Defence submits that these are a copy of an original item and that it is carrying out further verifications with the Prosecution, reserving its right to ‘contest [their] evidentiary weight at a later stage’.¹⁹
15. Having reviewed these items in light of the information provided in the respective statements, the Chamber finds that there are no procedural bars to recognising them as formally submitted. Further, it notes that the Defence does not raise any procedural bars in respect of these items but rather provides submissions on their probative value that the Chamber will consider later during its deliberations pursuant to Article 74 of the Statute. Accordingly, the Chamber recognises their formal submission.

C. Items rejected in the present decision

16. The Chamber notes that items CAR-OTP-2093-0830, CAR-OTP-2093-0437 and CAR-OTP-2122-7415 contain media reports on an incident during which Mr Yekatom reportedly shot a gun in the National Assembly, at Bangui. The Prosecution claims that these items are relevant to show Mr Yekatom’s violent behaviour.²⁰
17. The Yekatom Defence submits that these items are irrelevant for this trial. It adds, *inter alia*, that the prejudice to the accused seriously outweighs the probative value and the incident underlying these items took place well after the charges and ‘does not form part of the charges nor of any mode of liability’.²¹ The Ngaiissona Defence defers to the Yekatom Defence in respect of these items and

¹⁹ See Annex 1 to the Ngaiissona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, pp. 91-95 in respect of items CAR-OTP-2108-1299, CAR-OTP-2108-1307, CAR-OTP-2108-1312, CAR-OTP-2108-1313 and CAR-OTP-2108-1314.

²⁰ See Annex to the Request, ICC-01/14-01/18-1945-Conf-Anx, pp. 45-46.

²¹ Yekatom Defence Response, ICC-01/14-01/18-1963-Conf, para. 8; Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, pp. 60-61.

adds that they are not contemporaneous to the charges and fall outside the relevant period.²²

18. The Chamber finds, even though facts falling outside of the temporal scope of the charges may be relied upon to prove facts and circumstances described in the charges,²³ that these items concern events that took place in October 2018 and do not form part of the factual allegations in the present case. For these reasons, the Chamber is not convinced that they are *prima facie* relevant to the issues at trial. Accordingly, the Chamber rejects their submission.

D. Items provided by witnesses not on the Prosecution's List of Witnesses

19. The Chamber notes that in explaining the provenance of certain Items, the Prosecution refers to statements or interviews of witnesses who provided these audio-visual items but are not on the Prosecution's list of witnesses, including P-0434, P-0519, P-0568 and P-1597.
20. The Chamber notes the Ngaïssona Defence's submission that the Defence will not be in a position to examine these witnesses on the authenticity of the items they provided, and the Chamber will thus be deprived of any available means to assess their reliability.²⁴
21. However, in the view of the Chamber, the fact that the aforementioned witnesses were not on the Prosecution's list of witnesses and did not testify before the Chamber, by itself, does not constitute a procedural bar to submission of items. Having regard to this, the Chamber will address the items provided by these witnesses in turn below.

1. Item provided by P-1597

22. The Chamber notes that the item provided by P-1597, CAR-OTP-2050-0648, was shown to and discussed with witness P-0967 and is already recognised as formally

²² Annex 1 to the Ngaïssona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, pp. 60-61.

²³ See Decision on Motions on the Scope of the Charges and the Scope of the Evidence at Trial, 29 October 2020, ICC-01/14-01/18-703-Conf (public redacted version dated 30 October 2020, notified on 2 November 2020, ICC-01/14-01/18-703-Red), para. 51.

