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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 redacted version of

**Twelfth Decision on the Prosecution Requests for Formal Submission of Prior
Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses
P-1704, P-1528, and P-0314**

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 Ngaissona*, having regard to Articles 64(2), 67(1) and 69 of the Rome Statute (the ‘Statute’), and Rule 68(1) and (3) of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Twelfth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1704, P-1528, and P-0314’.

I. Procedural history

1. On 10 March 2021, the Chamber issued its first decision under Rule 68(3) of the Rules (the ‘First Rule 68(3) Decision’), in which it set out the applicable law for requests for the introduction of prior recorded testimonies under Rule 68(3) of the Rules.¹
2. Between 16 November 2021 and 11 February 2022, the Office of the Prosecutor (the ‘Prosecution’) requested the introduction, under Rule 68(3) of the Rules, of the statements and associated documents of P-1704 (the ‘P-1704 Request’),² P-1528 (the ‘P-1528 Request’),³ and P-0314 (the ‘P-0314 Request’).⁴

¹ 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 Ngaissona Defence Motion to Limit the Scope of P-2926’s Evidence, ICC-01/14-01/18-907-Conf (public redacted version notified on 1 April 2021, ICC-01/14-01/18-907-Red).

² Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1704 pursuant to Rule 68(3), 16 November 2021, ICC-01/14-01/18-1176-Conf (with confidential Annexes A and B) (public redacted version notified on 23 November 2021, ICC-01/14-01/18-1176-Red).

³ Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1528 pursuant to Rule 68(3), 2 February 2022, ICC-01/14-01/18-1266-Conf (with confidential Annexes A and B) (public redacted version notified on 4 February 2022, ICC-01/14-01/18-1266-Red).

⁴ Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-0314 pursuant to Rule 68(3), 11 February 2022, ICC-01/14-01/18-1275-Conf (with confidential Annexes A and B) (public redacted version notified on the same day, ICC-01/14-01/18-1275-Red).

3. On 7 December 2021,⁵ the Yekatom Defence responded to the P-1704 Request.⁶ On the same day, the Ngaïssona Defence indicated that it fully joins and supports the Yekatom Defence's response.⁷
4. On 11 February 2022, the Ngaïssona Defence indicated that it does not intend to respond to the P-1528 Request and defers to the Chamber's discretion.⁸ On 14 February 2022, the Yekatom Defence responded to the P-1528 Request.⁹
5. On 18 and 21 February 2022, respectively, the Yekatom Defence and the Ngaïssona Defence (jointly, the 'Defence') indicated that they do not intend to respond to the P-0314 Request.¹⁰

II. Analysis

6. The Chamber incorporates by reference the applicable law as set out in the First Rule 68(3) Decision.¹¹

A. P-1704

1. Submissions

7. The Prosecution seeks to introduce the prior recorded testimony of witness P-1704, comprising one statement and its associated exhibits.¹² It submits that the introduction of P-1704's prior recorded testimony would help streamline the

⁵ Following a request by the Yekatom Defence, the Chamber extended the deadline for responses by all participants from 29 November to 7 December 2021 (*see* email from the Chamber, 19 November 2021, at 16:28).

⁶ Yekatom Defence Response to the "Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-1704 pursuant to Rule 68(3)", ICC-01/14-01/18-1176-Conf, 16 November 2021, 7 December 2021, ICC-01/14-01/18-1203-Conf (public redacted version notified the same day) (the 'Yekatom Defence Response to the P-1704 Request').

⁷ Email from the Ngaïssona Defence, 7 December 2021, at 14:35.

⁸ Email from the Ngaïssona Defence, 11 February 2022, at 11:33.

⁹ Yekatom Defence Response to 'Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-1528 pursuant to Rule 68(3)', ICC-01/14-01/18-1266-Conf, ICC-01/14-01/18-1280-Conf (public redacted version notified on 17 February 2022, ICC-01/14-01/18-1280-Red) (the 'Yekatom Defence Response to the P-1528 Request').

¹⁰ Email from the Yekatom Defence, 18 February 2022, at 10:12; email from the Ngaïssona Defence, 21 February 2022, at 04:42.

¹¹ First Rule 68(3) Decision, ICC-01/14-01/18-907-Red, paras 8-16.

