

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 3 April 2024

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 ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA*

Public  
with Confidential Annex A

Public Redacted Version of the "First Defence Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b)",  
17 November 2023, ICC-01/14-01/18-2213-Conf

Source: Defence for Mr. Alfred Rombhot Yekatom

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

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## INTRODUCTION

1. The Defence for Mr. Alfred Rombhot Yekatom ('Defence') requests the formal submission of the prior recorded testimony of 20 Defence witnesses,<sup>1</sup> pursuant to rule 68(2)(b) of the Rules of Evidence and Procedure ('Rules') and in accordance with the Trial Chamber's Further Directions on the Conduct of Proceedings.<sup>2</sup> In each instance, the prior record testimony of the 20 Defence Witnesses comprises the witness statements (or report) and the associated exhibits which form an integral part of the testimony (collectively 'Proposed Rule 68(2)(b) Material').
2. Having been guided by the Trial Chamber's previous decisions concerning rule 68(2)(b) applications submitted by the Prosecution,<sup>3</sup> the Defence submits that the Proposed Rule 68(2)(b) Material fulfils the requirements of rule 68(2)(b) so as to allow the Trial Chamber to properly exercise its discretion to grant this request.
3. Namely, the Proposed Rule 68(2)(b) Material does not relate to the charged acts and conduct of the accused and instead concerns the veracity of the information provided by former child soldiers as relied on by the Prosecution and the Common Legal Representative of Victims of the Former Child ('CLRV1') as well as the fabrication of evidence sourced and orchestrated by intermediaries and witnesses in these proceedings in relation to Count 29. The Proposed Rule 68(2)(b) Material is cumulative and/or corroborative of other oral testimony concerning similar facts and has been prepared in a reliable manner.
4. Further, the formal submission of the Proposed Rule 68(2)(b) Material best serves the interests of justice in that it will obviate the unnecessary appearances of the 20 Defence Witnesses. This will undoubtedly expedite these proceedings which is

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<sup>1</sup> P-6011, P-6017, P-6022, P-6024, P-6028, P-6030, P-6031, P-6034, P-7011, P-6018, P-6016, P-6010, P-6027, P-6035, P-6039, P-6033, P-6013, P-6037, P-6012 and P-6019 (collectively '20 Defence Witnesses').

<sup>2</sup> ICC-01/14-01/18-1892, para. 21(iii).

<sup>3</sup> ICC-01/14-01/18-1833-Conf-Corr, ICC-01/14-01/18-1907-Conf.

consistent with Mr. Yekatom's rights pursuant to article 67(1)(c) and would not occasion unfair prejudice to the accused.

## SUBMISSIONS

- A. The Proposed Rule 68(2)(b) Material is correctly identified as 'prior recorded testimony' for the purposes of rule 68(2)(b)
5. The Proposed Rule 68(2)(b) Material primarily comprises of written statements collected from the 20 Defence Witnesses as well as associated exhibits which were either used or explained by each witness and which therefore constitute an integral part of the testimony itself.<sup>4</sup> Additionally, the Defence further submits an expert report which, in accordance with jurisprudence, is subject to the same Rule 68(2)(b)(ii) assessment applicable for all other forms of prior recorded testimony.<sup>5</sup> Annex A sets out the relevant date and ERN for each statement or report as well as the corresponding ERN for each associated exhibit.
6. As reflected in the Proposed Rule 68(2)(b) Material, each of the 20 Defence Witnesses understood at the time that the information they provided may be relied upon in the context of legal proceedings,<sup>6</sup> and that they may be called upon to provide their testimony in public.
- B. The Proposed Rule 68(2)(b) Material does not relate to matters concerning the charged acts and conduct of the accused
7. The Proposed Rule 68(2)(b) Material does not relate to the charged acts and conduct of the accused as described in the confirmed charges or which are otherwise relied upon by the Prosecution to establish the accused's criminal responsibility for the crimes charged.<sup>7</sup>

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<sup>4</sup> ICC-01/14-01/18-1833-Conf-Corr, para. 24.

<sup>5</sup> See e.g. ICC-01/05-01/13-1649.

<sup>6</sup> ICC-01/14-01/18-1833-Conf-Corr, para. 23.

<sup>7</sup> ICC-01/14-01/18-1833-Conf-Corr, para. 28.

8. Instead, the Proposed Rule 68(2) Material is limited to the falsification of claims made by former child soldiers, relied upon by the Prosecution and CLRV1, with regard to their identities and/or substantive evidence that they were members of the Anti-Balaka.

C. The Proposed Rule 68(2)(b) Material has been prepared in a reliable manner

9. The Proposed Rule 68(2)(b) Material has sufficient *indicia* of reliability for the purposes of formal submission pursuant to rule 68(2)(b).<sup>8</sup>

10. For each of the 20 Defence Witnesses, the prior record testimony was: (i) taken in the ordinary course of proceedings, (ii) signed by the witness and the investigator(s) conducting the interview, (iii) given voluntarily, (iv) verified by the witness at the time of the statement and, (v) includes information that the witness was given an explanation of the procedure before the ICC and was informed of the significance of providing the statement to the Defence. In this regard, each statement contains an express acknowledgment attesting to the voluntariness and the truth of its contents to the best of the witness' knowledge. Moreover, certifications in accordance with rule 68(2)(b)(ii) are currently being prepared with the assistance of the Registry and will be submitted in due course.<sup>9</sup>

11. Each statement was obtained in a language understood by each of the 20 Defence Witnesses, namely French and/or Sango, and read back by a qualified interpreter assigned by the Registry. In doing so, each of the 20 Defence Witnesses was informed of their right to make corrections and clarifications to their statement.

12. Further, as developed below, each of the statements are internally consistent and sufficiently corroborated by other evidence in these proceedings.<sup>10</sup>

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<sup>8</sup> ICC-01/14-01/18-1833-Conf-Corr, para. 42.

<sup>9</sup> See Email Decision on Yekatom Defence Request Regarding Certification of Witness Statements, 30 October 2023 [08:55].

<sup>10</sup> Noting that the Trial Chamber is only obliged to conduct a preliminary assessment of these factors at this stage see ICC-01/14-01/18-1833-Conf-Corr, para. 43.

#### D. Overview of the Proposed Rule 68(2)(b) Material

13. In order to assist the Trial Chamber's assessment of the Proposed Rule 68(2)(b) Material, the Defence provides a comprehensive overview of the salient issues arising within the prior recorded testimony for each of the 20 Defence Witnesses, as well as a summary of the relevant cumulative and/or corroborating evidence in this case.<sup>11</sup>
14. These summaries are sub-divided into four categories: (a) production of documentary material, (b) familial relationships of alleged former child soldiers, (c) ESF organisation, and (d) the fraudulent conduct of [REDACTED] (P-2638).
15. The evidence pertaining to each category goes to proof of the falsification of claims made by former child soldiers, relied upon by the Prosecution and CLRV1, with regard to their identities and/or substantive evidence that they were members of the Anti-Balaka.
16. In particular, the evidence of the 20 Defence Witnesses establishes that:
  - [REDACTED] (P-2475) has been untruthful as to the year of his birth, and his involvement in the Anti-Balaka, for personal gain. He has also been untruthful about [REDACTED] in order to conceal the fact he has fabricated evidence in these proceedings.
  - [REDACTED] (P-2580) and [REDACTED] (P-2638) intentionally submitted falsified identifying documents to both the Prosecution and/or CLRV1 in relation to the ages and/or names of [REDACTED] (P-2475), [REDACTED] (aka [REDACTED]/V45-P-0001) and [REDACTED] (aka [REDACTED]/V45-P-0002) and [REDACTED] (aka [REDACTED]) (P-2620). [REDACTED] (P-2580) fabricated the name of "[REDACTED]" in order to conceal their relationship. [REDACTED] (P-2638) together with the witnesses fabricated

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<sup>11</sup> Noting the Trial Chamber's prior finding that "the prior recorded testimony does not need to be of cumulative or corroborative nature to oral testimony of the same events or facts, but it is sufficient that the oral testimony concerns similar facts" see ICC-01/14-01/18-1833-Conf-Corr, para. 38.

the names “[REDACTED]” and “[REDACTED]” in order to ensure the former’s participation in the ICCPP and to conceal his family ties with the latter.