²⁴ Ngaïssona Defence Response, ICC-01/14-01/18-2035-Conf, paras 52, 64-67.

submitted,²⁵ as noted above. Therefore, the Chamber need not rule on it again. The Chamber will, in any event, consider the Ngaiissona Defence's submissions in respect of this item in its deliberations pursuant to Article 74 of the Statute.²⁶

2. *Items provided by P-0434*

23. P-0434 provided two audio-visual items to the Prosecution: (i) video containing a statement from Mr Ngaiissona, CAR-OTP-2014-0749; and (ii) video titled '*Annex 18 - Décapitation d'un musulman Peul par les antibalaka au environ de Boda*', CAR-OTP-2014-0758.²⁷
24. In respect of item CAR-OTP-2014-0749, the Prosecution states that P-0434 explained that it contains an audio recording with embedded pictures of victims of crimes provided by P-0434, containing an interview of Mr Ngaiissona. It adds that the video was compiled by P-0434's company and the images were captured from the internet and from various NGO documents.²⁸ The Ngaiissona Defence states that although it does not object to the content of the audio, the embedded images have no link to the recording and therefore could unfairly prejudice the accused.²⁹ The Prosecution indicated in this regard that it limits its submission to the content of the audio interview, excluding the images.³⁰
25. In respect of item CAR-OTP-2014-0758, the Prosecution submits although the title suggests that this video was taken in Boda, according to P-0434, it was taken in the 8th arrondissement in Bangui; it adds that P-0434 purchased this video from somebody in Bangui but that he was not ready to name this person.³¹ The Ngaiissona Defence notes that the date of the item is unknown and that it cannot examine the witness on the authenticity of the video, in particular, in relation to being shot in Bangui and not Boda.³²

²⁵ See Decision on Submitted Materials for P-0967, email from the Chamber, 28 June 2023, at 14:23.

²⁶ See Annex 1 to the Ngaiissona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, pp. 59-60.

²⁷ CAR-OTP-2014-0749; CAR-OTP-2122-9374; CAR-OTP-2014-0758; CAR-OTP-2127-4333; CAR-OTP-2127-4381.

²⁸ Annex to the Request, ICC-01/14-01/18-1945-Conf-Anx, pp. 53-54.

²⁹ Annex 1 to the Ngaiissona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, pp. 69-70.

³⁰ Annex to the Request, ICC-01/14-01/18-1945-Conf-Anx, p. 53.

³¹ Annex to the Request, ICC-01/14-01/18-1945-Conf-Anx, p. 65.

³² Ngaiissona Defence Response, ICC-01/14-01/18-2035-Conf, para. 52; Annex 1 to the Ngaiissona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, p. 83.

26. Having reviewed these items and the information as to their provenance in light of the arguments by the parties, the Chamber finds that there are no procedural bars to recognising them as formally submitted. Further, noting that the Defence does not make any other objections in respect of these items, the Chamber recognises their formal submission. The Chamber will consider the Ngaiissona Defence's arguments when assessing these items during its deliberations pursuant to Article 74 of the Statute.

3. *Items provided by P-0519*

27. P-0519 provided audio-visual material to the Prosecution and one mission report that provides context to it.³³
28. In respect of the items provided by P-0519, the Prosecution submits that this material contains footages of Human Rights Watch interviews with Peuhl refugees in the MSF hospital in Garoua-Boulai, Cameroon; and that P-0519 obtained this material from an individual called '[REDACTED]' from the '[REDACTED]'; it further states that P-0519 subsequently provided this material to the Prosecution along with, *inter alia*, a mission report, CAR-OTP-2016-1015.³⁴
29. The Ngaiissona Defence submits that these videos were not taken by the witness himself and therefore 'there is no way for the Chamber to ascertain the chain of custody [...] aside from solely relying on the [Prosecution's] word'. In relation to