¹² P-1704 Request, ICC-01/14-01/18-1176-Red, paras 1, 20; Annex A to the P-1704 Request, ICC-01/14-01/18-1176-Conf-AnxA.

proceedings, reducing the time for its examination from at least three hours to one hour.¹³ According to the Prosecution, P-1704's statement is highly relevant and probative,¹⁴ and corroborated by several witnesses.¹⁵

8. The Yekatom Defence opposes the P-1704 Request.¹⁶ It submits that P-1704's statement contains extensive references to the alleged acts and conduct of Mr Yekatom with regard to core issues of the case, namely, in relation to the events at the Yamwara School on or about 24 December 2013 (the 'Yamwara School Incident'), and stresses the importance of his evidence. In particular, the Yekatom Defence notes the witness's statement that Mr Yekatom was allegedly present and directly ordered the mistreatment of Saint Cyr Lapo N'Gomat (hereinafter: 'Lapo N'Gomat') by one of his elements, that [REDACTED] Lapo N'Gomat was stabbed at his neck with a knife, and that Mr Yekatom said that 'traitors deserve to die'.¹⁷
9. The Yekatom Defence also submits that P-1704's statement contains important allegations made against Mr Yekatom that are inconsistent or contradicted by other evidence, and that it notified the participants of its intention to raise an alibi regarding the Yamwara School Incident, all of which militates in favour of hearing the testimony of P-1704 fully *viva voce*.¹⁸ Moreover, the Yekatom Defence argues that the introduction of P-1704's statement under Rule 68(3) of the Rules would not serve the interests of justice, given (i) his status as a direct witness [REDACTED] an event which constitutes a multi-charge incident in this case; (ii) the number of witnesses who recanted information contained in their previous recorded testimonies, particularly where their statements were originally written in English, as is the case for P-1704; and (iii) that the saving of two hours' questioning time is not sufficient to justify the P-1704 Request.¹⁹

¹³ P-1704 Request, ICC-01/14-01/18-1176-Red, paras 1, 3, 16-18.

¹⁴ P-1704 Request, ICC-01/14-01/18-1176-Red, para. 9.

¹⁵ P-1704 Request, ICC-01/14-01/18-1176-Red, para. 12.

¹⁶ Yekatom Defence Response to the P-1704 Request, ICC-01/14-01/18-1203-Red, para. 2, p. 11.

¹⁷ Yekatom Defence Response to the P-1704 Request, ICC-01/14-01/18-1203-Conf, paras 13-19.

¹⁸ Yekatom Defence Response to the P-1704 Request, ICC-01/14-01/18-1203-Red, paras 20-25.

¹⁹ Yekatom Defence Response to the P-1704 Request, ICC-01/14-01/18-1203-Conf, paras 26-30.

2. *The Chamber's determination*

10. In his statement,²⁰ P-1704 discusses, *inter alia*, (i) life in Bangui at the time the Seleka were in power, including people being allegedly killed, mistreated, and stabbed by them; (ii) the arrival of the Anti-Balaka in Bangui on 5 December 2013 and the witness seeing 'a lot of bodies' being collected by the Red Cross and taken to Nzila cemetery; (iii) the Anti-Balaka allegedly targeting Muslim civilians; (iv) the existence of 'many barricades' in the Anti-Balaka neighbourhoods in and outside of Bangui; and (v) seven persons, including Lapo N'Gomat, being allegedly stopped, threatened, and beaten by the Anti-Balaka at a roadblock on or about 24 December 2013.
11. In addition, the witness provides further details concerning the Yamwara School Incident and the alleged acts and conduct of Mr Yekatom, including (i) these seven persons being taken to an Anti-Balaka base at the Yamwara School and presented by 'ALKANTO' to 'RHOMBOT [whose] real name is Alfred YEKATOM', [REDACTED]; (ii) Mr Yekatom allegedly saying that '[they] were traitors and traitors deserve to die', and ordering his elements to tie Lapo N'Gomat up; (iii) Mr Yekatom's elements allegedly hitting Lapo N'Gomat hard and saying that he was a Muslim, Mr Yekatom telling [REDACTED] to cut off his ears, and 'Coeur de Lion' stabbing at his neck with a knife, before being taken away; (iv) some of the abductees being allegedly beaten, threatened, and interrogated also in the presence of Mr Yekatom; (v) the women being kept on the veranda, and Anti-Balaka girls [REDACTED]; and (vi) the abductees being taken to 'Sylvestre', whom the witness identified as the coordinator of the sector, at an Anti-Balaka base behind the M'Poko airport, before being released.
12. Lastly, the witness identified, among others, 'Alfred YEKATOM also known as RHOMBOT' in a video shown to the witness during the course of his interview.²¹
13. At the outset, the Chamber takes note of the Yekatom Defence's submissions that the evidence of P-1704 is central to a core issue in the case, namely, the Yamwara

²⁰ CAR-OTP-2054-1136; CAR-OTP-2104-0576 (French translation).