- Identifying documents concerning [REDACTED] (aka [REDACTED]/CAR-V45-P0001), [REDACTED] (aka [REDACTED]/P-2620), [REDACTED] (P-2582), [REDACTED] (under the stolen identity of ‘[REDACTED]’) and [REDACTED] (aka [REDACTED]/CAR-V45-P0002) all bear the same or similar handwriting. In particular, there is a strong similarity between the handwriting of [REDACTED] (P-2018) and identifying documents concerning P-2620, P-2582, CAR-V45-P-0001 and the passport application of [REDACTED].
- [REDACTED] (P-2638) fabricated evidence regarding the timing of the birth of [REDACTED]’s (aka [REDACTED]/P-2620) [REDACTED] for personal family gain.
- [REDACTED] (P-2580) and [REDACTED] (P-2638) were involved in several schemes instructing and training young individuals to fabricate stories concerning their identities and/or their alleged participation within the Anti-Balaka in meetings with the CLRV1, and/or offered bribes for children to sign pre-filled forms which were subsequently submitted to the CLRV1.
- The ESF programme was designed for orphans/deprived children in order to stop them from joining armed groups and that it did not include Anti-Balaka members.
- [REDACTED] (P-2638), along with [REDACTED], [REDACTED], have sought to intervene in Defence investigations and threatened [REDACTED] in an attempt to conceal the truth.
- Both [REDACTED] (P-2580) and [REDACTED] (P-2638) were motivated to falsify evidence for financial gain.

17. Whilst the Defence notes that full consideration of the standard evidentiary criteria is to be deferred to the Chamber's eventual deliberation of its judgment,<sup>12</sup> it is submitted that the Proposed Rule 68(2)(b) Material meets the requisite relevance and probative value threshold.
18. In this regard, the Defence notes that the Prosecution has more recently sought to shift its case with regard to its reliance on ESF-related material for the purposes of Count 29. On the one hand, it seeks to assert the tenuous position that the fraudulent participation of children in the ESF programme is sufficient to establish that they were part of the 'YEKATOM Anti-Balaka group',<sup>13</sup> whilst at the same time insisting that "Count 29 is also predicated on the testimony of witnesses regarding their direct observations of, and interactions with, under age children in Yekatom's Anti-Balaka Group unconnected to those who participated in the Enfants Sans Frontières (ESF) demobilisation programme".<sup>14</sup>
19. Notwithstanding issues concerning notice of the particulars of its case concerning Count 29, the Prosecution is effectively seeking to simultaneously bolster and diminish the value of its ESF-related evidence. As such, any submission that the Proposed Rule 68(2)(b) Material is of "limited materiality to matters in controversy in the case"<sup>15</sup> — is not only without merit but should be treated in the same vein i.e., the Proposed Rule 68(2)(b) Material is both relevant for the purposes of rule 68(2)(b) and at the same time does not relate to issues that are materially in dispute.
20. Similarly, the Prosecution's position that the expected testimony of Defence witnesses concerning P-2620 relate to "collateral issues" as P-2620 has been withdrawn are equally misguided. The Proposed Rule 68(2)(b) Material insofar as it relates to the falsified evidence concerning P-2620's real name as well as the

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<sup>12</sup> ICC-01/14-01/18-1833-Conf-Corr, para. 15.

<sup>13</sup> ICC-01/14-01/18-2122-Conf, para. 6.

<sup>14</sup> ICC-01/14-01/18-2122-Conf, para. 5 and [REDACTED].

<sup>15</sup> ICC-01/14-01/18-2187-Conf-Exp para. 11.



timing of the birth and name of P-2620's remains relevant to the Defence's case relating to the role and extent to which [REDACTED] (P-2638) sought to fabricate evidence concerning the identities and/or the participation of alleged former child soldiers in the Anti-Balaka. The efforts of [REDACTED] (P-2638), along with other ESF-affiliated individuals, were far-reaching and has tainted ESF-related evidence relied upon by both the Prosecution and CLRV1 in these proceedings.

*i) Production of documentary material*

1. CAR-D29-P-6011

21. The Defence tenders for formal submission P-6011's statement collected on [REDACTED], totalling approximately 6 pages.<sup>16</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6011's statement.
22. The witness's proposed testimony establishes the following:
- P-6011 was [REDACTED].
  - P-6011 explains that [REDACTED], but that he does not recognise specific corrections made to the document and that the corrections are not made in his handwriting.
  - P-6011 attests that [REDACTED] (P-2475) was not [REDACTED] for the [REDACTED].
  - P-6011 explains the formal procedure in which a [REDACTED] is issued at the [REDACTED].
23. P-6011's proposed evidence is cumulative and corroborative of *inter alia* documentary evidence showing that [REDACTED] document CAR-OTP-2128-1202,<sup>17</sup> and that for the year [REDACTED] (P-2475) [REDACTED].<sup>18</sup> It also

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<sup>16</sup> CAR-D29-0009-0362.

<sup>17</sup> CAR-OTP-2128-1203-R03, para. 18.

<sup>18</sup> See CAR-D29-0013-0070 and the Prosecution investigation report and associated documents: CAR-OTP-00001755-R01, CAR-OTP-00000356, CAR-OTP-00000355.

corroborates that there has been fabrication of documents in relation to [REDACTED]'s (P-2475) [REDACTED].<sup>19</sup>

24. The Defence submits three associated exhibits which form an integral part of P-6011's testimony. These comprise: first page of ESF report 2014 mission report submitted by the Prosecution, and two versions of the [REDACTED] of P-2475 submitted by the Prosecution.<sup>20</sup>

## 2. CAR-D29-P-6017

25. The Defence tenders for formal submission P-6017's two statements respectively collected on [REDACTED], totalling approximately 12 pages.<sup>21</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6017's statement.

26. The witness's proposed testimony establishes the following:

- P-6017 is [REDACTED].
- P-6017 explains that she produced CAR-OTP-2119-0909 following a [REDACTED] of, and based upon information [REDACTED] who was falsely presented [REDACTED] as '[REDACTED]' and [REDACTED].
- P-6017 attests that she produced CAR-D29-0013-0253<sup>22</sup> and that the information contained therein concerning the names of [REDACTED] is accurate.
- P-6017 provides authenticating information regarding CAR-D29-0014-0159, CAR-D29-0014-0160 and CAR-D29-0014-0162.
- P-6017 attests that she did not produce CAR-OTP-2119-0905, which is the purported [REDACTED].

<sup>19</sup> See CAR-D29-0014-0071, CAR-D29-0001-0390, CAR-D29-0001-0398, CAR-D29-0001-0404 et CAR-D29-0001-0412.

<sup>20</sup> CAR-D29-0009-0370, CAR-D29-0009-0369 and CAR-D29-0009-0368.

<sup>21</sup> CAR-D29-0009-0260, CAR-D29-0009-0255.

<sup>22</sup> The Defence notes that at page 5 of CAR-D29-0009-0260 it refers to 'Annexe 1 : CAR-D29-0013-0250'. This is a typographical error and should read CAR-D29-0009-0253 as reflected at page 4 of CAR-D29-0009-0260.

- P-6017 explains that [REDACTED] (P-2638), first name [REDACTED].

27. P-6017's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence including a Prosecution investigation report in which [REDACTED] (aka [REDACTED]/P-2620) does not recognise CAR-OTP-2119-0905,<sup>23</sup> as well as various Facebook material where P-2620 shares pictures of a [REDACTED],<sup>24</sup> ii) the proposed rule 68(2) witnesses: P-6010's evidence that he is [REDACTED],<sup>25</sup> P-6012 attesting that P-2620 [REDACTED] whom P-2620 [REDACTED],<sup>26</sup> P-6019 attesting that P-2620 has a son named [REDACTED],<sup>27</sup> and P-6025 attesting that [REDACTED] with P-2620 is [REDACTED].<sup>28</sup> Further, her testimony with regards to the threats of [REDACTED] is reliable in that she has information which was elicited in private session during the testimony [REDACTED] (aka [REDACTED]/CAR-V45-P0001).<sup>29</sup> This incident is corroborated by P-6025.<sup>30</sup>

28. The Defence submits 11 associated exhibits which form an integral part of P-6017's testimony. These comprise: [REDACTED] card of P-6017, the [REDACTED] submitted by the Prosecution, three photographs of [REDACTED] (aka [REDACTED]/P-2620), a declaration relating to [REDACTED]'s (P-2638) [REDACTED], the 2012 and 2020 [REDACTED] of the [REDACTED], the 2011 [REDACTED] of [REDACTED], a photograph of [REDACTED] (P-2638), and the [REDACTED].<sup>31</sup>

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<sup>23</sup> See CAR-OTP-00000069.

<sup>24</sup> See CAR-D29-0016-0053, CAR-D29-0016-0055, CAR-D29-0021-1966, CAR-D29-0021-1823, at 1826, CAR-D29-0021-3271, at 3284-3285, CAR-D29-0021-1823, at 1842.

<sup>25</sup> CAR-D29-0009-0248, para. 16.

<sup>26</sup> CAR-D29-0009-0410, paras. 23 and 36.

<sup>27</sup> CAR-D29-0009-0340, para. 18.

<sup>28</sup> CAR-D29-0009-0280, para. 31.

<sup>29</sup> [REDACTED].

<sup>30</sup> CAR-D29-0009-0280, paras 86-92.