³³ CAR-OTP-2016-1015; CAR-OTP-2016-0970; CAR-OTP-2127-7025; CAR-OTP-2127-7051; CAR-OTP-2016-0971; CAR-OTP-2016-0972; CAR-OTP-2130-0309; CAR-OTP-2130-0351; CAR-OTP-2016-0973; CAR-OTP-2016-0976; CAR-OTP-2127-6718; CAR-OTP-2127-6741; CAR-OTP-2016-0977; CAR-OTP-2016-0978; CAR-OTP-00001320; CAR-OTP-00001331; CAR-OTP-2016-0979; CAR-OTP-2016-0982; CAR-OTP-00001321; CAR-OTP-00001332; CAR-OTP-2016-0983; CAR-OTP-2016-0988; CAR-OTP-00001309; CAR-OTP-00001312; CAR-OTP-2016-0989; CAR-OTP-2016-0990; CAR-OTP-00001322; CAR-OTP-00001333; CAR-OTP-2016-0991; CAR-OTP-2016-0992; CAR-OTP-00001323; CAR-OTP-00001334; CAR-OTP-2016-0993; CAR-OTP-2016-0996; CAR-OTP-2127-6723; CAR-OTP-2127-6747; CAR-OTP-2016-0997; CAR-OTP-2016-0998; CAR-OTP-00001324; CAR-OTP-00001335; CAR-OTP-2016-0999; CAR-OTP-2016-1000; CAR-OTP-00001325; CAR-OTP-00001336; CAR-OTP-2016-1001; CAR-OTP-2016-1002; CAR-OTP-2127-6728; CAR-OTP-2127-6753; CAR-OTP-2016-1003; CAR-OTP-2016-1006; CAR-OTP-00001326; CAR-OTP-00001337; CAR-OTP-2016-1007; CAR-OTP-2016-1008; CAR-OTP-00001327; CAR-OTP-00001338; CAR-OTP-2016-1009; CAR-OTP-2016-1010; CAR-OTP-00001328; CAR-OTP-00001339; CAR-OTP-2016-1011; CAR-OTP-00001329; CAR-OTP-00001340; CAR-OTP-2016-1012; CAR-OTP-2016-1013; CAR-OTP-00001330; CAR-OTP-00001341; CAR-OTP-2016-1014; CAR-OTP-2016-0974; CAR-OTP-2127-6714; CAR-OTP-2127-6736; CAR-OTP-2016-0975; CAR-OTP-2016-1004; CAR-OTP-2130-0313; CAR-OTP-2130-0356; CAR-OTP-2016-1005.

³⁴ Annex to the Request, ICC-01/14-01/18-1945-Conf-Anx, pp. 89-113, 120-21.

certain contextual items concerning these items, the Ngaïssona Defence states that it reserves its right to contest their evidentiary weight at a later stage.³⁵

30. Having reviewed these items and the information provided by the Prosecution concerning them, together with the mission report CAR-OTP-2016-1015, the Chamber finds that there are no procedural bars to recognising them as formally submitted. In view of the Chamber, the challenge to the ‘reliability and integrity’ of these items, as argued by the Ngaïssona Defence, is not such that it would bar their submission. In any event, the Chamber will consider these arguments when assessing these items during its deliberations pursuant to Article 74 of the Statute. Accordingly, and noting that the Defence does not raise any other objections, the Chamber recognises their formal submission.

4. *Items provided by P-0568*

31. P-0568 provided video CAR-OTP-2035-0273 to the Prosecution with related items CAR-OTP-2107-6901 and CAR-OTP-2122-2264.
32. The Prosecution states that this video was extracted from P-0568’s smartphone, provided by him during his interview with the Prosecution in 2016. The Prosecution further states that this video shows a training centre of the Anti-Balaka in PK20 at the northern exit of Bangui and includes a footage, *inter alia*, of Anti-Balaka *gris-gris*, weapons, and an interview with an Anti-Balaka element.³⁶
33. Having reviewed these items and the information provided by the Prosecution concerning this video, the Chamber finds that there are no procedural bars to recognising it as formally submitted. Further, noting that the Defence does not object to the video,³⁷ the Chamber recognises its formal submission. In any event,

³⁵ See for example Annex 1 to the Ngaïssona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, pp. 115-40.

³⁶ Annex to the Request, ICC-01/14-01/18-1945-Conf-Anx, p. 46.

