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No. **ICC-01/14-01/18**
Date: **10 November 2023**

TRIAL CHAMBER V

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

Public redacted version of

**Decision on the Thirteenth Prosecution Submission Request from the Bar Table
(Anti-Balaka and Governmental Documents)**

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

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TRIAL CHAMBER V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Articles 64(2) and (9), 69 and 74(2) of the Rome Statute (the ‘Statute’) and Rules 63 and 64 of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Decision on the Thirteenth Prosecution Submission Request from the Bar Table (Anti-Balaka and Governmental Documents)’.

I. Procedural history

1. On 24 August 2023, the Office of the Prosecutor (the ‘Prosecution’) sought the formal submission of 45 documents allegedly originating from the Anti-Balaka and 100 documents provided by national authorities (the ‘Items’ and the ‘Request’, respectively).¹ The Prosecution submits, *inter alia*, that the Items are *prima facie* relevant to material issues at trial, reliable, and their formal submission would cause no prejudice to the defence.²
2. On 6 October 2023,³ the Yekatom Defence filed its response, opposing the submission of 30 items (the ‘Yekatom Defence Response’).⁴
3. On the same day, the Ngaïssona Defence presented its objections to most of the Items, formulated on the basis of relevance and/or probative value (the ‘Ngaïssona Defence Response’).⁵

¹ Treizième requête de l’Accusation aux fins de soumission formelle d’éléments de preuve sur le fondement de l’article 69(3) du Statut de Rome, *via* la “Bar Table”, ICC-01/14-01/18-2048-Conf (with confidential Annexes A and B, ICC-01/14-01/18-2048-Conf-AnxA and ICC-01/14-01/18-2048-Conf-AnxB), paras 1, 38-44. The Prosecution sought extension of page limit of the Request after it had filed the filing and the Single Judge decided to consider the substance of the Request as filed (*see* email from the Prosecution, 25 August 2023, at 11:10; email from the Chamber, 25 August 2023, at 13:59).

² Request, ICC-01/14-01/18-2048-Conf, para. 2.

³ The Single Judge granted the extension of time to respond to the Request until 6 October 2023 to all participants (*see* email from the Chamber, 24 August 2023, at 17:23).

⁴ Réponse de la Défense de M. Yekatom à la « Treizième requête de l’Accusation aux fins de soumission formelle d’éléments de preuve sur le fondement de l’article 69(3) du Statut de Rome, *via* la “Bar Table” », ICC-01/14-01/18-2048-Conf, ICC-01/14-01/18-2128-Conf (with confidential Annexes A and B, ICC-01/14-01/18-2128-Conf-AnxA and ICC-01/14-01/18-2128-Conf-AnxB), paras 1-2, pp. 13-14.

⁵ Defence Response to the “Treizième requête de l’Accusation aux fins de soumission formelle d’éléments de preuve sur le fondement de l’article 69(3) du Statut de Rome, *via* la “Bar Table”” ICC-01/14-01/18-2048-Conf, ICC-01/14-01/18-2131-Conf (with confidential Annexes 1 and 2, ICC-01/14-01/18-2131-Conf-Anx1 and ICC-01/14-01/18-2131-Conf-Anx2), paras 1-3, 53.

II. Analysis

4. The Chamber recalls its approach outlined in a previous decision on a submission request through the bar table.⁶ Accordingly, the Chamber notes the participants' arguments on the relevance and probative value of the Items, including potential prejudice to the accused, and defers their consideration under its deliberation pursuant to Article 74(2) of the Statute. At this stage, the Chamber will only consider whether the Items are subject to any statutory exclusionary rules, including procedural bars, obstacles, and preconditions.⁷

A. Items relating to formally submitted items

5. The Chamber notes that item CAR-OTP-2066-2102, an Anti-Balaka press release, appears to be a version of item CAR-OTP-2066-1601, at 1656, where the specific page is already recognised as formally submitted, as indicated by the Ngaïssona Defence.⁸
6. As regards items CAR-OTP-2093-0156, CAR-OTP-2093-0158 and CAR-OTP-2093-0157, the Chamber notes that they appear to be the signed, stamped, annotated, and black and white versions of item CAR-OTP-2030-0245, at 0245-47, respectively, which is already recognised as formally submitted.
7. Concerning items CAR-OTP-2059-0033, CAR-OTP-2059-0034 and CAR-OTP-2059-0035, the Chamber notes that they appear to be versions of item CAR-OTP-2124-1237, at 1237-39, respectively, which is already recognised as formally submitted. The Chamber notes that the Ngaïssona Defence provides its view on the probative value and relevance of the items and the Yekatom Defence defers to the Ngaïssona Defence concerning them.⁹

⁶ Decision on the First Prosecution Submission Request from the Bar Table (Sexual and Gender Based Violence), 12 April 2022, ICC-01/14-01/18-1359, paras 10-12.