<sup>31</sup> CAR-D29-0009-0267, CAR-D29-0009-0268, CAR-D29-0009-0269, CAR-D29-0009-0271, CAR-D29-0009-0273, CAR-D29-0009-0275, CAR-D29-0009-0296, CAR-D29-0009-0297, CAR-D29-0009-0302, CAR-D29-0009-0303 and CAR-D29-0009-0304.

### 3. CAR-D29-P-6022

29. The Defence tenders for formal submission P-6022's statement collected on [REDACTED], totalling approximately 9 pages.<sup>32</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6022's statement.

30. The witness's proposed testimony establishes the following:

- P-6022 is [REDACTED].
- P-6022 explains the circumstances in which the [REDACTED] of CAR-V45-P-0001 and CAR-V45-P-0002 (respectively CAR-V45-00000005 and CAR-V45-00000008) were produced at the repeated request of Mr. Joseph Akem.
- P-6022 explains that [REDACTED] was held for the issuance of CAR-V45-00000005 and CAR-V45-00000008 and that no '[REDACTED]' was not provided to the [REDACTED] in relation to CAR-V45-00000008.
- P-6022 attests that he produced CAR-D29-0001-0531 (the [REDACTED] of the [REDACTED]).

31. P-6022's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence showing the real identity of CAR-V45-P-0001<sup>33</sup> and CAR-V45-P-0002,<sup>34</sup> and the proposed rule 68(2) testimony of P-6028, P-6030, P-6031, and P-6034 attesting to the veracity of these documents,<sup>35</sup> ii) documentary evidence showing the inscription to the role of the [REDACTED],<sup>36</sup> iii) the proposed rule 68(2) testimony of P-6027 identifying [REDACTED] (aka [REDACTED])/CAR-V45-

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<sup>32</sup> CAR-D29-0009-0217.

<sup>33</sup> CAR-D29-0010-0161 whereby witness V45-P-0002 identified the individual on the photograph as "[REDACTED]" and the person [REDACTED], CAR-D29-0001-0551, CAR-D29-0013-0250, CAR-D29-0013-0265, CAR-D29-0014-0165, at 0167.

<sup>34</sup> CAR-D29-0013-0252, CAR-D29-0013-0254, CAR-D29-0013-0256, CAR-D29-0013-0265, CAR-D29-0014-0165 at 0168,

<sup>35</sup> Respectively in CAR-D29-0009-0499, paras. 17-19 and 26-27, CAR-D29-0009-0514, paras. 17-18, CAR-D29-0009-0493, paras. 17-18, CAR-D29-0009-0372-R01, paras. 17 and 25-26.

<sup>36</sup> CAR-D29-0001-0539.

P0002) on CAR-V45-0000011,<sup>37</sup> and iv) the proposed Rule 68(3) testimony of P-6025 explaining the role of [REDACTED] (P-2638) and Mr. Akem in the production of the birth certificates and attesting to the [REDACTED] between [REDACTED] (P-2638) and [REDACTED] (aka [REDACTED]/CAR-V45-P0001),<sup>38</sup> v) the proposed rule 68(2) testimony of P-6034 also attesting to the [REDACTED] between [REDACTED] (P-2638) and [REDACTED] (aka [REDACTED]/CAR-V45-P0001),<sup>39</sup> vi) the proposed Rule 68(2) testimony of P-6024 affecting the reliability of various documents bearing his signature.<sup>40</sup>

32. The Defence submits four associated exhibits which form an integral part of P-6022's testimony. These comprise: the [REDACTED] of [REDACTED], the [REDACTED], and relevant chain of custody documents including the [REDACTED] and Mr. Joseph Akem and the email correspondence transmitting the [REDACTED] to Defence Lead Counsel.<sup>41</sup>

#### 4. CAR-D29-P-6024

33. The Defence tenders for formal submission P-6024's statement collected on [REDACTED], totalling approximately 8 pages.<sup>42</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6024's statement.

34. The witness's proposed testimony establishes the following:

- P-6024 is the [REDACTED] of [REDACTED].
- P-6024 recounts that a meeting took place with around 30 children gathered by ESF in the [REDACTED] neighbourhood, [REDACTED]. [REDACTED] upon [REDACTED]'s (P-2580) [REDACTED].
- P-6024 explains that [REDACTED].

<sup>37</sup> CAR-D29-0009-0239, para. 19.

<sup>38</sup> CAR-D29-0009-0280, para. 63.

<sup>39</sup> Respectively CAR-D29-0009-0280, para. 24, CAR-D29-0009-0372, para. 21.

<sup>40</sup> CAR-D29-0009-0209, paras. 25, 32, 33, 35, 37.

<sup>41</sup> CAR-D29-0009-0238, CAR-D29-0009-0229, CAR-D29-0009-0227, CAR-D29-0009-0226.

<sup>42</sup> CAR-D29-0009-0209.

35. P-6024's [REDACTED],<sup>43</sup> and his evidence is cumulative and corroborative of *inter alia* (i) P-7011 who provides expert testimony showing that the handwriting
36. on the documents issued by the [REDACTED] are the same for [REDACTED] (aka [REDACTED]/P-2620),<sup>44</sup> [REDACTED] (P-2582)<sup>45</sup> and [REDACTED] (aka [REDACTED]/CAR-V45-P-0001)<sup>46</sup> and the victim participation forms for P-2620<sup>47</sup> and CAR-V45-P-0001<sup>48</sup>, (ii) Roger OKOA PENGUIA (P-2084) who confirmed the irregularity of the documents being negotiated with a *chef de quartier*,<sup>49</sup> and (iii) Alexandre KOUROUPE AWO (P-1813) commenting that a [REDACTED].<sup>50</sup>
37. The Defence submits six associated exhibits which form an integral part of P-6024's testimony. These comprise: the first page of an ESF report dated August 2014, *Attestation d'identité* and the *Transcriptions Jugements Suppletifs d'acte de Naissance* of [REDACTED] (aka [REDACTED]/V45-P-0002), and the *Déclaration relative à l'identité* of [REDACTED] (aka [REDACTED]/V45-P-0001), of [REDACTED] (aka [REDACTED]/P-2620) and of [REDACTED] (P-2582).<sup>51</sup>

#### 5. CAR-D29-P-6028

38. The Defence tenders for formal submission P-6028's statements collected on [REDACTED], totalling approximately 4 pages.<sup>52</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6028's statement.
39. The witness's proposed testimony establishes the following:

<sup>43</sup> CAR-OTP-2135-2412-R01 at 2416, CAR-OTP-2135-2405 at 2410, CAR-V45-00000007 at 005.

<sup>44</sup> CAR-OTP-2135-2412-R02, at 2416.

<sup>45</sup> CAR-OTP-2135-2405, at 2410.

<sup>46</sup> CAR-V45-00000004.

<sup>47</sup> CAR-OTP-2135-2412-R02.

<sup>48</sup> CAR-V45-00000004.

<sup>49</sup> **P-2084** : ICC-01/14-01/18-T-235-CONF-FRA ET from [15:09:48] to [15:11:54].

<sup>50</sup> **P-1813** : ICC-01/14-01/18-T-181-CONF-FRA ET, [REDACTED].

<sup>51</sup> CAR-OTP-2068-0558, CAR-V45-00000007, CAR-V45-00000009, CAR-V45-00000004, CAR-D29-0013-0146, CAR-D29-0013-0145.

<sup>52</sup> CAR-D29-0009-0499.

- P-6028 was the [REDACTED] of [REDACTED] from September 2016 to September 2023.
- P-6028 provides authenticating information concerning the [REDACTED] for [REDACTED] (aka [REDACTED]/CAR-V45-P-0001).
- P-6028 provides CAR-D29-0013-0252 and explains the formal process in which CAR-D29-0013-0256 and CAR-D29-0014-0152 would have been issued.

40. P-6028's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence showing the real identity of [REDACTED] (aka [REDACTED]/ CAR-V45-P-0001),<sup>53</sup> and the proposed rule 68(2) testimony of P-6031, and P-6034 attesting to the veracity of these documents,<sup>54</sup> ii) and the proposed Rule 68(3) testimony of P-6025 and proposed rule 68(2) testimony of P-6034 attesting to the [REDACTED] between [REDACTED] (P-2638) and [REDACTED] (aka [REDACTED]/CAR-V45-P0001).<sup>55</sup>

41. The Defence submits three associated exhibits which form an integral part of P-6028's testimony. These comprise: [REDACTED], 1<sup>st</sup> cycle register of [REDACTED] and registration form to the [REDACTED].<sup>56</sup>

#### 6. CAR-D29-P-6030

42. The Defence tenders for formal submission P-6030's statement collected on [REDACTED], totalling approximately 4 pages.<sup>57</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6013's statement.