³⁷ Annex 1 to the Ngaïssona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, p. 62; Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, p. 62.

the Chamber will consider the Ngaiissona Defence's arguments when assessing these items during its deliberations pursuant to Article 74 of the Statute.³⁸

E. Remaining Items

34. Turning to the remaining items, in respect of certain items, the Ngaiissona Defence notes that they are not on the Prosecution's List of Evidence.³⁹ The Chamber notes that all these items are transcripts and/or translations of audio-visual items requested for submission; and that all of the underlying audio-visual items are on the Prosecution's List of Evidence and their transcripts and/or translations are available in JEM.
35. Having regard to this, and recalling its earlier direction,⁴⁰ the Chamber finds that these transcripts/translations not being on the Prosecution's List of Evidence is not a procedural bar to their submission. Further, noting that the Defence does not raise any other procedural bars in respect of these items, the Chamber, having reviewed them, recognises them as formally submitted.
36. In respect of certain other items, the Defence submits that there is no transcript provided by the Prosecution contrary to the directions by the Chamber. The Yekatom Defence opposes the submission of audio CAR-OTP-2092-0989 on these grounds.⁴¹ In this regard, the Prosecution notes that while there is no transcript, a related media article is available at CAR-OTP-2092-0986.⁴² Relatedly, while the Defence does not oppose the submission of items CAR-OTP-2042-1485 and CAR-OTP-2092-0991, it notes that no transcript exists for these

³⁸ Ngaiissona Defence Response, ICC-01/14-01/18-2035-Conf, para. 30; *see also* Annex 1 to the Ngaiissona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, p. 62.

³⁹ *See* Annex 1 to the Ngaiissona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, pp. 36-37, 53-55, 60, 64, 92, 102, 115 concerning items CAR-OTP-2127-7173; CAR-OTP-2127-7176; CAR-OTP-2130-1245; CAR-OTP-2130-1383; CAR-OTP-2130-1247; CAR-OTP-2130-1386; CAR-OTP-2130-1216; CAR-OTP-2130-1347; CAR-OTP-2127-7180; CAR-OTP-2127-7182; CAR-OTP-2130-1259; CAR-OTP-2130-1403; CAR-OTP-2130-1201; CAR-OTP-2130-1328; CAR-OTP-2127-7025; CAR-OTP-2127-7051.

⁴⁰ Initial Directions, ICC-01/14-01/18-631, para. 64.

⁴¹ Yekatom Defence Response, ICC-01/14-01/18-1963-Conf, para. 9; Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, pp. 87-88.

⁴² Annex to the Request, ICC-01/14-01/18-1945-Conf-Anx, p. 67.

items, contrary to the Chamber's directions.⁴³ The Yekatom Defence also submits that Sango portions in CAR-OTP-2000-0677 are not translated or transcribed.⁴⁴

37. As regards the three items, namely CAR-OTP-2092-0989, CAR-OTP-2042-1485 and CAR-OTP-2092-0991, the Chamber notes that they exist as audio recordings in French and there are no related transcripts available in JEM. However, noting that these items exist in at least one of the working languages of the court, the lack of transcript is not a bar to their formal recognition as submitted *per se*. Accordingly, and noting that the Defence does not raise any other procedural bars, the Chamber, having reviewed these items, recognises them as formally submitted.
38. The Prosecution is directed to prepare and disclose the transcripts of these three items to the participants as soon as practicable. Having regard to its earlier directions,⁴⁵ the Chamber instructs the Registry to reflect the submission status of these aforementioned transcripts in JEM when they are disclosed by the Prosecution.
39. As regards audio CAR-OTP-2000-0677, the Chamber notes that while the Sango portions are not available in CAR-OTP-2130-1170, the entire audio, together with the Sango portions [00:03:06 – 00:12:21] is indeed translated and transcribed in French and can be found in item CAR-OTP-2130-1285.
40. As regards the remaining audio-visual material and their related items, having reviewed them, the Chamber finds that there are no procedural bars to recognising them as formally submitted. Accordingly, and noting that the Defence does not object, the Chamber recognises these items, their transcripts and/or translations as well as the requested contextual items as formally submitted.

⁴³ See Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, pp. 8, 41; Annex 1 to the Ngaissona Defence Response, ICC-01/14-01/18-2035-Conf-Anx1, p. 44.

⁴⁴ Annex A to the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf-AnxA, pp. 4-5.

⁴⁵ Initial Directions, ICC-01/14-01/18-631, para. 64.