⁷ Decision on the Fourth Prosecution Submission Request from the Bar Table (Recruitment and Use of Children), 24 May 2022, ICC-01/14-01/18-1428, para. 5.

⁸ Annex 1 to the Ngaïssona Defence Response, ICC-01/14-01/18-2131-Conf-Anx1, pp. 7-8.

⁹ Annex 1 to the Ngaïssona Defence Response, ICC-01/14-01/18-2131-Conf-Anx1, pp. 15-17; Annex A to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxA, pp. 14-16.

8. Having reviewed these items, there appear to be no procedural bars to their submission. The Chamber therefore recognises them as formally submitted.
9. As for item CAR-OTP-2136-0310, the Chamber notes that it has already been recognised as formally submitted through a decision on another ‘bar table’ application¹⁰ which was rendered after the Prosecution filed the Request. The Chamber therefore need not rule on it again.

B. Objections to individual items

1. Article 69(7) of the Statute

10. The Prosecution seeks the submission of 19 items relating to Anti-Balaka badges (the ‘Badges’)¹¹ that were collected during a search of [REDACTED] by the [REDACTED] in [REDACTED].¹² It submits that the search was carried out in execution of the Prosecution’s cooperation request and that the Badges are relevant and authentic.¹³
11. The Yekatom Defence requests that the Chamber reject the Badges pursuant to Article 69(7) of the Statute. It states that the Badges are not mentioned in the national authorities’ initial ‘*Procès-Verbal de Perquisition*’,¹⁴ but only appear in a second ‘*Procès-Verbal de Perquisition*’¹⁵ (the ‘Second Report’). It further alleges that the national authorities, after being contacted by the Prosecution, created the Second Report in order to add the Badges and that the Second Report appears to be fake as it does not state the time or the circumstances of its creation.¹⁶ The Yekatom Defence contends that this constitutes a forgery, and that on the basis of a violation of the national laws relating to the search and seizure operation, the Chamber should reject the submission of the Badges. Additionally,

¹⁰ See Decision on the Sixteenth Prosecution Submission Request from the Bar Table (supplementary Call Data Records), 27 September 2023, ICC-01/14-01/18-2110, para. 22, p. 11.

¹¹ CAR-OTP-2136-0217, CAR-OTP-2136-0219, CAR-OTP-2136-0221; CAR-OTP-2136-0223; CAR-OTP-2136-0225; CAR-OTP-2136-0227; CAR-OTP-2136-0229; CAR-OTP-2136-0231; CAR-OTP-2136-0233; CAR-OTP-2136-0235; CAR-OTP-2136-0239; CAR-OTP-2136-0243; CAR-OTP-2136-0245; CAR-OTP-2136-0247; CAR-OTP-2136-0249; CAR-OTP-2136-0251; CAR-OTP-2136-0253; CAR-OTP-2136-0255; and CAR-OTP-2136-0257.

¹² Request, ICC-01/14-01/18-2048-Conf, para. 5.

¹³ Request, ICC-01/14-01/18-2048-Conf, paras 5-10.

¹⁴ Yekatom Defence Response, ICC-01/14-01/18-2128-Conf, para. 9.

¹⁵ Yekatom Defence Response, ICC-01/14-01/18-2128-Conf, para. 13.

¹⁶ Yekatom Defence Response, ICC-01/14-01/18-2128-Conf, paras 9, 12-17.

it states that, should the Chamber grant their submission, it should consider their lack of authenticity and probative value.¹⁷ The Chamber notes that the Ngaißsona Defence also provides its view on the probative value of the Badges.¹⁸