43. The witness's proposed testimony establishes the following:

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<sup>53</sup> CAR-D29-0010-0161 whereby witness V45-P-0002 identified the individual on the photograph as "[REDACTED]" and the person [REDACTED], CAR-D29-0001-0551, CAR-D29-0013-0250, CAR-D29-0013-0265, CAR-D29-0014-0165, at 0167, CAR-D29-0013-0252, CAR-D29-0013-0256, CAR-D29-0014-0152

<sup>54</sup> Respectively in CAR-D29-0009-0493, paras. 17-18, CAR-D29-0009-0372-R01, paras. 17 and 25-26.

<sup>55</sup> Respectively CAR-D29-0009-0280, para. 24, CAR-D29-0009-0372, para. 21.

<sup>56</sup> CAR-D29-0009-0504, CAR-D29-0009-0505, CAR-D29-0009-0508.

<sup>57</sup> CAR-D29-0009-0514.

- P-6030 is the [REDACTED], also known as [REDACTED];
- P-6030 confirms that [REDACTED] (aka [REDACTED]/CAR-V45-P-0002) regularly attended [REDACTED] in 2011;
- P-6030 provides authenticating information with regard to CAR-D29-0013-0266, CAR-D29-0014-0169, CAR-D29-0013-0266 and CAR-D29-0014-0169.

44. P-6030's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence showing the real identity of [REDACTED] (aka [REDACTED]/CAR-V45-P-0002),<sup>58</sup> and the proposed rule 68(2) testimony of P-6028, attesting to the veracity of these documents,<sup>59</sup> ii) the proposed rule 68(2) testimonies of P-6027 and P-6039 identifying [REDACTED] (aka [REDACTED]/CAR-V45-P-0002) on CAR-V45-00000011,<sup>60</sup> of P-6024 affecting the reliability of various documents, including CAR-V45-00000007 and CAR-V45-00000009.<sup>61</sup>

45. The Defence submits two associated exhibits which form an integral part of P-6030's testimony. These comprise: a [REDACTED] for [REDACTED] (aka [REDACTED]/V45-0002) and the [REDACTED].<sup>62</sup>

#### 7. CAR-D29-P-6031

46. The Defence tenders for formal submission P-6031's statement collected on [REDACTED], totalling approximately four pages.<sup>63</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6031's statement.

47. The witness's proposed testimony establishes the following:

- P-6031 is the [REDACTED];

<sup>58</sup> CAR-D29-0013-0252, CAR-D29-0013-0254, CAR-D29-0013-0256, CAR-D29-0013-0265, CAR-D29-0014-0165 at 0168.

<sup>59</sup> CAR-D29-0009-0499.

<sup>60</sup> CAR-D29-0009-0239, para. 19, CAR-D29-0009-0545, para. 25.

<sup>61</sup> CAR-D29-0009-0209, paras. 25, 32, 33, 35, 37.

<sup>62</sup> CAR-D29-0009-0518 and CAR-D29-0009-0519.

<sup>63</sup> CAR-D29-0009-0493.



- P-6031 provides authenticating information with regard to CAR-D29-0013-0250;
- P-6031 explains that [REDACTED] and [REDACTED] are different people and that only [REDACTED] is a [REDACTED].

48. P-6031's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence showing the real identity of [REDACTED] (aka [REDACTED]/CAR-V45-P-0001),<sup>64</sup> and the proposed rule 68(2) testimony of P-6034 attesting to the veracity of these documents,<sup>65</sup> ii) the proposed Rule 68(3) testimony of P-6025 and proposed rule 68(2) testimony of P-6034 attesting to the [REDACTED] between [REDACTED] (P-2638) and [REDACTED] (aka [REDACTED]/CAR-V45-P-0001).<sup>66</sup>

49. The Defence submits one associated exhibit which forms an integral part of P-6031's testimony namely, an attestation with regard to the *Déclaration relative à l'identité* of [REDACTED] (V45-P-0001).<sup>67</sup>

#### 8. CAR-D29-P-6034

50. The Defence tenders for formal submission P-6034's statements collected on [REDACTED], totalling approximately 6 pages.<sup>68</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6034's statement.

51. The witness's proposed testimony establishes the following:

- P-6034 is a [REDACTED] at [REDACTED] of [REDACTED] since 2012.

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<sup>64</sup> CAR-D29-0010-0161 whereby witness V45-P-0002 identified the individual on the photograph as "[REDACTED]" and the person [REDACTED], CAR-D29-0001-0551, CAR-D29-0013-0250, CAR-D29-0013-0265, CAR-D29-0014-0165, at 0167.

<sup>65</sup> CAR-D29-0009-0372-R01, paras. 17 and 25-26.

<sup>66</sup> Respectively CAR-D29-0009-0280, para. 24, CAR-D29-0009-0372, para. 21.

<sup>67</sup> CAR-D29-0009-0497.

<sup>68</sup> CAR-D29-0009-0372.

- P-6034 attests to the [REDACTED] between CAR-V45-P-0001, and [REDACTED] (P-2638) and [REDACTED] and confirms that the correct spelling of CAR-V45-P-0001's name is [REDACTED].
- P-6034 explains her involvement in assisting the current [REDACTED], Mr. [REDACTED], to produce CAR-D29-0013-0265.

52. P-6034's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence showing the real identity of [REDACTED] (aka [REDACTED]/CAR-V45-P-0001),<sup>69</sup> and the proposed rule 68(2) testimony of P-6031 attesting to the veracity of these documents,<sup>70</sup> ii) the proposed rule 68(3) testimony of P-6025 attesting to the [REDACTED] between [REDACTED] (P-2638) and [REDACTED] (aka [REDACTED]/CAR-V45-P0001).<sup>71</sup>

53. The Defence submits two associated exhibits which form an integral part of P-6034's testimony. These comprise: a [REDACTED] of [REDACTED] and a register of [REDACTED].<sup>72</sup>

#### 9. CAR-D29-P-7011

54. The Defence tenders for formal submission P-7011's expert report produced on [REDACTED], totalling 83 pages.<sup>73</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-7011's report.

55. The witness's proposed expert report concludes the following:

- That the first page of the health book of [REDACTED]<sup>74</sup> was not written on the same day as the second page, that the handwriting differs on both pages,

<sup>69</sup> CAR-D29-0010-0161 whereby witness V45-P-0002 identified the individual on the photograph as "[REDACTED]" and the [REDACTED], CAR-D29-0001-0551, CAR-D29-0013-0250, CAR-D29-0013-0265, CAR-D29-0014-0165, at 0167, CAR-D29-0013-0252, CAR-D29-0013-0256, CAR-D29-0014-0152

<sup>70</sup> CAR-D29-0009-0493, paras. 17-18.

<sup>71</sup> CAR-D29-0009-0280, para. 24.

<sup>72</sup> CAR-D29-0009-0378 and CAR-D29-0009-0379.

<sup>73</sup> CAR-D29-0005-1016.

<sup>74</sup> CAR-OTP-2121-2578.

and that there is a strong similarity in the handwriting on the first page and the *attestation d'identité* of [REDACTED] (aka [REDACTED]/CAR-V45-P-0002).<sup>75</sup>

- That there is a strong concordance between the handwriting of Prosecution witness [REDACTED] (P-2018)<sup>76</sup> and the following documents: passport application of [REDACTED] (aka [REDACTED]/P-2620),<sup>77</sup> passport application of [REDACTED] (P-2582),<sup>78</sup> passport application of [REDACTED] (under the stolen identity of '[REDACTED]'),<sup>79</sup> and the victim participation form of [REDACTED] (aka [REDACTED]/CAR-V45-P-0001).<sup>80</sup>
- That the handwriting in the attestation documents issued by the *Chef de quartiers* for [REDACTED] (aka [REDACTED]/P-2620),<sup>81</sup> [REDACTED] (P-2582)<sup>82</sup> and [REDACTED] (aka [REDACTED]/CAR-V45-P-0001)<sup>83</sup> as well as in the victim participation form for P-2620<sup>84</sup> and the victim participation form for CAR-V45-P-0001 is similar.<sup>85</sup>

56. P-7011's evidence is corroborative of the proposed rule 68(2) testimony of P-6024's evidence that [REDACTED]<sup>86</sup> he did not fill out the documents,<sup>87</sup> of Roger OKOA PENGUIA (P-2084) who confirmed the irregularity of the documents being negotiated with a *chef de quartier*<sup>88</sup> and of Alexandre KOUROUPE AWO (P-1813) commenting that a [REDACTED].<sup>89</sup>

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<sup>75</sup> CAR-V45-00000007, p. 5.

<sup>76</sup> Document used for comparison: CAR-OTP-2071-0302, CAR-OTP-2071-0309-R02, CAR-OTP-2071-0282.

<sup>77</sup> CAR-D29-0015-0001.

<sup>78</sup> CAR-D29-0015-0002.

<sup>79</sup> CAR-D29-0015-0003.

<sup>80</sup> CAR-V45-00000004.

<sup>81</sup> CAR-OTP-2135-2412-R02, at 2416.

<sup>82</sup> CAR-OTP-2135-2405, at 2410.

<sup>83</sup> CAR-V45-00000004.