²¹ CAR-OTP-2054-1136, at 1147.

School Incident, and further observes that P-1704's statement contains specific references to alleged acts and conduct of Mr Yekatom.²²

14. However, it also recalls that Rule 68(3) of the Rules does not preclude the introduction of evidence that is central to core issues of the case.²³ Similarly, references to the accused's acts and conduct do not *per se* constitute an obstacle to the introduction of a prior recorded testimony pursuant to this provision.²⁴
15. Having reviewed P-1704's statement, the Chamber takes note of the Yekatom Defence's submissions regarding the significant number of references to Mr Yekatom, the importance of P-1704's evidence and his status as a direct witness [REDACTED]. Nevertheless, the Chamber stresses that the Yekatom Defence will have the opportunity to examine the witness in court on these and other matters. The Chamber further notes that other witnesses have already testified or are expected to provide evidence of the matters discussed in the statement of P-1704, including the Yamwara School Incident and the alleged mistreatment and killing of Lapo N'Gomat, either fully live or pursuant to Rule 68(3) of the Rules.²⁵
16. With regard to the Yekatom Defence's submissions that some allegations are uncorroborated or contradicted by other evidence, the Chamber similarly recalls that while corroboration may be among the factors to be considered when assessing whether to allow the introduction of a prior recorded testimony, it is not a requirement under Rule 68(3) of the Rules.²⁶ The Chamber emphasises that the Yekatom Defence will not only have the opportunity to challenge the witness on alleged inconsistencies in court, but it will also have the opportunity to call its own witnesses to support its alibi defence. In any event, the Chamber will assess

²² See CAR-OTP-2054-1136, at 1142-1146, paras 32, 35, 37-38, 41, 44, 55.

²³ First Rule 68(3) Decision, ICC-01/14-01/18-907-Red, para. 14, with further references.

²⁴ See e.g. Eleventh Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-0954, P-1811, and P-0966, 18 March 2022, ICC-01/14-01/18-1317-Conf (the 'Eleventh Rule 68(3) Decision'), para. 26; Ninth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-0992, P-0446, P-0888, P-0889 and P-1416, 21 December 2021, ICC-01/14-01/18-1226-Conf, para. 9.

²⁵ See e.g. **P-1811**: Transcripts of hearing, 30 March 2022, ICC-01/14-01/18-T-114-CONF-ENG, and 31 March 2022, ICC-01/14-01/18-T-115-CONF-ENG; **P-1705**: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 28, entry 37; **P-1716**: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 30, entry 45; **P-1839**: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, pp. 14-15, entry 4.

²⁶ See e.g. Eleventh Rule 68(3) Decision, ICC-01/14-01/18-1317-Conf, para. 17.

the probative value of P-1704's evidence and how it relates to the evidence of other witnesses as part of its holistic assessment when deliberating on the judgment pursuant to Article 74(2) of the Statute.²⁷

17. The Chamber notes the Yekatom Defence's concerns regarding the number of witnesses who 'recanted information contained in their prior recorded testimony', which, it submits, suggests that there might be 'incorrect or inaccurate information [...] present in a statement due to translation errors'. Further, the Chamber has taken note of the Yekatom Defence's submission that the prejudice to the accused in such a situation is so grave, that the 'procedural requirement of Rule 68(3), *i.e.* the witness not objecting to its submission, is insufficient to mitigate this concern'.²⁸ With regard to the upcoming testimony of P-1704, the Chamber considers that these concerns are speculative at this stage and that the fact that other witnesses have corrected their statements does not put into question that of P-1704.
18. Lastly, the Chamber notes that the introduction of P-1704's statement would cut the time for the Prosecution's examination of the witness by two thirds, thereby promoting the expeditiousness of the proceedings.
19. In light of the above, the Chamber finds that it is not necessary for P-1704's testimony to be presented orally in its entirety, and considers that the introduction of the prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.
20. Accordingly, the Chamber grants the Prosecution's request to introduce the statement²⁹ and associated documents³⁰ of P-1704 under Rule 68(3) of the Rules.