FOR THESE REASONS, THE CHAMBER HEREBY**PARTLY GRANTS** the Request;**REJECTS** the submission of items CAR-OTP-2093-0830; CAR-OTP-2093-0437;
CAR-OTP-2122-7415;**RECOGNISES** as submitted the following items:

CAR-OTP-2019-1230;	CAR-OTP-2127-6793;	CAR-OTP-2092-1001;
CAR-OTP-2082-0278;	CAR-OTP-2108-1313;	CAR-OTP-2092-1002;
CAR-OTP-2082-0285;	CAR-OTP-2130-0349;	CAR-OTP-2092-1007;
CAR-OTP-2108-0745;	CAR-OTP-2130-0405;	CAR-OTP-2092-0991;
CAR-OTP-2118-6319;	CAR-OTP-2108-1314;	CAR-OTP-2092-0986;
CAR-OTP-2108-0949;	CAR-OTP-2127-4142;	CAR-OTP-2023-1599;
CAR-OTP-2122-8745;	CAR-OTP-2127-4185;	CAR-OTP-2107-1502;
CAR-OTP-2122-8781;	CAR-OTP-2106-0684;	CAR-OTP-2090-0408;
CAR-OTP-2108-1306;	CAR-OTP-2118-0015;	CAR-OTP-2107-1598;
CAR-OTP-2127-6789;	CAR-OTP-2125-0525;	CAR-OTP-2023-2402;
CAR-OTP-2108-1454;	CAR-OTP-2118-0415;	CAR-OTP-2122-9423;
CAR-OTP-2122-9643;	CAR-OTP-2126-2478;	CAR-OTP-2023-2473;
CAR-OTP-2122-9712;	CAR-OTP-2127-4357;	CAR-OTP-2122-9426;
CAR-OTP-2108-1461;	CAR-OTP-2127-4410;	CAR-OTP-2066-0463;
CAR-OTP-2122-7425;	CAR-OTP-2118-0414;	CAR-OTP-2122-9969;
CAR-OTP-2108-0678;	CAR-OTP-2042-2201;	CAR-OTP-2122-9971;
CAR-OTP-2130-0333;	CAR-OTP-2127-4006;	CAR-OTP-2082-0793;
CAR-OTP-2130-0381;	CAR-OTP-2000-0724;	CAR-OTP-2066-0213;
CAR-OTP-2108-1285;	CAR-OTP-2127-7019;	CAR-OTP-2127-7260;
CAR-OTP-2127-4139;	CAR-OTP-2127-7044;	CAR-OTP-2127-7262;
CAR-OTP-2127-4181;	CAR-OTP-2000-0677;	CAR-OTP-2092-1017;
CAR-OTP-2108-1299;	CAR-OTP-2130-1170;	CAR-OTP-2092-0990;
CAR-OTP-2130-1259;	CAR-OTP-2130-1285;	CAR-OTP-2127-6707;
CAR-OTP-2130-1403;	CAR-OTP-2000-0522;	CAR-OTP-2107-1169;
CAR-OTP-2108-1307;	CAR-OTP-2127-7017;	CAR-OTP-2127-4530;
CAR-OTP-2108-1312;	CAR-OTP-2127-7038;	CAR-OTP-2127-4626;