<sup>84</sup> CAR-OTP-2135-2412-R02.

<sup>85</sup> CAR-V45-00000004.

<sup>86</sup> CAR-OTP-2135-2412-R01 at 2416, CAR-OTP-2135-2405 at 2410, CAR-V45-00000007 at 005.

<sup>87</sup> CAR-D29-0009-0209.

<sup>88</sup> **P-2084** : ICC-01/14-01/18-T-235-CONF-FRA ET, from [15:09:48] to [15:11:54].

<sup>89</sup> **P-1813** : ICC-01/14-01/18-T-181-CONF-FRA ET, [REDACTED].

57. The Defence submits two associated exhibit, namely her curriculum vitae and the letter of instruction which form an integral part of P-7011's expert report.<sup>90</sup>

*ii) Familial relationships of alleged former child soldiers*

10. CAR-D29-P-6018

58. The Defence tenders for formal submission P-6018's statements respectively collected on [REDACTED], totalling approximately 12 pages.<sup>91</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6018's statement.

59. The witness's proposed testimony establishes the following:

- P-6018 is currently [REDACTED] in [REDACTED] and is the [REDACTED] (P-2475).
- P-6018 explains that P-2475 [REDACTED], and that his [REDACTED], [REDACTED].
- P-6018 recounts that [REDACTED] (P-2475) was [REDACTED], and recognises that CAR-D29-0013-0004 is P-2475's [REDACTED], [REDACTED].
- P-6018 explains that [REDACTED] (P-2475) was present [REDACTED], had different small occupations in [REDACTED] including [REDACTED] before and after the arrival of the Anti-Balaka in PISSA and was never a member of the Anti-Balaka.
- P-6018 attests that [REDACTED] (P-2475).
- P-6018 explains that in 2014, when P-2475 was [REDACTED], he participated in the [REDACTED] and received a sum of money at the end of his ESF training.

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<sup>90</sup> CAR-D29-0011-0006, CAR-D29-0007-0193-R01.

<sup>91</sup> CAR-D29-0009-0396, CAR-D29-0009-0557.

- P-6018 explains that the objective of the ESF training was to prevent children from joining an armed group.

60. P-6018's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence<sup>92</sup> and proposed rule 68(2) witness P-6016 [REDACTED],<sup>93</sup> ii) the established evidence that there has been fabrication of documents in relation to [REDACTED]'s (P-2475) age,<sup>94</sup> and iii) of proposed rule 68(2) witnesses P-6033,<sup>95</sup> P-6039<sup>96</sup> and P-6016,<sup>97</sup> proposed live witness P-6036 and documentary evidence regarding the [REDACTED] between P-2475, [REDACTED].<sup>98</sup>

61. The Defence submits four associated exhibits which form an integral part of P-6018's testimony. These comprise: an identifying document of P-6018, a copy of the baptism certificate for [REDACTED] (P-2475) and two copies of the Facebook page of P-2475.<sup>99</sup>

#### 11. CAR-D29-P-6016

62. The Defence tenders for formal submission P-6016's statements respectively collected on [REDACTED], totalling approximately 14 pages.<sup>100</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6016's statement.

63. The witness's proposed testimony establishes the following:

- P-6016 is the [REDACTED] of [REDACTED] (P-2475) and lives in [REDACTED].
- P-6016 recounts having had a [REDACTED] and [REDACTED], P-2475.

<sup>92</sup> See CAR-D29-0013-0004, CAR-D29-0014-0065, CAR-D29-0016-0071, CAR-D29-0016-0066.

<sup>93</sup> CAR-D29-0009-0427, para. 30

<sup>94</sup> See CAR-OTP-00000320.

<sup>95</sup> CAR-D29-0009-0315, para. 30.

<sup>96</sup> CAR-D29-0009-0545, para. 21.

<sup>97</sup> CAR-D29-0009-0427, para. 30.

<sup>98</sup> CAR-D29-0013-0004, para. 33.

<sup>99</sup> CAR-D29-0009-0403, CAR-D29-0009-0404, CAR-D29-0009-0408, CAR-D29-0009-0409.

<sup>100</sup> CAR-D29-0009-0427, CAR-D29-0009-0533.

- P-6016 explains that [REDACTED], and that there were several years between [REDACTED] and [REDACTED].
- P-6016 states that P-2475 had [REDACTED] nicknamed '[REDACTED]'.

64. P-6016's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence<sup>101</sup> and proposed rule 68(2) witness P-6018 regarding [REDACTED]'s (P-2475) year of birth,<sup>102</sup> ii) the established fabrication of documents in relation to [REDACTED]'s (P-2475) age,<sup>103</sup> iii) of proposed rule 68(2) witnesses P-6033<sup>104</sup> and P-6018,<sup>105</sup> proposed live witness P-6036 and documentary evidence regarding the [REDACTED] between P-2475, [REDACTED].<sup>106</sup>

65. The Defence submits six associated exhibits which form an integral part of P-6016's testimony. These comprise: a photograph of [REDACTED] (P-6016), a series of photographs of [REDACTED], a photograph with multiple individuals, the baptism certificate for [REDACTED] (P-2475) collected by the Defence, a schooling certificate collected by the Prosecution, and a school attendance certificate collected by the Prosecution.<sup>107</sup>

## 12. CAR-D29-P-6010

66. The Defence tenders for formal submission P-6010's statements respectively collected on [REDACTED], totalling approximately 13 pages.<sup>108</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6010's statement.

67. The witness's proposed testimony establishes the following:

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<sup>101</sup> See CAR-D29-0013-0004, CAR-D29-0014-0065, CAR-D29-0016-0071-R01, CAR-D29-0016-0066-R01.

<sup>102</sup> CAR-D29-0009-0396, para. 19.

<sup>103</sup> See CAR-OTP-00000320.

<sup>104</sup> CAR-D29-0009-0315, para.

<sup>105</sup> CAR-D29-0009-0396, para. 15.

<sup>106</sup> CAR-D29-0013-0004, para. 33.

<sup>107</sup> CAR-D29-0009-0436, CAR-D29-0009-0538, CAR-D29-0010-0028, CAR-D29-0013-0004, CAR-D29-0013-0130, CAR-OTP-2128-1201.

<sup>108</sup> CAR-D29-0009-0248, CAR-D29-0009-0201.

- P-6010 is a [REDACTED].
- P-6010 explains that [REDACTED], and that P-2620 is the [REDACTED]. He further attests that [REDACTED].
- P-6010 explains that since P-2620 [REDACTED] (P-2671).
- P-6010 explains that P-2620's family is from [REDACTED] and [REDACTED] and that her father, [REDACTED] lives in [REDACTED].
- P-6010 provides CAR-D29-0015-0035 which is the [REDACTED].

68. P-6010's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence including a Prosecution investigation report in which P-2620 does not recognise CAR-OTP-2119-0905,<sup>109</sup> various Facebook material where [REDACTED] (aka [REDACTED]/P-2620) shares pictures of [REDACTED]/[REDACTED],<sup>110</sup> ii) and proposed rule 68(2) witness P-6012 who attests that P-2620 [REDACTED],<sup>111</sup> P-6019 who attests that P-2620 [REDACTED];<sup>112</sup> and iii) proposed rule 68(3) witness P-6025 attesting that the [REDACTED] P-2620 is [REDACTED]'s (P-2638) [REDACTED].

69. The Defence submits three associated exhibits which form an integral part of P-6010's testimony. These comprise: two photographs of P-2620 and a copy of the [REDACTED] for [REDACTED] (aka [REDACTED]/P-2620).<sup>113</sup>

### 13. CAR-D29-P-6027

70. The Defence tenders for formal submission P-6027's statement collected on [REDACTED], totalling approximately 6 pages.<sup>114</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6027's statement.

<sup>109</sup> See CAR-OTP-00000069.

<sup>110</sup> See CAR-D29-0016-0053, CAR-D29-0016-0055, CAR-D29-0021-1966, CAR-D29-0021-1823, at 1826, CAR-D29-0021-3271, at 3284-3285, CAR-D29-0021-1823, at 1842.

<sup>111</sup> CAR-D29-0009-0410, paras. 23 and 36.

<sup>112</sup> CAR-D29-0009-0340, para. 18.

<sup>113</sup> CAR-D29-0009-0207, CAR-D29-0009-0294, CAR-D29-0009-0295.

<sup>114</sup> CAR-D29-0009-0239.

71. The witness's proposed testimony establishes the following:

- P-6027 is [REDACTED] (aka [REDACTED]/CAR-V45-P0002) whom he recognises on CAR-V45-00000011 (i.e., the photograph of CAR-V45-P-0002) produced by the CRLV1.
- P-6027 explains that [REDACTED] CAR-V45-P-0002 [REDACTED].
- P-6027 attests that he does not know anyone by the name of '[REDACTED]'.