12. At the outset, the Chamber recalls that the Single Judge granted the inclusion of the Badges in the Prosecution’s List of Evidence, having found that they ‘bear sufficient potential significance to the case’.¹⁹ It also recalls that it recognised as formally submitted two other badges²⁰ that were collected as part of the same operation.²¹
13. The Chamber notes that, in accordance with the jurisprudence of the Appeals Chamber, ‘Article 69(7) of the Statute envisages two consecutive inquiries’.²² First, ‘it must be determined whether the evidence at issue was “obtained by means of a violation of th[e] Statute or internationally recognized human rights”’, in accordance with the *chapeau* of Article 69(7) of the Statute. Second, and in line with Article 69(7)(a) and (b) of the Statute, a chamber must consider whether ‘[t]he violation casts substantial doubt on the reliability of the evidence’, or whether ‘[t]he admission of the evidence would be antithetical to and would seriously damage the integrity of the proceedings’.²³
14. Further, the Appeals Chamber has clarified that ‘the execution by a State of a request for cooperation and the transmission to the Court of the requested evidence by the competent authorities of the requested State indicate that the collection of the evidence has taken place in accordance with national law and

¹⁷ Yekatom Defence Response, ICC-01/14-01/18-2128-Conf, paras 5-18.

¹⁸ Ngaißsona Defence Response, ICC-01/14-01/18-2131-Conf, paras 20-31.

¹⁹ See Decision on the Prosecution Request for Leave to Add 22 Items to its List of Evidence, 21 December 2022, ICC-01/14-01/18-1710-Conf, paras 5, 35-40; Decision on the Prosecution Request for Leave to Add Nine Items to its List of Evidence, 14 September 2022, ICC-01/14-01/18-1573-Conf, paras 23-28, pp. 12-13.

²⁰ CAR-OTP-2136-0237 and CAR-OTP-2136-0241. See Decision on Submitted Materials for P-1839, email from the Chamber, 22 May 2023, at 20:40.

²¹ See Yekatom Defence Response, ICC-01/14-01/18-2128-Conf, para. 6 regarding its opinion on the two badges.

²² Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Public Redacted Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute”, 8 March 2018, ICC-01/05-01/13-2275-Red (the ‘Bemba Judgment’), para. 280.

²³ Bemba Judgment, ICC-01/05-01/13-2275-Red, para. 280.

pursuant to the relevant domestic procedures of the concerned State’.²⁴ Moreover, the Chamber recalls that ‘a breach of national law in the collection of evidence does not *per se* indicate that such evidence was obtained by means of a violation within the meaning of the *chapeau* of article 69(7) of the Statute’.²⁵

15. In addition, the Chamber notes that the Appeals Chamber indicated that Article 69(8) of the Statute does not necessarily preclude a chamber from taking into account issues of compliance with national law in the collection of evidence as a factual matter, under certain circumstances. However, it also stated that ‘there is no legal basis under the Statute for a chamber to “review the application of national law”’.²⁶
16. The Chamber further ‘observes consistent jurisprudence of this Court that the party bringing the motion under Article 69(7) of the Statute bears the burden to show that the criteria for the exclusion of evidence has been met’.²⁷
17. The Chamber takes note of the Yekatom Defence’s argument that the Badges should not be recognised as submitted, in application of Article 69(7) of the Statute, since they were not collected in compliance with national procedural law. The Chamber further notes the Prosecution’s submission that the Badges were collected by the national authorities in the execution of its cooperation request. Bearing this, as well as the jurisprudence of the Appeals Chamber in mind, the Chamber finds it inapposite to review the application of the national law in the context of the search operation. Rather, the Chamber considers that the information that the Badges were handed over to the Prosecution by the national authorities after they executed a cooperation request is an indication that the collection of the Badges took place in accordance with the national law and relevant domestic procedures.²⁸

²⁴ *Bemba* Judgment, ICC-01/05-01/13-2275-Red, para. 288.

²⁵ *Bemba* Judgment, ICC-01/05-01/13-2275-Red, para. 289.

²⁶ *Bemba* Judgment, ICC-01/05-01/13-2275-Red, para. 296.

²⁷ Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Public redacted version of ‘Decision on requests to the submission into evidence of Mr Al Hassan’s statements’, 20 May 2021, ICC-01/12-01/18-1475-Red, para. 37 *referring to the jurisprudence therein*.

²⁸ *See Bemba* Judgment, ICC-01/05-01/13-2275-Red, para. 288.