CAR-OTP-2105-0193; CAR-OTP-2127-7180; CAR-OTP-2071-1989;
CAR-OTP-2122-9622; CAR-OTP-2127-7182; CAR-OTP-2122-9443;
CAR-OTP-2122-9683; CAR-OTP-2084-1343; CAR-OTP-2014-0758;
CAR-OTP-2023-1844; CAR-OTP-2122-7411; CAR-OTP-2127-4333;
CAR-OTP-2122-9398; CAR-OTP-2042-2926; CAR-OTP-2127-4381;
CAR-OTP-2042-2930; CAR-OTP-2107-3003; CAR-OTP-2092-0989;
CAR-OTP-2107-3008; CAR-OTP-2118-5626; CAR-OTP-2107-1170;
CAR-OTP-2118-5629; CAR-OTP-2042-1909; CAR-OTP-2127-4533;
CAR-OTP-2100-1914; CAR-OTP-2107-1479; CAR-OTP-2127-4630;
CAR-OTP-2118-0012; CAR-OTP-2042-1873; CAR-OTP-2042-1250;
CAR-OTP-2125-0521; CAR-OTP-2107-1477; CAR-OTP-00000182;
CAR-OTP-2012-0407; CAR-OTP-2107-9243; CAR-OTP-2106-0139;
CAR-OTP-2127-4484; CAR-OTP-2014-0749; CAR-OTP-2107-4219;
CAR-OTP-2127-4569; CAR-OTP-2122-9374; CAR-OTP-2055-2611;
CAR-OTP-2005-0020; CAR-OTP-2042-4071; CAR-OTP-2122-7390;
CAR-OTP-2127-7173; CAR-OTP-2107-1528; CAR-OTP-2012-0463;
CAR-OTP-2127-7176; CAR-OTP-2074-0789; CAR-OTP-2107-1495;
CAR-OTP-2058-0571; CAR-OTP-2130-0317; CAR-OTP-2106-0138;
CAR-OTP-2130-1219; CAR-OTP-2130-0361; CAR-OTP-2122-7417;
CAR-OTP-2130-1351; CAR-OTP-2042-0916; CAR-OTP-2012-0469;
CAR-OTP-2107-1189; CAR-OTP-2088-0646; CAR-OTP-2130-1201;
CAR-OTP-2127-4345; CAR-OTP-2088-0649; CAR-OTP-2130-1328;
CAR-OTP-2127-4391; CAR-OTP-2042-4615; CAR-OTP-2080-1472;
CAR-OTP-2107-1193; CAR-OTP-2107-9246; CAR-OTP-2012-0479;
CAR-OTP-2127-4349; CAR-OTP-2023-2447; CAR-OTP-2127-4487;
CAR-OTP-2127-4397; CAR-OTP-2107-1511; CAR-OTP-2127-4573;
CAR-OTP-2107-1196; CAR-OTP-2023-2917; CAR-OTP-2023-1978;
CAR-OTP-2127-4351; CAR-OTP-2107-1514; CAR-OTP-2122-9413;
CAR-OTP-2127-4400; CAR-OTP-2023-2931; CAR-OTP-2042-4620;
CAR-OTP-2042-1485; CAR-OTP-2107-2971; CAR-OTP-2127-4013;
CAR-OTP-2035-0273; CAR-OTP-2118-5606; CAR-OTP-2012-0465;
CAR-OTP-2107-6901; CAR-OTP-2023-2936; CAR-OTP-00001361;
CAR-OTP-2122-2264; CAR-OTP-2107-1524; CAR-OTP-00001362;
CAR-OTP-2012-0411; CAR-OTP-2067-1500; CAR-OTP-2082-0646;

