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**International
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Date: **22 December 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***

Public

**Public redacted version of “Prosecution’s Fourteenth Application for Submission
of P-1819’s Evidence from the Bar Table”,
ICC-01/14-01/18-2057-Conf, 25 August 2023**

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

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I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) requests Trial Chamber V (“Chamber”) to recognise as formally submitted 546 items of evidence from the bar table in accordance with articles 64(9)(a), 69(3), and (4) of the Statute, rule 63(2) of the Rules of Procedure and Evidence (“Rules”), and the Initial Directions on the Conduct of the Proceedings (“Initial Directions”).¹ These items comprise 312 videos,² 230 transcripts³ and/or translations of these videos; three photographs, and a sketch obtained from P-1819 during her interview with the Prosecution in 2017 (“Submitted Items”).

2. The Submitted items were initially deemed formally submitted through P-1819 subject to the fulfilment of the legal requirements of Rule 68(3) of the Rules.⁴ Considering P-1819’s unavailability to testify in this case, the Prosecution filed its ‘Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1819 pursuant to Rule 68(2)(c)’ (“P-1819 Rule 68(2)(c) Application”),⁵ which was rejected by the Chamber two weeks ago.⁶ As indicated in its notice on ‘information regarding its outstanding Bar Table Applications’,⁷ the Prosecution now seeks to introduce P-1819’s evidence from the bar table instead.

¹ ICC-01/14-01/18-631, paras. 61-62 (“Initial Directions”).

² Amongst the Submitted items are seven videos and their corresponding transcripts and translations already tendered in the Prosecution’s “Sixth Application for the Submission of Evidence from the Bar Table”. *See* ICC-01/14-01/18-1868-Conf-AnxA, entries 237-239, 242-244, 249-261. They are all highlighted in grey in Annex A and remain in this application pending the Chamber’s decision on their formal submission.

³ The Prosecution notes that some of the transcripts listed in Annex A do not contain content, as the transcribed videos are in Sango, a non-written language. These Sango transcripts are included in this request for sake of completeness.

⁴ ICC-01/14-01/18-1661-Conf-Corr, para. 42, p. 33.

⁵ ICC-01/14-01/18-1968-Conf.

⁶ ICC-01/14-01/18-2021.

⁷ ICC-01/14-01/18-1916, para. 3.

3. The Submitted Items are *prima facie* relevant to material issues at trial, are corroborative of other Prosecution evidence, and bear sufficient indicia of reliability to be recognised as formally submitted by the Chamber.

4. Because of time constraints, the Prosecution was unable to secure the Defence's positions before filing this application.⁸ As noted in its previous communication with the Chamber, the Parties and the Participants, the Prosecution has no objection to any related request by the Defence for an extension of time to consider the Annexes prior to responding to the Bar Table motion, or in respect of filing a response altogether.⁹

5. Recognising the formal submission of this evidence now causes no prejudice to the Defence, as it will enable the Chamber to better understand and contextualise other evidence in the case, contribute to an expeditious trial, and ultimately assist in determining the truth.

6. In Annex A to this filing, the Prosecution has listed for each of the Submitted Items their (i) evidence registration number ("ERN"); (ii) main date; (iii) title; (iv) source identity; (v) duration;¹⁰ (vi) date of disclosure; (vii) description; and (viii) relevance and probative value. For sake of clarity, where applicable, each audio/video is listed with the related transcript and/or translation.

7. Considering the large volume of videos collected from P-1819, the Prosecution has moreover grouped them into 51 compilations intended to facilitate the digestion of P-1819's evidence.¹¹ They are listed in Annex B with their (i) evidence registration number ("ERN"); (ii) main date; (iii) title; (iv) source identity; (v) duration; (vi) date of disclosure; and (vii) a brief description of their content.

⁸ The Prosecution was exceptionally authorised to file the present application without including these positions. See Email from the Chamber, 25 August 2023, at 12:43.

⁹ See Email from the Prosecution, 24 August 2023, at 16:03.

¹⁰ This metadata field is only provided for video items.

¹¹ Each compilation contains rushes provided by P-1819 with their original ERN and time stamp.

II. CONFIDENTIALITY

8. Pursuant to regulation 23bis(1) of the Regulations of the Court (“RoC”), this Request and its Annexes are filed as “Confidential”, as they refer to sources and materials of the same classification. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

9. The Submitted Items meet the criteria for recognition as formally submitted, in accordance with the Chamber’s Decision on the First Prosecution Submission Request from the Bar Table.¹² They are *prima facie* relevant to the issues at trial, have sufficient probative value, and do not unfairly prejudice the Accused.