²⁷ Eleventh Rule 68(3) Decision, ICC-01/14-01/18-1317-Conf, para. 28.

²⁸ Yekatom Defence Response to the P-1704 Request, ICC-01/14-01/18-1203-Red, para. 29.

²⁹ CAR-OTP-2054-1136; CAR-OTP-2104-0576 (French translation).

³⁰ CAR-OTP-2054-1150; CAR-OTP-2012-0523; CAR-OTP-2118-5507 (transcript); CAR-OTP-2118-5547 (French translation).

B. P-1528

I. Submissions

21. The Prosecution seeks to introduce the prior recorded testimony of witness P-1528, comprising the statements of the witness's two interviews and several associated exhibits.³¹ It submits that the introduction of P-1528's prior recorded testimony would help streamline the proceedings, reducing the time for its examination from at least four to two hours.³² According to the Prosecution, P-1528's statements are highly relevant and probative,³³ and corroborated by several witnesses.³⁴
22. The Yekatom Defence opposes the P-1528 Request.³⁵ First, it submits that P-1528's statements contain 'extensive allegations relating to disputed issues and central to core issues to this case', relating, *inter alia*, to Mr Yekatom's acts and conduct, 'many of which are expressly relied upon by the Prosecution'.³⁶ Second, it submits that the probative value of P-1528's evidence is negatively impacted by several factors, including (i) the fact that the witness's 'highly prejudicial, broad-brush claims' against Mr Yekatom are 'not based on any direct, probative information, but instead comprise mere speculation and conjecture';³⁷ and (ii) the witness's affiliation to the Seleka-allied 'Texas' armed Muslim militia group, which entails a 'real risk that he was, and remains, motivated by anti-Anti-Balaka bias in his cooperation with the Prosecution'.³⁸ Third, the Yekatom Defence argues that the estimated two hours of in-court time that would be saved by the

³¹ P-1528 Request, ICC-01/14-01/18-1266-Red, paras 1, 21; Annex A to the P-1528 Request, ICC-01/14-01/18-1266-Conf-AnxA.

³² P-1528 Request, ICC-01/14-01/18-1266-Red, paras 1, 3, 17-19.

³³ P-1528 Request, ICC-01/14-01/18-1266-Red, para. 9.

³⁴ P-1528 Request, ICC-01/14-01/18-1266-Red, para. 12.

³⁵ Yekatom Defence Response to the P-1528 Request, ICC-01/14-01/18-1280-Red, paras 2, 46.

³⁶ Yekatom Defence Response to the P-1528 Request, ICC-01/14-01/18-1280-Red, paras 2, 6. *See also* paras 7-17.

³⁷ Yekatom Defence Response to the P-1528 Request, ICC-01/14-01/18-1280-Red, paras 2, 19-20. *See also* paras 21-20.

³⁸ Yekatom Defence Response to the P-1528 Request, ICC-01/14-01/18-1280-Conf, paras 2, 31-35. *See also* paras 36-39.

introduction of P-1528's prior recorded testimony 'is negligible, and in any event [would] not outweigh the prejudicial effect of the latter'.³⁹

2. *The Chamber's determination*

23. P-1528 was [REDACTED]. In his statements,⁴⁰ P-1528 discusses, *inter alia*, (i) the family compound in which he lived with his family [REDACTED]; (ii) the arrival of the Seleka in Bangui in March 2013; (iii) the alleged Anti-Balaka attack on Bangui on 5 December 2013 (the '5 December 2013 Attack'), the witness hearing on that day Anti-Balaka elements shouting that they would 'kill all Muslims' and also hearing that they killed an 'Arab' [REDACTED], and being told that the Anti-Balaka had attacked the Boeing market and killed seven Muslim traders, including 'HASSAN'; and (iv) the witness subsequently learning that Christians had been warned of the attack in advance and advised to place palm tree branches in front of their houses.
24. P-1528 further discusses (v) hiding [REDACTED] with his family before seeking refuge in KM5, and [REDACTED]; (vi) the Anti-Balaka accusing [REDACTED] of being a Muslim and killing him [REDACTED]; (vii) the looting and destruction of the witness's family's compound and the Boeing mosque; (viii) two distinct groups of displaced people from Boeing and Cattin; and (ix) [REDACTED].
25. Lastly, the witness mentions that 'General Rombhot YEKATOM' is, *inter alia*, 'responsible for the crimes committed by the Anti-Balaka'.⁴¹
26. The Chamber takes note of the Yekatom Defence's submissions that P-1528's statements contain references to alleged acts and conduct of Mr Yekatom, which relate to core issues in this case and are materially in dispute. Nonetheless, as stated above, the Chamber recalls that Rule 68(3) of the Rules does not preclude the introduction of evidence that is central to core issues of the case or that is