72. P-6027's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence showing the real identity of [REDACTED] (aka [REDACTED]/CAR-V45-P-0002),<sup>115</sup> and the proposed rule 68(2) testimony of P-6028 and P-6030 attesting to the veracity of these documents,<sup>116</sup> iii) P-6027 and P-6039 identifying [REDACTED] (aka [REDACTED]/CAR-V45-P-0002) on CAR-V45-00000011,<sup>117</sup> as well as the testimony of P-6024 affecting the reliability of various documents, including CAR-V45-00000007 and CAR-V45-00000009.<sup>118</sup>

73. The Defence submits four associated exhibits which form an integral part of P-6027's testimony. These comprise: a photograph of [REDACTED] (aka [REDACTED]/P-0002), a national identity card and the birth certificate of P-6027 and a screenshot of his Facebook account.<sup>119</sup>

#### 14. CAR-D29-P-6035

74. The Defence tenders for formal submission P-6035's statement collected on [REDACTED], totalling approximately 7 pages.<sup>120</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6035's statement.

<sup>115</sup> CAR-D29-0013-0252, CAR-D29-0013-0254, CAR-D29-0013-0256, CAR-D29-0013-0265, CAR-D29-0014-0165 at 0168,

<sup>116</sup> Respectively in CAR-D29-0009-0499, paras. 17-19 and 26-27, CAR-D29-0009-0514, paras. 17-18.

<sup>117</sup> CAR-D29-0009-0239, para. 19, CAR-D29-0009-0545, para. 25.

<sup>118</sup> CAR-D29-0009-0209, paras. 25, 32, 33, 35, 37.

<sup>119</sup> CAR-V45-00000011, CAR-D29-0009-0247, CAR-D29-0009-0246, CAR-D29-0009-0245.

<sup>120</sup> CAR-D29-0009-0444.



- P-6035 is the [REDACTED]. He is also the [REDACTED].
- P-6035 testifies that he was in Bangui on the 5 December 2013 with all of his children and step-children.
- P-6035 explains that after 5 December 2013, Ms. [REDACTED] lived with Mr. Yekatom in PISSA [REDACTED] to keep her company and take care of the house.
- P-6035 attests that [REDACTED] were never part of the 'Yekatom Group' and were never part of any armed group.
- P-6035 recounts that [REDACTED] participated in [REDACTED] and were registered by Mr. Yekatom so that they could benefit from [REDACTED].
- P-6035 produced both CAR-D29-0013-0075 and CAR-D29-0013-0076 and attests that CAR-D29-0013-0075 is the birth certificate for [REDACTED] and that CAR-D29-0013-0076 is the birth certificate for [REDACTED].

75. P-6035's proposed evidence is cumulative and corroborative of *inter alia* i) video evidence CAR-OTP-2055-2610 depicting Mr. Yekatom's visit to the hospital of [REDACTED] where P-6035 is present,<sup>121</sup> ii) Prosecution Witness [REDACTED] (P-2082) confirms that [REDACTED],<sup>122</sup> Prosecution witness [REDACTED] (P-1839) who testified that there were two children close to Mr. Yekatom on the road to MBAIKI whom he treated with care and did not have "functions".<sup>123</sup>

76. The Defence submits seven associated exhibits which form an integral part of P-6035's testimony. These comprise: a video reportage entitled *Centrafrique chefs de guerre et reconstruction*, the birth certificates of [REDACTED] and [REDACTED], three photographs extracted from the ESF reports with multiple individuals, the ESF list of the 60.<sup>124</sup>

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<sup>121</sup> CAR-OTP-2055-2610 from [00:06:48] to [00:07:14].

<sup>122</sup> [REDACTED]

<sup>123</sup> **P-1839**: ICC-01/14-01/18-T-171-FRA RT, p.6 [09:40:46] to [09:41:51].

<sup>124</sup> CAR-OTP-2055-2610, CAR-D29-0009-0451, CAR-D29-0009-0452, CAR-D29-0009-0453, CAR-D29-0009-0454, CAR-D29-0009-0455, CAR-D29-0009-0456.

15. CAR-D29-P-6039

77. The Defence tenders for formal submission P-6039's statement collected on [REDACTED], totalling approximately 7 pages.<sup>125</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6039's statement.

78. The witness's proposed testimony establishes the following:

- P-6039 was born in [REDACTED] and is the [REDACTED] (aka [REDACTED]/CAR-V45-P-0002).
- P-6039 [REDACTED], after the arrival of the Anti-Balaka's in 2014 and during the caterpillar's season, and attests that none of her family members were elements of Mr. Yekatom.
- P-6039 identifies [REDACTED] on CAR-V45-00000011 and P-6027 on CAR-D29-0016-0157.
- P-6039 identifies [REDACTED] on CAR-D29-0010-0028 (i.e., a photograph within one ESF report) at number 8 and [REDACTED]'s (P-2084) [REDACTED], at number 2.
- P-6039 knows P-6018 [REDACTED] (P-2475), has no knowledge as to the latter's involvement with the Anti-Balaka, but recalls seeing him [REDACTED] at the market [REDACTED].
- P-6039 explains that she is not within the same age group as [REDACTED] (P-2582), as [REDACTED] is older than her.
- P-6039 recalls communicating with [REDACTED] through Facebook messages in [REDACTED] and learning that she was [REDACTED] (P-2475).

79. P-6039's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence showing the real identity of [REDACTED] (aka

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<sup>125</sup> CAR-D29-0009-0545.

[REDACTED]/CAR-V45-P-0002),<sup>126</sup> and the proposed rule 68(2) testimony of P-6028 and P-6030, attesting to the veracity of these documents,<sup>127</sup> ii) the proposed rule 68(2) testimonies of P-6027 identifying [REDACTED] (aka [REDACTED]/CAR-V45-P-0002) on CAR-V45-00000011,<sup>128</sup> of P-6024 affecting the reliability of various documents, including CAR-V45-00000007 and CAR-V45-00000009.<sup>129</sup>

80. The Defence submits four associates exhibits which form an integral part of P-6039's testimony. These comprise: a photograph of [REDACTED] (aka [REDACTED]/P-0002), the Facebook profile of [REDACTED], a photograph of multiple individuals and a Facebook conversation with [REDACTED].<sup>130</sup>

*iii) ESF organization*

#### 16. CAR-D29-P-6033

81. The Defence tenders for formal submission P-6033's statement collected on [REDACTED], totalling approximately 7 pages.<sup>131</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6033's statement.

82. The witness's proposed testimony establishes the following:

- P-6033 is a [REDACTED]who [REDACTED].
- P-6033 explains [REDACTED] with [REDACTED] (P-2580).
- P-6033 explains that in [REDACTED] he was approached by [REDACTED]. P-6033 attests that he was directed by [REDACTED] to give a fabricated account during the meeting in which he was told to

<sup>126</sup> CAR-D29-0013-0252, CAR-D29-0013-0254, CAR-D29-0013-0256, CAR-D29-0013-0265, CAR-D29-0014-0165 at 0168,

<sup>127</sup> Respectively in CAR-D29-0009-0499, paras. 17-19 and 26-27, CAR-D29-0009-0514, paras. 17-18.

<sup>128</sup> CAR-D29-0009-0239, para. 19.

<sup>129</sup> CAR-D29-0009-0209, paras. 25, 32, 33, 35, 37.

<sup>130</sup> CAR-D29-0009-0552, CAR-D29-0009-0554, CAR-D29-0009-0555, CAR-D29-0009-0556.

<sup>131</sup> CAR-D29-0009-0315.

state that he was with the Anti-Balaka Group and taken to be a child soldier by 'Rombhot' wherein he was mistreated and forced to do chores.

- P-6033 recalls the circumstances in which the meeting took place at [REDACTED] and that individuals were called on to provide their 'accounts'.
- P-6033 recounts that [REDACTED], was present during the meeting but that he introduced himself with a false surname and provided a fabricated account detailing how he allegedly was found by the Anti-Balaka and forced to be a child soldier.
- P-6033 recalls that each participant was given a sum of 2000 F.CFA at the end of the training.
- P-6033 recounts that a second meeting taking place the following day and that [REDACTED] and [REDACTED] attended. P-6033 explains that [REDACTED], and that [REDACTED] was never part of the Anti-Balaka.
- P-6033 explains that both [REDACTED] and [REDACTED] are [REDACTED] and that [REDACTED] regularly visited P-6033's house.
- P-6033 attests that [REDACTED] is the [REDACTED] of '[REDACTED]' (i.e., [REDACTED] P-2475).