18. Even if there were a breach of the relevant national legal provisions, this does not mean *per se* that the Badges were obtained by means of a violation within the meaning of the *chapeau* of Article 69(7) of the Statute. The Chamber notes in this regard that the Yekatom Defence does not otherwise substantiate how the Badges would have been collected in violation of the Statute or of internationally recognised human rights. Therefore, the Chamber has no basis to conclude that the Badges were indeed obtained by means of a violation of the Statute, or of internationally recognised human rights.
19. In light of the above findings in the context of the first inquiry under Article 69(7) of the Statute, the Chamber does not find it necessary to consider the second step of the provision, under Article 69(7)(a) and (b) of the Statute. In light of its determination that submission of the Badges is not barred under Article 69(7) of the Statute and having further identified no other procedural bars to their submission, the Chamber recognises them as formally submitted.

2. Testimonial in nature

20. The Prosecution seeks to submit items CAR-OTP-2134-1599 and CAR-OTP-2134-1852 (the ‘Statements’) which are two ‘*procès-verbaux d’une audition*’ of an individual (the ‘Individual’) conducted on [REDACTED] by a national police authority.²⁹ It argues that the Statements are not prior recorded testimonies and that their submission is governed by Article 69 of the Statute instead of Rule 68 of the Rules, since the Individual is not a Prosecution witness and the Statements were not made for the purposes of a trial before the Court.³⁰ The Yekatom Defence and the Ngaïssona Defence (together, the ‘Defence’) oppose the Statements due to their testimonial nature.³¹
21. The Chamber recalls that ‘[e]vidence which is testimonial in nature is [...] inadmissible [...] when not elicited orally or when the conditions for the introduction of the prior recorded testimony specifically provided for in the

²⁹ Request, ICC-01/14-01/18-2048-Conf, para. 11.

³⁰ Request, ICC-01/14-01/18-2048-Conf, para. 12.

³¹ Yekatom Defence Response, ICC-01/14-01/18-2128-Conf, paras 27-33; Annex B to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxB, pp. 61-66; Ngaïssona Defence Response, ICC-01/14-01/18-2131-Conf, paras 7, 11-15; Annex 2 to the Ngaïssona Defence Response, ICC-01/14-01/18-2131-Conf-Anx2, pp. 64-68.

Court's applicable law are not met'.³² The Chamber notes that the Prosecution previously stated that it interviewed the Individual on both occasions;³³ in the Request, it states that the interview was conducted by a national police authority, in the presence of the Prosecution investigators.³⁴ The Chamber finds that regardless of whether the Individual was interviewed by the Prosecution or the national authorities, it is clear that the Statements were produced in the context of or in anticipation of legal proceedings. Having regard to this, the Chamber considers that the Statements are testimonial in nature and therefore rejects their submission.

3. *Temporal scope*

22. The Chamber notes that the Defence provide their views on the submission of a number of Items, arguing that they fall outside the scope of the charges.³⁵ At the outset, the Chamber recalls that facts 'falling outside of the temporal scope of the charges may be relied upon to prove facts and circumstances described in the charges'.³⁶
23. Regarding items CAR-OTP-2092-2891 and CAR-OTP-2100-0641, the Yekatom Defence opposes their submission, arguing that they are 'not signed, and [are] outside [the] temporal scope of the charges'.³⁷ The Ngaïssona Defence provides its view on the probative value of the items.³⁸ The Prosecution states that the items are relevant despite their dates, submitting that the former refers to the situation of Peuhl refugees in Yaloké as a consequence of their displacement and the latter

³² Initial Directions on the Conduct of the Proceedings, 26 August 2020, ICC-01/14-01/18-631, para. 56.

³³ Prosecution's Request for leave to add Six Items to the List of Evidence, 14 December 2021, ICC-01/14-01/18-1212-Conf (with confidential Annexes A-F) (public redacted version notified on 21 December 2021), paras 5-6; Decision on the Prosecution Request to Add Six Items to its List of Evidence, 3 February 2022, ICC-01/14-01/18-1270-Conf (public redacted version notified the same day), para. 14.

³⁴ Request, ICC-01/14-01/18-2048-Conf, para. 11.

³⁵ CAR-OTP-2006-1453; CAR-OTP-2032-0058; CAR-OTP-2032-0059; CAR-OTP-2032-0067; CAR-OTP-2062-0105; CAR-OTP-2062-0106; CAR-OTP-2093-0155; CAR-OTP-2093-0156; CAR-OTP-2093-0157; CAR-OTP-2093-0158; CAR-OTP-2093-0161; CAR-OTP-2101-5113; CAR-OTP-2059-0033; CAR-OTP-2059-0034; CAR-OTP-2059-0035; CAR-OTP-2093-0154; CAR-OTP-2008-0805; CAR-OTP-2092-1470; CAR-OTP-2092-1732; CAR-OTP-2092-1750; CAR-OTP-2087-9021; CAR-OTP-2100-0641; CAR-OTP-2101-2041; CAR-OTP-2101-2000; CAR-OTP-2089-0590; CAR-OTP-2092-2891; and CAR-OTP-2092-2981.