³⁹ Yekatom Defence Response to the P-1528 Request, ICC-01/14-01/18-1280-Red, para. 2. *See also* paras 40-43.

⁴⁰ CAR-OTP-2048-0757; CAR-OTP-2102-0184 (French translation); CAR-OTP-2121-2831; CAR-OTP-2122-4659 (French translation).

⁴¹ CAR-OTP-2048-0757, at 0766, para. 50.

materially in dispute.⁴² Likewise, it recalls that references to the accused's acts and conduct do not *per se* constitute an obstacle to the introduction of a prior recorded testimony pursuant to this provision.⁴³ In this regard, the Chamber observes that P-1528's references to Mr Yekatom are in any event limited in number and nature, as the witness refers only in broad terms to Mr Yekatom being 'responsible for the crimes committed by the Anti-Balaka' and in control of the Anti-Balaka in Cattin, Boeing and Bimbo, and otherwise merely provides some personal information about him.⁴⁴ In addition, it emphasises that the Yekatom Defence will have the opportunity to examine the witness in court and clarify the basis of knowledge for his allegations against Mr Yekatom.

27. Moreover, the Chamber notes the Yekatom Defence's submissions related to the negative impact of P-1528's 'affiliation with the Seleka and bias against the Anti-Balaka' on the probative value of his statements. The Chamber, however, is not persuaded by these arguments, which it considers speculative at this stage. Further, it reiterates that the Yekatom Defence will have the opportunity to examine the witness on these issues in court, and recalls that it will assess the probative value of P-1528's evidence, including any alleged bias, as part of its holistic assessment when deliberating on the judgment pursuant to Article 74(2) of the Statute.⁴⁵
28. Lastly, the Chamber notes that the introduction of P-1528's prior recorded testimony would cut the time for the Prosecution's witness examination by half, thereby promoting the expeditiousness of the proceedings.
29. In light of the above, the Chamber finds that it is not necessary for P-1528's testimony to be presented orally in its entirety, and considers that the introduction of the prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.

⁴² See above paragraph 14, footnote 23.

⁴³ See above paragraph 14, footnote 24.

⁴⁴ CAR-OTP-2048-0757, at 0766, paras 50-52.

⁴⁵ See, for a similar approach, Eighth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1193, P-0876, and P-0475, 23 November 2021, ICC-01/14-01/18-1186-Conf, para. 26.

30. In relation to the associated exhibit CAR-OTP-2121-2859, the Chamber notes that it has already been recognised as formally submitted.⁴⁶ Therefore, it is not necessary to re-introduce this item.
31. Accordingly, the Chamber grants the Prosecution's request to introduce P-1528's statements⁴⁷ and associated documents (with the exception of item CAR-OTP-2121-2859),⁴⁸ under Rule 68(3) of the Rules.

C. P-0314

1. Submissions

32. The Prosecution seeks to introduce the prior recorded testimony of witness P-0314, comprising the statement of the witness's interview and several associated exhibits.⁴⁹ It submits that the introduction of P-0314's prior recorded testimony would help streamline the proceedings, reducing the time for its examination from at least six to three hours.⁵⁰ According to the Prosecution, P-0314's statement is highly relevant and probative,⁵¹ and corroborated by several witnesses.⁵²

2. The Chamber's determination

33. P-0314 was [REDACTED] during the relevant time. In his statement,⁵³ he discusses, *inter alia*, (i) the circumstances that triggered the crisis in the Central African Republic (the 'CAR'); (ii) a religious platform established by religious leaders after December 2012 to address the communities' issues; (iii) the tense

⁴⁶ The Chamber notes that it recognised item CAR-OTP-2121-2859 as formally submitted in connection with P-2193 (email from the Chamber, 4 May 2021, at 11:44).