83. P-6033's proposed evidence in relation to the identity of [REDACTED] (aka [REDACTED]/CAR-V45-P0002) is cumulative and corroborative of *inter alia* i) documentary evidence showing the real identity of CAR-V45-P-0002,<sup>132</sup> and the proposed rule 68(2) testimony of P-6028 and P-6030 attesting to the veracity of these documents,<sup>133</sup> ii) the proposed rule 68(2) testimonies of P-6027 and P-6039 identifying [REDACTED] (aka [REDACTED]/CAR-V45-P-0002) on CAR-V45-00000011,<sup>134</sup> of P-6024 affecting the reliability of various documents, including

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<sup>132</sup> CAR-D29-0010-0161 whereby witness V45-P-0002 identified the individual on the photograph as "[REDACTED]" and the person [REDACTED], CAR-D29-0013-0252, CAR-D29-0013-0254, CAR-D29-0013-0256, CAR-D29-0013-0265, CAR-D29-0014-0165 at 0168,

<sup>133</sup> Respectively in CAR-D29-0009-0499, paras. 17-19 and 26-27, CAR-D29-0009-0514, paras. 17-18.

<sup>134</sup> CAR-D29-0009-0239, para. 19, CAR-D29-0009-0545, para. 25.

CAR-V45-00000007 and CAR-V45-00000009.<sup>135</sup> P-6033's evidence regarding the [REDACTED] between [REDACTED] (P-2475) and P-6016 is corroborated by *inter alia* proposed rule 68(2) witnesses P-6018<sup>136</sup> and P-6016<sup>137</sup> and documentary evidence.<sup>138</sup> P-6033's evidence on the holding of meetings for purposes of fabricating evidence is corroborated by *inter alia* proposed rule 68(3) witness P-6025<sup>139</sup> and proposed rule 68(2) witness P-6024.<sup>140</sup>

84. The Defence submits three associated exhibits which form an integral part of P-6033's testimony. These comprise: a photograph of [REDACTED] (aka [REDACTED]/P-0002), a photograph of [REDACTED] (P-2475) and a photograph of [REDACTED] (P-2580).<sup>141</sup>

#### 17. CAR-D29-P-6013

85. The Defence tenders for formal submission P-6013's statement collected on [REDACTED], totalling approximately 7 pages.<sup>142</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6013's statement.

86. The witness's proposed testimony establishes the following:

- P-6013 is a [REDACTED] residing in [REDACTED] since 2014 and is the [REDACTED] of former Prosecution witness [REDACTED] (P-2511).
- P-6013 recounts having been made aware of the ESF activities through the [REDACTED] and because her whole neighbourhood was talking about it.

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<sup>135</sup> CAR-D29-0009-0209, paras. 25, 32, 33, 35, 37.

<sup>136</sup> CAR-D29-0009-0396, para. 15.

<sup>137</sup> CAR-D29-0009-0427, para. 30.

<sup>138</sup> CAR-D29-0013-0004, para. 33.

<sup>139</sup> CAR-D29-0009-0280, para. 41.

<sup>140</sup> CAR-D29-0009-0209, para. 17.

<sup>141</sup> CAR-V45-00000011, CAR-D29-0009-0322, CAR-D29-0009-0323.

<sup>142</sup> CAR-D29-0009-0324.

- P-6013 explains that ESF registered both orphans and any other young individuals who were not attending school and were fleeing the war and that the purpose was to protect, feed and train the ESF participants.
- P-6013 explains that she suggested to [REDACTED] (P-2511) to register with the ESF in [REDACTED], and that P-2511 was [REDACTED].
- P-6013 explains that some ESF participants were accommodated within the ESF training centre whilst other ESF participants were hosted by foster families during the course of their training.
- P-6013 identifies [REDACTED] (P-1974) as one of three ESF [REDACTED].

87. P-6013's proposed evidence is cumulative and corroborative of *inter alia* i) proposed 68(2) testimony of P-6037 that ESF was offering a training to all children who suffered during the Seleka regime<sup>143</sup> and that children on the ESF list were not part of an armed group,<sup>144</sup> ii) Prosecution witness [REDACTED]'s (P-2082) testimony that [REDACTED],<sup>145</sup> iii) Prosecution witness [REDACTED]'s (P-1839) testimony that she does not know [REDACTED] (P-2511),<sup>146</sup> and iv) Prosecution witness [REDACTED]'s (P-0876) testimony that the children who were presented as child soldiers in CAR by ONG partnering with UNICEF had not been part of armed groups, but were presented as such for monetary reasons.<sup>147</sup>

88. The Defence submits one associated exhibit, namely a photograph of [REDACTED] (P-2511) which forms an integral part of P-6013's testimony.<sup>148</sup>

<sup>143</sup> CAR-D29-0009-0459, para. 20.

<sup>144</sup> CAR-D29-0009-0459, paras. 27-31.

<sup>145</sup> **P-2082**: CAR-OTP-2122-4558-R02, para. 54 and [REDACTED]

<sup>146</sup> **P-1839**: ICC-01/14-01/18-T-172-CONF-FRA ET, at [14:35:32].

<sup>147</sup> **P-0876**: ICC-01/14-01/18-T-087-CONF-FRA ET, at [10:53:05] and [10:56:34].

<sup>148</sup> CAR-D29-0009-0354.

18. CAR-D29-P-6037

89. The Defence tenders for formal submission P-6037's statement collected on [REDACTED], totalling approximately 7 pages.<sup>149</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6037's statement.

90. The witness's proposed testimony establishes the following:

- P-6037 was living in [REDACTED] at the time of the relevant charged period.
- P-6037 is [REDACTED] (aka [REDACTED]) who was "[REDACTED]" [REDACTED].
- P-6037 is [REDACTED] (P-1974).
- P-6037 recounts fleeing to the bushes until the arrival of the Anti-Balaka at which time P-6037 and her family returned to their home [REDACTED].
- P-6037 recalls that P-1974 and the ESF arrived in [REDACTED] to train children who suffered during the Seleka regime, and [REDACTED].
- P-6037 recognises [REDACTED] and [REDACTED] on CAR-D29-0010-0028 and [REDACTED] on CAR-OTP-2071-0279 and attests that they were not part of an armed group.

91. P-6037's proposed evidence is cumulative and corroborative of *inter alia* i) the proposed 68(2) testimony of P-6013 that ESF participants included orphans,<sup>150</sup> ii) Prosecution witness [REDACTED]'s (P-2082) testimony that [REDACTED],<sup>151</sup> and iii) Prosecution witness [REDACTED]'s (P-0876) testimony that the children who were presented as child soldiers in CAR by ONG partnering with UNICEF had

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<sup>149</sup> CAR-D29-0009-0459.

<sup>150</sup> CAR-D29-0009-0324, para. 27.

<sup>151</sup> **P-2082**:CAR-OTP-2122-4558-R02, para. 54 and [REDACTED]

not been part of armed groups, but were presented as such for monetary reasons.<sup>152</sup>

92. The Defence submits two associated exhibits which form an integral part of P-6037's testimony. These comprise: multiple photographs extracted from ESF reports and the ESF list of the 60.<sup>153</sup>

*iv) Fraudulent conduct of [REDACTED] (P-2638)*

#### 19. CAR-D29-P-6012

93. The Defence tenders for formal submission P-6012's statement collected on [REDACTED], totalling approximately 8 pages.<sup>154</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6012's statement.

94. The witness's proposed testimony establishes the following:

- P-6012 lives in [REDACTED] and [REDACTED] (P-6019).
- P-6012 explains that [REDACTED].
- P-6012 explains that [REDACTED] is the [REDACTED] (P-2638) and [REDACTED] (P-2671) and that [REDACTED] (P-2671) [REDACTED].
- P-6012 recounts how [REDACTED].
- P-6012 testifies that she had learned [REDACTED].
- P-6012 recalls that [REDACTED] P-6012 recounts [REDACTED].
- P-6012 identifies the son of P-2620 as photographed in CAR-D29-0016-0054.
- P-6012 provides a photograph of [REDACTED].

95. P-6012's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence including a Prosecution investigation report in which

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<sup>152</sup> **P-0876**: ICC-01/14-01/18-T-087-CONF-FRA ET, at [10:53:05] and [10:56:34].

<sup>153</sup> CAR-D29-0009-0466, CAR-D29-0009-0473.

<sup>154</sup> CAR-D29-0009-0410.



[REDACTED] (aka [REDACTED]/P-2620) does not recognize CAR-OTP-2119-0905,<sup>155</sup> various Facebook material where P-2620 shares pictures of a [REDACTED],<sup>156</sup> ii) proposed rule 68(2) witnesses: P-6010's evidence that he is [REDACTED],<sup>157</sup> P-6019 's evidence that P-2620 [REDACTED];<sup>158</sup> and iii) proposed rule 68(3) witness P-6025's evidence that [REDACTED] with P-2620 is [REDACTED], and iv) documentary evidence showing that the real [REDACTED] was registered in [REDACTED] in CAR in 2021-2022<sup>159</sup> and is [REDACTED].<sup>160</sup>

96. The Defence submits nine associated exhibits which form an integral part of P-6012's testimony. These comprise: two photographs of [REDACTED] (P-2638), one photograph of [REDACTED], three photographs of [REDACTED] (aka [REDACTED]/P-2620), a photograph of [REDACTED], a photograph of P-6010, the photograph of P-2620's [REDACTED] (extracted from CAR-D29-0015-0003).<sup>161</sup>

#### 20. CAR-D29-P-6019

97. The Defence tenders for formal submission P-6019's statements respectively collected on [REDACTED],<sup>162</sup> totalling approximately 13 pages.<sup>163</sup> There are no agreements as to facts contained in the charges, documents, the expected testimony of witnesses, or other evidence pursuant to article 69 which bear on P-6019's statement.

