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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 ROMBHOT YEKATOM AND PATRICE-EDOUARD
NGAISSONA**

Public

**Public redacted version of ‘Defence response to the Prosecution’s “Request for leave to add 22 items to the List of Evidence” (ICC-01/14-01/18-1653-Conf)’,
filed 17 November 2022 (ICC-01/14-01/18-1667-Conf)**

Source: Defence of Patrice-Edouard Ngaïssona

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

Mr Karim A. A. Khan QC
 Mr Mame Mandiaye Niang
 Ms Nazhat Shameem Khan
 Mr Kweku Vanderpuye

Counsel for the Defence of Mr Ngaïssona

Mr Geert-Jan Alexander Knoops
 Mr Richard Omissé-Namkeamaï
 Ms Marie-Hélène Proulx
 Mr Michael Rowse
 Mr Alexandre Desevedavy

Counsel for the Defence of Mr Yekatom

Ms Mylène Dimitri
 Mr Thomas Hannis
 Ms Anta Guissé

Legal Representatives of the Victims

Mr Yaré Fall
 Ms Marie Edith Douzima Lawson
 Ms Paolina Massidda
 Mr Abdou Dangabo Moussa
 Ms Elisabeth Rabesandratana
 Mr Dmytro Suprun

Legal Representatives of the Applicants**Unrepresented Victims****Unrepresented Applicants
(Participation/Reparation)****The Office of Public Counsel for Victims****The Office of Public Counsel for the
Defence****States' Representatives****Amicus Curiae****REGISTRY****Registrar**

Mr Peter Lewis

Counsel Support Section**Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations
Section****Other**

I. Introduction

1. The Defence requests Trial Chamber V (the ‘Chamber’) to reject the Prosecution “Request for leave to add 22 items to the List of Evidence” (the ‘Request’) notified on 4 November 2022.¹ Despite the Chamber ordering the Prosecution to request such additions on an exceptional basis,² this constitutes the tenth request made by the Prosecution to add items to its List of Evidence (the ‘LoE’).³
2. The Defence opposes the Request as:
 - a. The Prosecution could have anticipated the addition of materials much earlier and had ample opportunities to make a timely request;
 - b. The purported relevance and significance of the items are limited or inexistent; and
 - c. The prejudice of granting the Prosecution request outweighs the purported significance.

More generally, the Prosecution request consistently downplays and incorrectly represents the prejudicial nature of such late requests.

II. Confidentiality

3. This response is filed as confidential pursuant to Regulation 23 (1) *bis* of the Regulations of the Court, as it responds to a filing of the same classification. A public redacted version will be filed in due time.

¹ ICC-01/14-01/18-1394-Conf.

² ICC-01/14-01/18-1206, para. 8; ICC-01/14-01/18-1301 30-09-2022, para. 13.

³ ICC-01/14-01/18-958-Conf; ICC-01/14-01/18-1042-Conf; Email sent by the Prosecution, 28 September 2021 at 17:37; ICC-01/14-01/18-1144-Conf; ICC-01/14-01/18-1164-Conf; ICC-01/14-01/14-1212-Conf; ICC-01/14-01/18-1285-Conf; ICC-01/14-01/18-1330-Conf; ICC-01/14-01/18-1394-Conf.

III. Relevant Procedural History

4. On 16 July 2020, the Chamber ordered the Prosecution to disclose all incriminatory materials by 9 November 2020 and to file a corresponding LoE containing all the materials it intended to submit as evidence during trial by the same deadline.⁴ The Chamber indicated that, in order to add materials to the LoE after the deadline of 9 November 2020, the Prosecution should seek leave from the Chamber.⁵
5. Between 9 November 2020 and 6 October 2022, the Prosecution filed nine requests to amend its List of Evidence.⁶
6. On 6 October 2022, the Chamber instructed the Prosecution to inform the Chamber and the parties whether it intends to file further requests to add material to its LoE.⁷
7. On 25 October 2022, the Prosecution informed *via* email that it intends to seek leave to add certain items to its List of Evidence, including media articles, two email chains from the account [REDACTED], “rushes” filmed by Prosecution witness [REDACTED], and items collected in the course of the investigation against [REDACTED] (the ‘[REDACTED]’s case’).⁸ The Defence responded to the Prosecution on 27 October 2022 noting that in relation to material coming out of the [REDACTED] investigations and the [REDACTED] investigations, the Defence was

concerned that allowing the Prosecution to modify its LoE indefinitely without a deadline is tantamount to depriving the LoE of any meaningful content, and would significantly compromise Defence fair trial rights, and defeat the purpose of the LoE for the preparation of the Defence.⁹

⁴ ICC-01/14-01/18-589.