A. The Submitted Items are *prima facie* relevant

10. The Submitted Items are *prima facie* relevant to material issues at trial, including to determine the contextual elements of the charged war crimes and crimes against humanity, in particular the Anti-Balaka being an organised armed group, and its intent to target Muslim civilians pursuant to a criminal organisational policy between September 2013 and December 2014.¹³ They show the (military) organisation and functioning of the Anti-Balaka group led by YEKATOM (“YEKATOM’s Group”) and based at the YAMWARA School, including (i) its grouping into sections;¹⁴ (ii) the identity features of its members composed of *inter alia* of FACA, and individuals

¹² ICC-01/14-01/18-1359, paras. 10-12, referring to the Initial Directions ICC-01/14-01/18-631, paras. 53-54, 62.

¹³ See ICC-01/14-01/18-403-Conf-Corr, paras. 64, *see further* pp. 107, 111 (referencing paragraphs 90-114 of the Document Containing the Charges - ICC-01/14-01/18-286-Conf-AnxB1).

¹⁴ See *e.g.* CAR-OTP-2065-0999, CAR-OTP-2065-0516, CAR-OTP-2065-2404, CAR-OTP-2065-3492, CAR-OTP-2065-3452.

wearing *gris-gris*;¹⁵ (iii) the training provided;¹⁶ (iv) its record keeping of the number of elements, their movement and positions;¹⁷ as well as (v) the type of weapons available to the group.¹⁸ They also show YEKATOM's command and authority over his elements, including his ability to (i) issue orders that his elements complied with;¹⁹ (ii) receive reports from elements of his group;²⁰ (iii) oversee the setting up and manning of checkpoints;²¹ (iv) implement discipline by punishing or threatening to punish his elements;²² (v) collaborate with other Anti-Balaka leaders, including members of the Anti-Balaka National coordination,²³ such as Sylvain BEOROFEI,²⁴ Sylvestre YAGOZOU,²⁵ Sebastien WENEZOU,²⁶ and Charles NGREMANGOU.²⁷ They further show YEKATOM's Group efforts to exhibit a positive image by [REDACTED] some of their criminal activities or by [REDACTED] and lowering their voices to conceal information [REDACTED].²⁸

¹⁵ See e.g. CAR-OTP-2065-0846, CAR-OTP-2065-0983, CAR-OTP-2065-2077, CAR-OTP-2065-2085, CAR-OTP-2065-2125, CAR-OTP-2065-2861, CAR-OTP-2065-2895, CAR-OTP-2065-3288, CAR-OTP-2065-3692, CAR-OTP-2065-3835.

¹⁶ See e.g. CAR-OTP-2065-3212, CAR-OTP-2065-3216, CAR-OTP-2065-3921, CAR-OTP-2065-3929, CAR-OTP-2065-3953, CAR-OTP-2065-3973, CAR-OTP-2065-4057, CAR-OTP-2065-5122, CAR-OTP-2065-5128, CAR-OTP-2065-5132.

¹⁷ See e.g. CAR-OTP-2065-3827, CAR-OTP-2065-3929, CAR-OTP-2065-4328.

¹⁸ See e.g. CAR-OTP-2065-0404, CAR-OTP-2065-0648, CAR-OTP-2065-0814, CAR-OTP-2065-0979, CAR-OTP-2065-1051, CAR-OTP-2065-2065, CAR-OTP-2065-2544.

¹⁹ See e.g. CAR-OTP-2065-0516, CAR-OTP-2065-0762, CAR-OTP-2065-1989, CAR-OTP-2065-2009, CAR-OTP-2065-2017, CAR-OTP-2065-2037, CAR-OTP-2065-2157, CAR-OTP-2065-2085, CAR-OTP-2065-2089, CAR-OTP-2065-2101, CAR-OTP-2065-2181, CAR-OTP-2065-4561, CAR-OTP-2065-4693.

²⁰ CAR-OTP-2065-0664, CAR-OTP-2065-3780, CAR-OTP-2065-3893, CAR-OTP-2065-5082.