98. The witness's proposed testimony establishes the following:

- P-6019 is the [REDACTED] and [REDACTED] and the [REDACTED].

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<sup>155</sup> See CAR-OTP-00000069.

<sup>156</sup> See CAR-D29-0016-0053, CAR-D29-0016-0055, CAR-D29-0021-1966, CAR-D29-0021-1823, at 1826, CAR-D29-0021-3271, at 3284-3285, CAR-D29-0021-1823, at 1842.

<sup>157</sup> CAR-D29-0009-0248, para. 16.

<sup>158</sup> CAR-D29-0009-0340, para. 18.

<sup>159</sup> CAR-D29-0011-0003, CAR-D29-0011-0005.

<sup>160</sup> CAR-D29-0014-0172.

<sup>161</sup> CAR-D29-0009-0418, CAR-D29-0009-0419, CAR-D29-0009-0420, CAR-D29-0009-0421, CAR-D29-0009-0422, CAR-D29-0009-0423, CAR-D29-0009-0424, CAR-D29-0009-0425, CAR-D29-0009-0426.

<sup>162</sup> CAR-D29-0009-0340, CAR-D29-0009-0331.

<sup>163</sup> CAR-D29-0009-0315.

- P-6019 recounts that [REDACTED] (aka [REDACTED]/P-2620) had directly requested to [REDACTED].
- P-6019 explains that [REDACTED].
- P-6019 explains that [REDACTED] (aka [REDACTED]/P-2620) [REDACTED].
- P-6019 confirms that [REDACTED] (aka [REDACTED]/P-2620) is [REDACTED].
- P-6019 recognises CAR-D29-0011-0002 [REDACTED].
- P-6019 identifies [REDACTED] on CAR-D29-0009-0350;
- P-6019 recognizes CAR-D29-0011-0002 [REDACTED]

99. P-6019's proposed evidence is cumulative and corroborative of *inter alia* i) documentary evidence including a Prosecution investigation report in which [REDACTED] (aka [REDACTED]/P-2620) does not recognize CAR-OTP-2119-0905,<sup>164</sup> various Facebook material where P-2620 shares pictures of [REDACTED],<sup>165</sup> ii) proposed rule 68(2) witnesses: P-6010's evidence that he is [REDACTED],<sup>166</sup> P-6012's evidence that P-2620 [REDACTED] whom P-2620 [REDACTED];<sup>167</sup> and iii) proposed rule 68(3) witness P-6025's evidence that the [REDACTED],<sup>168</sup> and iv) documentary evidence showing that the real [REDACTED] was registered in [REDACTED] in CAR in 2021-2022<sup>169</sup> and is [REDACTED].<sup>170</sup>

100. The Defence submits 10 associated exhibits which form an integral part of P-6019's testimony. These comprise: three photographs of [REDACTED] (aka [REDACTED]/P-2620), a photograph of [REDACTED], a photograph of

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<sup>164</sup> See CAR-OTP-00000069.

<sup>165</sup> CAR-D29-0016-0053, CAR-D29-0016-0055, CAR-D29-0021-1966, CAR-D29-0021-1823, at 1826, CAR-D29-0021-3271, at 3284-3285, CAR-D29-0021-1823, at 1842.

<sup>166</sup> CAR-D29-0009-0248, para. 16.

<sup>167</sup> CAR-D29-0009-0410, paras. 23 and 36.

<sup>168</sup> CAR-D29-0009-0280, para. 31.

<sup>169</sup> CAR-D29-0011-0003, CAR-D29-0011-0005.

<sup>170</sup> CAR-D29-0014-0172.

[REDACTED] (aka [REDACTED]) and a copy of the [REDACTED], two photographs of [REDACTED] (P-2638), a photograph of [REDACTED] and a photograph of [REDACTED].<sup>171</sup>

E. The fairness requirements are weighed in favour of an accused's right to expeditious proceedings where the calling party is the Defence

101. Rule 68(2)(b) was introduced in order to streamline proceedings so as to identify certain situations where it is not necessary to examine witnesses while at the same time preserving the fair and expeditious conduct of the proceedings.<sup>172</sup> This is a delicate balance which forms the centre of rule 68(2)(b) litigation before this Court.

102. In this regard, the Defence recalls the Appeals Chamber's findings in the *Al Hassan* case, namely that rule 68 must be treated as an "exception to the principle of orality as set out in article 69(2)",<sup>173</sup> and as such it must be interpreted and applied "in a manner that is consistent with internationally recognised human rights norms".<sup>174</sup> This includes the internationally recognised right of an accused to confront a witness against him/her, as protected under article 67(1)(e) and article 69(2).<sup>175</sup> Accordingly, as held by the Appeals Chamber, the criteria set out in rule 68 are "aimed at reducing prejudice to the rights of the accused".<sup>176</sup>

103. The rule 68(2)(b) factors are not therefore aimed at reducing any purported internationally recognised right of the Prosecution,<sup>177</sup> nor of the CLRV1 as

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<sup>171</sup> CAR-D29-0009-0336, CAR-D29-0009-0337, CAR-D29-0009-0338, CAR-D29-0009-0339, CAR-D29-0009-0348, CAR-D29-0009-0349, CAR-D29-0009-0350, CAR-D29-0009-0351, CAR-D29-0009-0352, CAR-D29-0009-0353.

<sup>172</sup> ICC-01/14-01/18-1833-Conf-Corr, para. 37.

<sup>173</sup> ICC-01/12-01/18-2222 OA4, para. 1.

<sup>174</sup> ICC-01/12-01/18-2222 OA4, para. 79.

<sup>175</sup> ICC-01/12-01/18-2222 PA4, paras 75 -77.

<sup>176</sup> ICC-01/12-01/18-2222 OA4, para 79. See also ICC-01/14-01/18-1833-Conf-Corr, para. 27 'The purpose of this limitation is to safeguard 'a fair trial in full equality', 44 in particular ensuring the accused's right to confront and examine those persons making direct allegations against them in court'.

<sup>177</sup> See e.g. ICC-01/04-02/12-271-Corr OA, paras 253 to 256 in which the Appeals Chamber, whilst addressing arguments concerning the Prosecutor's right to a fair trial, determined that the fundamental right to a fair trial "first and foremost, inures to the benefit of the accused" and that further, "specific rights entrenched in article 67 (1) of the Statute are specifically tailored to the needs of the accused person".

participants in these proceedings, to examine the evidence led by the Defence and must be given full effect so as not to defeat the very objective of rule 68.<sup>178</sup>

F. The formal submission of the Proposed Rule 68(2)(b) Material best serves the interests of justice and would not prejudice or be inconsistent with the rights of the accused

104. Relatedly, given the limited impact upon the accused's right to confront a witness against him/her in these circumstances, it is submitted that the interests of justice are necessarily best served by the introduction of the Proposed Rule 68(2)(b) Material into evidence pursuant to Rule 68(2)(b).

105. The introduction of the Proposed Rule 68(2)(b) Material would undoubtedly safeguard the expeditiousness of these proceedings which is a right of both the accused and victims in these proceedings.

106. Moreover, it will streamline the presentation of the Defence's case given that it obviates the unnecessary appearance of 20 witnesses and minimises cumulative in-court testimony. This undoubtedly would save valuable court time and court resources which would otherwise be used to facilitate the travel of witnesses to the ICC Headquarters.

#### CLASSIFICATION

107. This request, as well as Annex A, are filed on a confidential basis as it concerns the identities and confidential information of protected witnesses. A public redacted version will be filed in due course.

#### RELIEF SOUGHT

108. For the foregoing reasons, the Defence respectfully requests that the Chamber introduce the prior recorded testimony of P-6011, P-6017, P-6022, P-6024, P-6028,

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<sup>178</sup> See also ICC-01/12-01/18-2222 OA4, paras 3 and 55, further cited in ICC-01/14-01/18-1833-Conf-Corr, para 27.

P-6030, P-6031, P-6034, P-7011, P-6018, P-6016, P-6010, P-6027, P-6035, P-6039, P-6033, P-6013, P-6037, P-6012 and P-6019 as set out in Annex A, into evidence pursuant to rule 68(2)(b).

RESPECTFULLY SUBMITTED ON THIS 3<sup>rd</sup> DAY OF APRIL 2024<sup>179</sup>



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<sup>179</sup> The Defence thanks Legal Intern Narek Chakhalyan for his assistance with this filing.