⁵ *Ibid*, para. 16.

⁶ ICC-01/14-01/18-958-Conf; ICC-01/14-01/18-1042-Conf; Email sent by the Prosecution, 28 September 2021 at 17:37; ICC-01/14-01/18-1144-Conf; ICC-01/14-01/18-1164-Conf; ICC-01/14-01/18-1212-Conf; ICC-01/14-01/18-1285-Conf; ICC-01/14-01/18-1330-Conf; and ICC-01/14-01/18-1394-Conf..

⁷ ICC-01/14-01/18-1597-Conf, p. 10.

⁸ See Prosecution’s email dated 25 October 2022 at 17:46.

⁹ ‘RE: Further requests to add material to the Prosecution’s List of Evidence’, 27 October 2022, at 12:35.

8. On 4 November 2022, the Prosecution filed the Request seeking the late addition to its LoE of one media article, two email chains from the email account [REDACTED], five (5) “rushes” filmed by [REDACTED], and thirteen (13) Anti-Balaka badges [REDACTED] (the ‘Items’).¹⁰

IV. Applicable Law

9. In the first decision on whether to grant the Prosecution leave to add items to its List of Evidence,¹¹ the Chamber found that “it must be determined in the concrete circumstances whether reliance by the Prosecution on items additional to those included in the initial list of evidences causes undue prejudice to the procedural rights to the Defence.”¹² The factors to consider in ruling on a request include *inter alia*: (1) the extent to which the requested addition is opposed by the Defence; (2) the time when the addition was sought; (3) the nature and the amount of the material concerned; (4) the intended purpose of the Prosecution’s requested reliance on such material; and (5) its prospective significance in light of the charges brought against the accused and the rest of the available evidence.¹³
10. The Chamber reasserted the importance of the Prosecution’s LoE as a procedural guarantee for the trial preparation of Defence Teams. However, it further clarified that addition was possible where items were received “only after the time limit for the provision of the Prosecution’s List of Evidence expires”, or the relevance of certain others became “apparent with the development of the trial proceedings”.¹⁴

¹⁰ ICC-01/14-01/18-1653-Conf.

¹¹ ICC-01/14-01/18-989-Conf.

¹² *Ibid.*, para. 5.

¹³ *Ibid.*, para. 5.

¹⁴ *Ibid.*, para. 6.

V. Submissions

A. The Request is prejudicial to Mr Ngaïssona's procedural rights as it is untimely, and the Items lack significance in light of the rest of the evidence available in the List of Evidence

i. *The online article of Think Africa Press*

11. *First*, the request is untimely as conceded by the Prosecution. The online press article of *Think Africa Press* (CAR-OTP-2001-4122) was "downloaded by the OTP in January 2014".¹⁵ The Prosecution has been in possession of the item for eight and a half years, and therefore had ample time to review and assess whether the article bore sufficient relevance and probative value until the 9 November 2020 deadline. Yet, the Prosecution failed to explain why it was not in a position to add the item to its LoE by the initial deadline of 9 November 2020. On this sole ground, the Chamber should reject the late addition of this item; the Prosecution may not remedy its failure to comply with the Chamber's deadline by now seeking the exceptional measure of amending its LoE.

12. *Second*, allegations on "FROCCA's instrumentalisation of the Anti-Balaka on the ground"¹⁶ were included in both the Document Containing the Charges¹⁷ and the Prosecution's Pre-Trial Brief.¹⁸ Yet, the Prosecution did not include this disputed document which relates to the *Front pour le Retour à l'Ordre Constitutionnel en Centrafrique* ("FROCCA") on its LoE, or seek to add it to its LoE after the 9 November 2020 deadline, which shows that the Prosecution did not attribute any relevance and/or probative value to it. Therefore, identifying the purported relevance of the item to the Prosecution case was not beyond the Prosecution's

¹⁵ ICC-01/14-01/18-1653-Conf, para. 8.

¹⁶ ICC-01/14-01/18-1653-Conf, para. 6.

¹⁷ ICC-01/14-01/18-282-Conf-AnxB1, para. 49.

