

Pursuant to Trial Chamber V 's instruction dated 05 January 2024 this document is reclassified as Public

**Cour
Pénale
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**International
Criminal
Court**

Original: English

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

Date: 27 November 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 PROSECUTOR *v.* ALFRED YEKATOM AND
PATRICE-EDOUARD NGAÏSSONA**

Confidential

Prosecution Response to the 'Yekatom Defence Application for the Introduction of P-6025 prior recorded testimony pursuant to Rule 68(3)', ICC-01/14-01/18-2210-Conf

Source: Office of the Prosecutor

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

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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I. INTRODUCTION

1. The Prosecution defers to Trial Chamber V's ("Chamber") discretion on the 17 November 2023 Yekatom Defence Application for the Introduction of P-6025 prior recorded testimony ("Prior Statement") pursuant to Rule 68(3) of the Rules of Procedure and Evidence ("Rules"),¹ ("Yekatom Defence Request"), with the below observations.

II. CONFIDENTIALITY

2. Pursuant to regulation 23*bis*(2) of the Regulations of the Court ("RoC"), this document is filed as "Confidential" because it responds to a filing of the same classification. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

3. The Prosecution refers to the applicable law on the introduction of prior recorded testimonies pursuant to Rule 68(3) of the Rules, as previously set out by the Chamber.²

4. While it defers to the Chamber's discretion on the Yekatom Defence Request as regards (i) the propriety of the mode sought and (ii) the relevance of the tendered Prior Statement, the Prosecution notes the following:

5. *First*, the Prior Statement does not appear to concern conduct or events within the time frame of the charges or of the relevant events.

¹ ICC-01/14-01/18-2210-Conf.

² Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-2926, P-2927, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926's Evidence, 10 March 2021, ICC-01/14-01/18-907-Conf (public redacted version notified on 1 April 2021, ICC-01/14-01/18-907-Red), paras 8-16. See also Decision on the Yekatom Defence Request for Leave to Appeal the Twelfth Rule 68(3) Decision regarding P-1704, 29 April 2022, ICC-01/14-01/18-1383, paras. 4-17.

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6. *Second*, the Prior Statement is collateral. It is principally directed at the conduct of an individual who (i) is not a witness in the Prosecution case and who, like P-6025, (ii) does not purport to have direct or indirect knowledge of the events at issue in the case *as a fact witness*; nor – as a non-fact witness – does the Statement provide, for instance, summary, character, or expert evidence in relation to any matter before the Chamber.

IV. CONCLUSION

7. Subject to the above, and to the fulfilment of the requirements of Rule 68(3) of the Rules, the Prosecution defers to the discretion of the Chamber with regard to the introduction of P-6025's Prior Statement.



Karim A. A. Khan KC, Prosecutor

Dated this 27th day of November 2023
At The Hague, The Netherlands