³⁶ Decision on Motions on the Scope of the Charges and the Scope of the Evidence at Trial, 29 October 2020, ICC-01/14-01/18-703-Conf (public redacted version dated 30 October 2020, notified on 2 November 2020, ICC-01/14-01/18-703-Red), para. 51.

³⁷ Annex B to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxB, pp. 44-45.

³⁸ Annex 2 to the Ngaïssona Defence Response, ICC-01/14-01/18-2131-Conf-Anx2, p. 50-52.

shows various agreements signed by armed groups and the continuance of armed conflict.³⁹ Having reviewed the items, the Chamber finds that they are not *prima facie* relevant to the contextual elements of the charged crimes and therefore rejects their submission.

24. As to items CAR-OTP-2092-2981 and CAR-OTP-2089-0590, the Yekatom Defence opposes their submission, arguing that they are ‘outside the temporal scope of the charges’ and irrelevant in this case.⁴⁰ The Prosecution submits that the items are relevant since the former establishes that the Boeing district is located in Bimbo and the latter includes information on the war crimes committed by the Anti-Balaka during the relevant period.⁴¹ Having reviewed the items, the Chamber finds that they are *prima facie* relevant to the contextual elements of the charged crimes and there appear to be no procedural bars to their submission. It therefore recognises them as formally submitted.
25. The Chamber notes that item CAR-OTP-2062-0106, an Anti-Balaka press release, appears to be a version of item CAR-OTP-2006-1453, a black and white and annotated copy, which is also requested for submission in the Request. It notes that the Ngaiissona Defence provides its views on the probative value and relevance of the items⁴² and the Yekatom Defence defers to the Chamber concerning them.⁴³ Having reviewed the items, the Chamber finds that they are *prima facie* relevant to the contextual elements of the charged crimes and there to be no procedural bars to their submission. It therefore recognises them as formally submitted.
26. Concerning the remainder of the items, the Chamber notes that the Yekatom Defence defers either to the Chamber or the Ngaiissona Defence. Having reviewed the items,⁴⁴ the Chamber finds that they are *prima facie* relevant to the contextual

³⁹ Request, ICC-01/14-01/18-2048-Conf, paras 34-35.

⁴⁰ Annex B to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxB, pp. 45, 55.

⁴¹ Annex B to the Request, ICC-01/14-01/18-2048-Conf-AnxB, pp. 43, 52.

⁴² Annex 1 to the Ngaiissona Defence Response, ICC-01/14-01/18-2131-Conf-Anx1, pp. 2-3, 6-7.

⁴³ Annex A to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxA, pp. 2, 6.

⁴⁴ Regarding items CAR-OTP-2093-0156 to CAR-OTP-2093-0158 and CAR-OTP-2059-0033 to CAR-OTP-2059-0035, the Chamber recognised them as formally submitted through this decision at paragraphs 6-7 above.

elements of the charged crimes and there to be no procedural bars to their submission. It therefore recognises them as formally submitted.⁴⁵

4. *Other items*

27. Regarding items CAR-OTP-2075-1015 and CAR-OTP-2101-3250, the Defence oppose their submission due to the fact that they are undated, unsigned, and the source is unknown.⁴⁶ Concerning the former, the Prosecution argues that the item is credible as it was collected from the Central African ministry of defence and is relevant as proof of Mr Ngaïssona's involvement in activities hostile to the Djotodia regime in the months which preceded the attacks on Bangui and Bossangoa of 5 December 2013.⁴⁷ For the latter, the Prosecution argues that although the item is not dated or signed, it was collected from the prime minister and the information it contains clearly relates to the relevant period.⁴⁸ Having reviewed the items, there appear to be no procedural bars to their submission. The Chamber therefore recognises them as formally submitted.
28. The Yekatom Defence opposes the submission of the warrant of arrest CAR-OTP-2001-5376, arguing that it is 'unreliable and lacks of probative value'.⁴⁹ The Ngaïssona Defence provides views on the relevance of the item.⁵⁰ Having reviewed the item, there appear to be no procedural bars to its submission. The Chamber therefore recognises it as formally submitted.
29. Concerning item CAR-OTP-2008-0853, a map of Bangui, the Yekatom Defence opposes its submission, arguing that the '[s]ource of the information [is] unknown, [and it is] not clear who is responsible for the violence or the weapons cache'.⁵¹ Having reviewed the item, there appear to be no procedural bars to its submission. The Chamber therefore recognises it as formally submitted.