¹⁸ ICC-01/14-01/18-723-Conf, paras 94-107.

control and did not become apparent during the trial proceedings. Consequently, its late addition to the Prosecution's LoE is not warranted.

13. *Third*, the press article will not further the Chamber's ability to fulfil its truth-seeking obligations. The Prosecution's LoE already contains a press article that covers the alleged relationship between the FROCCA and the Anti-Balaka (CAR-OTP-2004-4071). Not only did the same author¹⁹ write said article, but its wording is almost identical to the one used in the article for which the late addition is sought.²⁰ Therefore, the online *Think Africa Press* article has no significance in light of the rest of the evidence available and does not outweigh the prejudice that would be caused by its late addition to the LoE.

14. Therefore, given the untimeliness of the request, coupled with the limited significance of the press article, reliance by the Prosecution on the said item in addition to those included in its initial LoE causes undue prejudice to the procedural rights of Mr Ngaïssona.

*ii. Two email chains*²¹

15. The Chamber should reject this request as untimely. The explanation that "Inclusion on the Prosecution's LoE was not possible because the items were collected by the Prosecution in January 2021, after the deadline for filing the LoE had passed"²² is unpersuasive. Since the date of the disclosure of the emails on 10 February 2021, the Prosecution has made nine requests to amend its LoE.²³ One of

¹⁹ Ms [REDACTED].

²⁰ CAR-OTP-2004-4071: "the Front for the Return of Constitutional Order in CAR, a loosely knit militia composed of former national army officers loyal to Bozize, rebel groups and local vigilante movements fed up with Seleka's unceasing violence and looting".

²¹ CAR-OTP-2130-3615 and CAR-OTP-2130-3641.

²² ICC-01/14-01/18-1653-Conf, para. 9.

²³ ICC-01/14-01/18-958-Conf; ICC-01/14-01/18-1042-Conf; Email sent by the Prosecution, 28 September 2021 at 17:37; ICC-01/14-01/18-1144-Conf; ICC-01/14-01/18-1164-Conf; ICC-01/14-01/18-1212-Conf; ICC-01/14-01/18-1285-Conf; ICC-01/14-01/18-1330-Conf; and ICC-01/14-01/18-1394-Conf.

these requests sought the addition to the LoE of Yahoo! emails.²⁴ In discussing the emails in that earlier request, the Prosecution explained:

Upon receiving the formal response to [REDACTED], the Prosecution downloaded them into its internal servers on 22 January 2021. [...] As soon as these items were downloaded, investigators or analysts **reviewed them and filtered out irrelevant items**, and then **two sets of attorneys reviewed a smaller number to classify them legally**, doing a **primary and secondary review** to prepare them for disclosure, and adding redactions where necessary.²⁵

Therefore, the Prosecution had ample time and opportunities to assess whether it needed these items for its case and therefore its explanation for a request for late addition is ill conceived. The Prosecution fails to explain why the emails it is now seeking to add to the LoE were not selected upon the early 2021 review. This being said, the mere fact that they were reviewed, but not initially selected, puts into question their relevance and probative value.

16. The Prosecution claims that these items are “relevant to material issues at trial and have significant probative value”.²⁶ Although the Defence has disputed the significance of these items,²⁷ in light of this claim, the Prosecution has (a) either failed to act diligently in identifying material since it has taken one year and ten months to identify these emails or (b) the items are not as relevant or significant to the trial as the Prosecution claims. Either possibility should lead the Chamber to reject the addition of the items.

17. The Prosecution claims there is no prejudice because Mr Ngaïssona knows the contents of his emails; however, the Prosecution has the burden of proof that Mr Ngaïssona sent these emails. It is not a foregone conclusion that the Prosecution has

²⁴ ICC-01/14-01/18-958-Conf.

²⁵ Ibid., para. 7 (bold added).

²⁶ Request, para. 9.

²⁷ ICC-01/14-01/18-1546-Conf, para. 26.

proven that these emails or account belonged to Mr Ngaïssona.²⁸ Moreover, by the Chamber's own approach to evidence evaluation, the Prosecution is not entitled to refer to the authenticity²⁹ of these emails as a justification for their addition to the LoE. The Chamber has previously disregarded the Prosecution's submissions about authenticity and reliability when evaluating such arguments and should do so here to be consistent.³⁰ In any case, to make a finding that these are a reliable record of what was sent would be to prejudge issues that are now properly part of deliberations leading up to the trial judgement.