⁴⁷ CAR-OTP-2048-0757; CAR-OTP-2102-0184 (French translation); CAR-OTP-2121-2831; CAR-OTP-2122-4659 (French translation).

⁴⁸ CAR-OTP-2048-0771; CAR-OTP-2048-0772; CAR-OTP-2048-0773; CAR-OTP-2048-0982; CAR-OTP-2048-0983; CAR-OTP-2048-0984; CAR-OTP-2048-0985; CAR-OTP-2048-0986; CAR-OTP-2048-0987; CAR-OTP-2048-0988; CAR-OTP-2048-0989; CAR-OTP-2048-0990; CAR-OTP-2048-0991; CAR-OTP-2048-0992; CAR-OTP-2048-0993; CAR-OTP-2048-0994; CAR-OTP-2048-0995; CAR-OTP-2048-0996; CAR-OTP-2048-0997; CAR-OTP-2048-0998; CAR-OTP-2121-2857; CAR-OTP-2121-2858.

⁴⁹ P-0314 Request, ICC-01/14-01/18-1275-Red, paras 1, 21; Annex A to the P-0314 Request, ICC-01/14-01/18-1275-Conf-AnxA.

⁵⁰ P-0314 Request, ICC-01/14-01/18-1275-Red, paras 1, 3, 17-19.

⁵¹ P-0314 Request, ICC-01/14-01/18-1275-Red, para. 9.

⁵² P-0314 Request, ICC-01/14-01/18-1275-Red, para. 12.

⁵³ CAR-OTP-2008-1188; CAR-OTP-2104-0458 (French translation).

relationship between Chad and CAR citizens; (iv) the emergence of the Anti-Balaka; (v) the Seleka and the Anti-Balaka both acting as ‘criminal organisations’; (vi) the witness’s meetings with Bozizé and Djotodia, respectively; (vii) the Seleka’s arrival to power in March 2013, the leaders of the group in Bossangoa and crimes they allegedly committed in Bossangoa and other regions, and the instability in the country during Djotodia’s regime; (viii) the witness being present in Bangui on 5 December 2013 and waking up by gunshots; (ix) an alleged Anti-Balaka attack against the Seleka in the town of Bossangoa after the 5 December 2013 Attack; (x) the displacement of Muslims to refugee camps in Bossangoa and their subsequent departure to Chad; (xi) the situation in the country after Djotodia stepped down in January 2014, including alleged crimes committed by the Anti-Balaka; (xii) child soldiers within the Seleka and Anti-Balaka; and (xiii) [REDACTED] priests being abducted by the Seleka in Batangafo in April 2014.

34. P-0314 also describes his encounters with Mr Ngaïssona. In particular, he describes meeting Mr Ngaïssona at [REDACTED], during a conference in which Mr Ngaïssona introduced himself as ‘national coordinator for Anti-Balaka’; speaking to him on the phone in relation to the incidents [REDACTED]; and later having a meeting with him in an attempt to [REDACTED] (during which Mr Ngaïssona referred him to Douze Puissances).⁵⁴ The witness also mentions other Anti-Balaka members, such as Florent Kema, Demafouth and Andjilo.
35. The Chamber observes that P-0314’s statement mainly contains references to the emergence of the Seleka and the Anti-Balaka, their presence in Bossangoa and surrounding region in 2013 and 2014, the alleged commission of crimes by both groups, and the displacement of Muslims as a result of crimes allegedly committed by the Anti-Balaka. It notes that the witness does not make any reference to Mr Yekatom, and that the references to Mr Ngaïssona are limited. Further, it observes that the Defence does not oppose the introduction of P-0314’s prior recorded statement under Rule 68(3) of the Rules, and that it will have an opportunity to examine the witness in court. Moreover, the Chamber notes that the introduction of P-0314’s prior recorded testimony would reduce the time for

⁵⁴ CAR-OTP-2008-1188, at 1210, paras 106, 109; at 1212, paras 120-122.

the Prosecution's examination of the witness by half, thereby promoting the expeditiousness of the proceedings.