⁴⁵ CAR-OTP-2032-0058; CAR-OTP-2032-0059; CAR-OTP-2032-0067; CAR-OTP-2062-0105; CAR-OTP-2093-0161; CAR-OTP-2093-0155; CAR-OTP-2101-5113; CAR-OTP-2059-0035; CAR-OTP-2093-0154; CAR-OTP-2008-0805; CAR-OTP-2092-1470; CAR-OTP-2092-1732; CAR-OTP-2092-1750; CAR-OTP-2087-9021; CAR-OTP-2100-0641; CAR-OTP-2101-2041; and CAR-OTP-2101-2000.

⁴⁶ Annex B to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxB, p. 13, 30; Annex 2 to the Ngaïssona Defence Response, ICC-01/14-01/18-2131-Conf-Anx2, pp. 17-19, 39-40.

⁴⁷ Request, ICC-01/14-01/18-2048-Conf, para. 32.

⁴⁸ Request, ICC-01/14-01/18-2048-Conf, para. 33.

⁴⁹ Annex B to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxB, pp. 58-59.

⁵⁰ Annex 2 to the Ngaïssona Defence Response, ICC-01/14-01/18-2131-Conf-Anx2, pp. 61-62.

⁵¹ Annex B to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxB, p. 78.

30. With regards to item CAR-OTP-2008-0892, the Yekatom Defence opposes its submission due to the fact that the document is illegible and it has requested a different copy from the Prosecution.⁵² The Prosecution, on the other hand, argues that although the item is difficult to read, the relevant portion that is requested for submission (at 0892-93) is readable.⁵³ Having reviewed the item, the Chamber finds that the item is indeed difficult to read as some of the words are illegible. It therefore rejects, without prejudice, the formal submission of this item unless the Prosecution provides a readable version to the participants by 15 November 2023.
31. Having reviewed the remainder of the Items, there appear to be no procedural bars to their submission. The Chamber therefore recognises them as formally submitted.

FOR THESE REASONS, THE CHAMBER HEREBY

REJECTS the submission of items CAR-OTP-2134-1599; CAR-OTP-2134-1852; CAR-OTP-2092-2891; and CAR-OTP-2100-0641;

REJECTS, without prejudice, the submission of item CAR-OTP-2008-0892;

ORDERS the Prosecution to provide, if available, a readable version of item CAR-2008-0892 by 15 November 2023;

PARTLY GRANTS the Request;

RECOGNISES as submitted the following items:

CAR-OTP-2006-1453;	CAR-OTP-2066-2102;	CAR-OTP-2101-0221;
CAR-OTP-2032-0058;	CAR-OTP-2093-0155;	CAR-OTP-2101-1820;
CAR-OTP-2032-0059;	CAR-OTP-2093-0156;	CAR-OTP-2101-5113;
CAR-OTP-2032-0067;	CAR-OTP-2093-0157;	CAR-OTP-2059-0033;
CAR-OTP-2062-0105;	CAR-OTP-2093-0158;	CAR-OTP-2059-0034;
CAR-OTP-2062-0106;	CAR-OTP-2093-0161;	CAR-OTP-2059-0035;

⁵² Annex B to the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf-AnxB, p. 8.

⁵³ Request, ICC-01/14-01/18-2048-Conf, para. 31.