CAR-OTP-2127-4519;	CAR-OTP-00001322;	CAR-OTP-2016-1011;
CAR-OTP-2127-4611;	CAR-OTP-00001333;	CAR-OTP-00001329;
CAR-OTP-2088-0663;	CAR-OTP-2016-0991;	CAR-OTP-00001340;
CAR-OTP-2127-6276;	CAR-OTP-2016-0992;	CAR-OTP-2016-1012;
CAR-OTP-2127-6401;	CAR-OTP-00001323;	CAR-OTP-2016-1013;
CAR-OTP-2079-0882;	CAR-OTP-00001334;	CAR-OTP-00001330;
CAR-OTP-2127-4507;	CAR-OTP-2016-0993;	CAR-OTP-00001341;
CAR-OTP-2127-4597;	CAR-OTP-2016-0996;	CAR-OTP-2016-1014;
CAR-OTP-2016-0970;	CAR-OTP-2127-6723;	CAR-OTP-2087-9680;
CAR-OTP-2127-7025;	CAR-OTP-2127-6747;	CAR-OTP-2127-6269;
CAR-OTP--2127-7051;	CAR-OTP-2016-0997;	CAR-OTP-2127-6392;
CAR-OTP-2016-0971;	CAR-OTP-2016-0998;	CAR-OTP-2079-0693;
CAR-OTP-2016-1015;	CAR-OTP-00001324;	CAR-OTP-2122-9445;
CAR-OTP-2016-0972;	CAR-OTP-00001335;	CAR-OTP-2079-0808;
CAR-OTP-2130-0309;	CAR-OTP-2016-0999;	CAR-OTP-2127-7191;
CAR-OTP-2130-0351;	CAR-OTP-2016-1000;	CAR-OTP-2127-7193;
CAR-OTP-2016-0973;	CAR-OTP-00001325;	CAR-OTP-2079-0809;
CAR-OTP-2016-0976;	CAR-OTP-00001336;	CAR-OTP-2127-6874;
CAR-OTP-2127-6718;	CAR-OTP-2016-1001;	CAR-OTP-2127-6879;
CAR-OTP-2127-6741;	CAR-OTP-2016-1002;	CAR-OTP-2079-0803;
CAR-OTP-2016-0977;	CAR-OTP-2127-6728;	CAR-OTP-2083-0428;
CAR-OTP-2016-0978;	CAR-OTP-2127-6753;	CAR-OTP-2130-0325;
CAR-OTP-00001320;	CAR-OTP-2016-1003;	CAR-OTP-2130-0370;
CAR-OTP-00001331;	CAR-OTP-2016-1006;	CAR-OTP-2016-0974;
CAR-OTP-2016-0979;	CAR-OTP-00001326;	CAR-OTP-2127-6714;
CAR-OTP-2016-0982;	CAR-OTP-00001337;	CAR-OTP-2127-6736;
CAR-OTP-00001321;	CAR-OTP-2016-1007;	CAR-OTP-2016-0975;
CAR-OTP-00001332;	CAR-OTP-2016-1008;	CAR-OTP-2016-1004;
CAR-OTP-2016-0983;	CAR-OTP-00001327;	CAR-OTP-2130-0313;
CAR-OTP-2016-0988;	CAR-OTP-00001338;	CAR-OTP-2130-0356;
CAR-OTP-00001309;	CAR-OTP-2016-1009;	CAR-OTP-2016-1005;
CAR-OTP-00001312;	CAR-OTP-2016-1010;	CAR-OTP-2082-0605;
CAR-OTP-2016-0989;	CAR-OTP-00001328;	CAR-OTP-2127-6876;
CAR-OTP-2016-0990;	CAR-OTP-00001339;	CAR-OTP-2127-6882;

CAR-OTP-2079-0815; CAR-OTP-2122-7407;
 CAR-OTP-2127-6920; CAR-OTP-2099-0593;
 CAR-OTP-2127-6935; CAR-OTP-2127-6286;
 CAR-OTP-2082-0607; CAR-OTP-2127-6416;

ORDERS the Registry to reflect that these items have been so recognised in the JEM code;



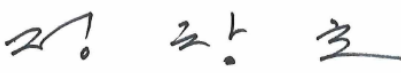
ORDERS the Registry to update the submission status of item CAR-OTP-2130-1184 in JEM;

ORDERS the Prosecution, the Yekatom Defence and the Ngaïssona Defence to file public redacted versions, or request reclassification to public, of the Request, ICC-01/14-01/18-1945-Conf, the Yekatom Defence Response, ICC-01/14-01/18-1963-Conf, and the Ngaïssona Defence Response, ICC-01/14-01/18-2035-Conf, respectively, within one week of notification of this decision;

ORDERS the Prosecution to prepare and disclose the transcripts of items CAR-OTP-2092-0989, CAR-OTP-2042-1485 and CAR-OTP-2092-0991 to the participants as soon as practicable; and

INSTRUCTS the Registry to reflect the submission status of the transcripts of items CAR-OTP-2092-0989, CAR-OTP-2042-1485 and CAR-OTP-2092-0991 in JEM when they are disclosed by the Prosecution.

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

 <hr style="width: 25%; margin: 0 auto;"/> <p>Judge Péter Kovács</p>	 <hr style="width: 25%; margin: 0 auto;"/> <p>Judge Bertram Schmitt Presiding Judge</p>	 <hr style="width: 25%; margin: 0 auto;"/> <p>Judge Chang-ho Chung</p>
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Dated 12 September 2023

At The Hague, The Netherlands