36. In light of the above, the Chamber finds that it is not necessary for P-0314's testimony to be presented orally in its entirety, and considers that the introduction of the prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.
37. Regarding the associated documents, the Chamber notes that the witness's statement lists three additional documents which the Prosecution does not seek to introduce under Rule 68(3) of the Rules,⁵⁵ namely documents CAR-OTP-2008-1285; CAR-OTP-2008-1287; and CAR-OTP-2008-1289.⁵⁶ Noting that the witness used and explained in his statement these documents and thus form an integral part of the witness's statement,⁵⁷ the Chamber considers it appropriate that these documents also be introduced.
38. Accordingly, the Chamber grants the Prosecution's request to introduce P-0314's statement⁵⁸ and associated documents (including the documents mentioned in paragraph 37 above),⁵⁹ under Rule 68(3) of the Rules.

FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES that, subject to the fulfilment of the legal requirements of Rule 68(3) of the Rules, the prior recorded testimonies of the following witnesses are introduced into evidence:

⁵⁵ See Annex A to the P-0314 Request, ICC-01/14-01/18-1275-Conf-AnxA. The Prosecution did not include a fourth document in its request, namely CAR-OTP-2008-1242 (Annex D to the witness statement), but the Chamber notes that its content is identical to that of item CAR-OTP-2008-1229 (Annex B to the witness statement).

⁵⁶ See CAR-OTP-2008-1188, at 1221.

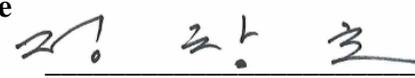
⁵⁷ See *e.g.* First Rule 68(3) Decision, paras 13, 26, 73.

⁵⁸ CAR-OTP-2008-1188; CAR-OTP-2104-0458 (French translation).

⁵⁹ CAR-OTP-2008-1223 (Annex A to the witness statement); CAR-OTP-2008-1229 (Annex B to the witness statement); CAR-OTP-2008-1237 (Annex C to the witness statement); CAR-OTP-2008-1250 (Annex E to the witness statement); CAR-OTP-2008-1253 (Annex F to the witness statement); CAR-OTP-2008-1256 (Annex G to the witness statement); CAR-OTP-2008-1260 (Annex H to the witness statement); CAR-OTP-2008-1277 (Annex I to the witness statement); CAR-OTP-2008-1281 (Annex J to the witness statement); CAR-OTP-2008-1294 (Annex N to the witness statement); CAR-OTP-2008-1285 (Annex K to the witness statement); CAR-OTP-2008-1287 (Annex L to the witness statement); CAR-OTP-2008-1289 (Annex M to the witness statement).

- **Witness P-1704** (CAR-OTP-2054-1136; CAR-OTP-2104-0576 (French translation)), together with its associated documents (CAR-OTP-2054-1150; CAR-OTP-2012-0523; CAR-OTP-2118-5507 (transcript); CAR-OTP-2118-5547 (French translation));
- **Witness P-1528** (CAR-OTP-2048-0757; CAR-OTP-2102-0184 (French translation); CAR-OTP-2121-2831; CAR-OTP-2122-4659 (French translation)), together with its associated documents (CAR-OTP-2048-0771; CAR-OTP-2048-0772; CAR-OTP-2048-0773; CAR-OTP-2048-0982; CAR-OTP-2048-0983; CAR-OTP-2048-0984; CAR-OTP-2048-0985; CAR-OTP-2048-0986; CAR-OTP-2048-0987; CAR-OTP-2048-0988; CAR-OTP-2048-0989; CAR-OTP-2048-0990; CAR-OTP-2048-0991; CAR-OTP-2048-0992; CAR-OTP-2048-0993; CAR-OTP-2048-0994; CAR-OTP-2048-0995; CAR-OTP-2048-0996; CAR-OTP-2048-0997; CAR-OTP-2048-0998; CAR-OTP-2121-2857; CAR-OTP-2121-2858); and
- **Witness P-0314** (CAR-OTP-2008-1188; CAR-OTP-2104-0458 (French translation)), together with its associated documents (CAR-OTP-2008-1223; CAR-OTP-2008-1229; CAR-OTP-2008-1237; CAR-OTP-2008-1250; CAR-OTP-2008-1253; CAR-OTP-2008-1256; CAR-OTP-2008-1260; CAR-OTP-2008-1277; CAR-OTP-2008-1281; CAR-OTP-2008-1294; CAR-OTP-2008-1285; CAR-OTP-2008-1287; CAR-OTP-2008-1289).

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

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|  <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 14 April 2022

At The Hague, The Netherlands