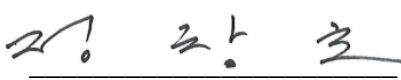
CAR-OTP-2093-0154; CAR-OTP-2008-0895; CAR-OTP-2087-9021;
CAR-OTP-2094-3500; CAR-OTP-2008-0923; CAR-OTP-2092-1584;
CAR-OTP-2094-3627; CAR-OTP-2034-4076; CAR-OTP-2092-1927;
CAR-OTP-2094-3651; CAR-OTP-2075-0978; CAR-OTP-2092-1975;
CAR-OTP-2094-4759; CAR-OTP-2075-0988; CAR-OTP-2092-1998;
CAR-OTP-2136-0217; CAR-OTP-2075-1008; CAR-OTP-2092-2033;
CAR-OTP-2136-0219; CAR-OTP-2075-1015; CAR-OTP-2092-2061;
CAR-OTP-2136-0221; CAR-OTP-2075-1022; CAR-OTP-2092-2450;
CAR-OTP-2136-0223; CAR-OTP-2075-1046; CAR-OTP-2092-2455;
CAR-OTP-2136-0225; CAR-OTP-2075-1092; CAR-OTP-2092-2981;
CAR-OTP-2136-0227; CAR-OTP-2075-1097; CAR-OTP-2101-1231;
CAR-OTP-2136-0229; CAR-OTP-2075-1114; CAR-OTP-2101-1608;
CAR-OTP-2136-0231; CAR-OTP-2075-1127; CAR-OTP-2101-1682;
CAR-OTP-2136-0233; CAR-OTP-2075-1210; CAR-OTP-2101-1722;
CAR-OTP-2136-0235; CAR-OTP-2075-1220; CAR-OTP-2101-1779;
CAR-OTP-2136-0239; CAR-OTP-2075-1247; CAR-OTP-2101-2916;
CAR-OTP-2136-0243; CAR-OTP-2092-1074; CAR-OTP-2101-3623;
CAR-OTP-2136-0245; CAR-OTP-2092-1126; CAR-OTP-2101-3627;
CAR-OTP-2136-0247; CAR-OTP-2092-1138; CAR-OTP-2101-4056;
CAR-OTP-2136-0249; CAR-OTP-2092-1173; CAR-OTP-2101-4083;
CAR-OTP-2136-0251; CAR-OTP-2092-1218; CAR-OTP-2129-1677;
CAR-OTP-2136-0253; CAR-OTP-2092-1388; CAR-OTP-2089-0590;
CAR-OTP-2136-0255; CAR-OTP-2092-1407; CAR-OTP-2089-0624;
CAR-OTP-2136-0257; CAR-OTP-2092-1440; CAR-OTP-2089-0653;
CAR-OTP-2062-0107; CAR-OTP-2092-1470; CAR-OTP-2092-1712;
CAR-OTP-2087-9024; CAR-OTP-2092-1732; CAR-OTP-2101-2041;
CAR-OTP-2101-4138; CAR-OTP-2092-1750; CAR-OTP-2129-1690;
CAR-OTP-0080-0808; CAR-OTP-2101-3250; CAR-OTP-2001-5376;
CAR-OTP-2001-5647; CAR-OTP-2128-0798; CAR-OTP-2002-0481;
CAR-OTP-2001-5672; CAR-OTP-2000-0218; CAR-OTP-2101-2542;
CAR-OTP-2001-5699; CAR-OTP-2034-3711; CAR-OTP-2134-0407;
CAR-OTP-2003-1592; CAR-OTP-2048-0061; CAR-OTP-2075-1439;
CAR-OTP-2008-0805; CAR-OTP-2048-0063; CAR-OTP-2101-0446;
CAR-OTP-2008-0855; CAR-OTP-2087-9017; CAR-OTP-2101-0471;

CAR-OTP-2101-0529;	CAR-OTP-2008-0853;	CAR-OTP-2103-0039;
CAR-OTP-2101-3653;	CAR-OTP-2074-3246;	CAR-OTP-2122-7299;
CAR-OTP-2129-1445;	CAR-OTP-2075-1370;	CAR-OTP-2124-0964;
CAR-OTP-2129-1506;	CAR-OTP-2077-0141;	CAR-OTP-2134-0441;
CAR-OTP-2129-1623;	CAR-OTP-2100-0358;	CAR-OTP-2134-0449;
CAR-OTP-2136-0341;	CAR-OTP-2101-2000;	
CAR-OTP-0080-0834;	CAR-OTP-2103-0037;	

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

ORDERS the Prosecution, the Yekatom Defence, and the Ngaïssona Defence to file public redacted versions of the Request, ICC-01/14-01/18-2048-Conf, the Yekatom Defence Response, ICC-01/14-01/18-2128-Conf, and the Ngaïssona Defence Response, ICC-01/14-01/18-2131-Conf, respectively, within one week of notification of this decision.

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

		
_____ Judge Péter Kovács	_____ Judge Bertram Schmitt Presiding Judge	_____ Judge Chang-ho Chung

Dated 10 November 2023

At The Hague, The Netherlands