²¹ See e.g. CAR-OTP-2065-1989, CAR-OTP-2065-1993, CAR-OTP-2065-2009, CAR-OTP-2065-2013, CAR-OTP-2065-2053, CAR-OTP-2065-2057, CAR-OTP-2065-2077, CAR-OTP-2065-2085, CAR-OTP-2065-2101, CAR-OTP-2065-2157, CAR-OTP-2065-2185, CAR-OTP-2065-2189.

²² See e.g. CAR-OTP-2065-2169, CAR-OTP-2065-2177, CAR-OTP-2065-4013, CAR-OTP-2065-4954, CAR-OTP-2065-4958, CAR-OTP-2065-5264.

²³ See CAR-OTP-2025-0380, at 0384, an Anti-Balaka Declaration dated 14 December 2014, listing Sylvain BEOROFEI, Sylvestre YAGOZOU, and Sebastien WENEZOU as members of the Anti-Balaka Coordination.

²⁴ See CAR-OTP-2065-2021. The Prosecution notes that Sylvain BEOROFEI was identified by P-1339 in CAR-OTP-2065-3220 (already formally submitted) as MOKOM's Deputy. See P-1339: T-155-CONF-ET, p. 81, l. 15-p.82, l. 16.

²⁵ See e.g. CAR-OTP-2065-2488, CAR-OTP-2065-2841, CAR-OTP-2065-3208, CAR-OTP-2065-3212, CAR-OTP-2065-5470.

²⁶ See CAR-OTP-2065-2328.

²⁷ See e.g. CAR-OTP-2065-4880, CAR-OTP-2065-4882, CAR-OTP-2065-4902, CAR-OTP-2065-4906.

²⁸ See e.g. CAR-OTP-2065-0664, CAR-OTP-2065-3893, CAR-OTP-2065-4069, CAR-OTP-2065-4876, CAR-OTP-2065-4950, CAR-OTP-2065-4942, CAR-OTP-2065-4946, CAR-OTP-2065-4954, CAR-OTP-2065-4958.

11. In the “Description” and the “Relevance/Probative value” columns of Annex A, the Prosecution has further detailed the relevance and probative value of each of the Submitted Items.

B. The Submitted Items are reliable and authentic

12. To assess the *prima facie* reliability of evidentiary material, the Chamber may evaluate several factors, such as: its origin, the context in which it was created, the method with which the information contained therein was compiled, and the availability of corroborative evidence.²⁹

13. The Submitted Items are *prima facie* reliable and authentic. *First*, they were collected directly from P-1819, [REDACTED]. [REDACTED] YEKATOM and his Anti-Balaka Group several times [REDACTED]. *Second*, they were generated and [REDACTED]³⁰ contemporaneously to the charges before the present proceedings were even contemplated; and at the time of [REDACTED], P-1819 had no interest in the present proceedings. *Third*, the items corroborate other documentary and testimonial evidence. *Finally*, the *prima facie* reliability and authenticity of these videos is clear from their content, which depicts images, and contains conversations or sounds that flow naturally, but also from self-authenticating indicators, such as the mentioning of individuals, locations, and events.

14. The Submitted Items were provided to the Prosecution with their original metadata, such as the title, date, type of file, duration, further demonstrating their reliability and authenticity.

²⁹ ICC-01/04-01/06-1399, paras. 36-40; *see also* ICC-01/04-01/07-1665-Corr, para. 98.

³⁰ [REDACTED] (available at [REDACTED]).

C. There is no prejudicial effect to the Defence

15. The recognition of the material as formally submitted is not prejudicial to the Defence. All items were lawfully obtained and disclosed to the Defence in a timely manner. Cumulatively, the following factors readily establish that the probative value of the proposed material outweighs any prejudicial effect: (i) the items are relevant to the charges, as detailed in this motion and its Annexes, and will assist the Chamber in its determination of the truth and ensure an expeditious trial; (ii) the items are probative and bear sufficient indicia of reliability; and (iii) the Defence had sufficient notice of the content of the items and, given their inclusion in the Prosecution's List of Evidence and in its subsequent applications pursuant to rule 68(2)(c) and rule 68(3) of the Rules, of the Prosecution's intention to rely on them at trial.

IV. RELIEF SOUGHT

16. For the foregoing reasons, the Prosecution requests that all 546 Submitted Items listed in Annex A to this filing be recognised as formally submitted.



Karim A. A. Khan KC, Prosecutor

Dated this 22nd day of December 2023
At The Hague, The Netherlands