18. Finally, the prejudice of a late addition of these materials is high given the nature of the materials and the Prosecution's claims about them. The Prosecution argues "They evince planning and organisation between NGAISSONA and other key pro-BOZIZE figures, including [...] (P2625), Levy YAKETE and David GBANGBA, in mid-2013, including in relation to FROCCA."³¹ According to the Prosecution, these allegations are important to the charges against Mr Ngaïssona. Seeking to expand the evidence brought against him at this stage when the Prosecution has not been diligent in examining material in its possession is prejudicial.
19. This is particularly so since the opportunity to now address the emails fully during the course of the trial is limited.³² Of the witnesses who, according to the Prosecution, can in principle speak about planning events in 2013, only witness P-2625 is yet to testify.³³ As noted in a prior Defence response, P-2625 has an "overall lack of credibility [...], which is impugned to such an extent that P-2625's prior

²⁸ See, for example, ICC-01/14-01/18-1546-Conf, para. 21.

²⁹ See Request, para. 12: "The emails are reliable and authentic."

³⁰ ICC-01/14-01/18-989-Conf, para. 11: "Further recalling that the Request does not concern the submission into evidence of the Emails, but rather their inclusion on the Prosecution's list of evidence, the Single Judge sees no need to further address any arguments regarding the reliability or authenticity of the items."

³¹ ICC-01/14-01/18-1653-Conf, para. 9.

³² The Prosecution considers this a relevant criteria. See, ICC-01/14-01/18-1144-Red, para. 9.

³³ The list of "insider" witness's in the Chamber's footnote 26 in ICC-01/14-01/18-1597-Conf is not applicable here. They are either withdrawn or comzone witnesses and thus will be unlikely to be able to evidence in relation to the Cameroon phase of the case.

statement is *prima facie* unsuitable for admission under rule 68(3)”³⁴ but also highly incriminating under the Prosecution’s theory.³⁵ All witnesses who gave evidence in relation to Mr Ngaïssona’s alleged activities in Cameroon testified after the Prosecution received these items. It was within the Prosecution’s control to have these items on its LoE prior to that, to allow the Defence a meaningful opportunity to challenge or discuss their contents and authenticity. However, the Prosecution’s request comes at a time when the Defence can only discuss the emails with an unreliable but potentially incriminating witness. This is highly prejudicial and the Chamber should not permit it.

iii. Five “rushes” filmed by [REDACTED]

20. The Request is unreasonably late in seeking the addition to the LoE of five “rushes” filmed by [REDACTED]. The “rushes” were provided to the OTP investigators in November 2017.³⁶ The Prosecution had three years to review and assess the relevance of these five “rushes” before the 9 November 2020 deadline. During this period the Prosecution reviewed and added hundreds of *Audio/Video Material* provided by [REDACTED] to its LoE. Yet, the Prosecution fails to provide any explanation underlying either its inability to review the five “rushes” during the last three years or its reassessment of the necessity to add them to its LoE today. As such, the Request is an untimely attempt to remedy an oversight on the part of the Prosecution, and should therefore be rejected on this basis alone.

21. *Second*, the Prosecution requests the addition of these items without providing an adequate basis for the Chamber to examine their relevance. The individuals featured in them mostly communicate in Sango, yet no corresponding translated

³⁴ ICC-01/14-01/18-1640-Conf-Red, para. 19.

³⁵ *Ibid.*, paras 10-18.

³⁶ CAR-OTP-2065-2857, CAR-OTP-2065-1969 and CAR-OTP-2065-2300 were provided to the Prosecution investigators on 10 November 2017; CAR-OTP-2065-0850 and CAR-OTP-2065-2903 were provided to the Prosecution investigators on 14 November 2017.

transcripts are available. This language issue is particularly concerning given that the Prosecution, in its description of CAR-OTP-2065-2300, asserts that [REDACTED] was about to “call all the elements together to give them instructions”³⁷, yet he specifically answers in French “*non, pas du tout*” when asked “*vous être en train de quoi... donner des ordres?*”³⁸ Adding to this, the rushes contain considerable background noise that further complicates assessing the substance of the Prosecution’s claims.

22. The Prosecution claims that the rushes’ relevance became apparent in the course of the proceedings but this cannot be the case. The Prosecution argues that three rushes³⁹ are dated presumptively after 5 December 2013 and “are probative of the connection between YEKATOM’s Group and other Anti-Balaka figures and groups, including Maxime MOKOM”⁴⁰ Yet, the Prosecution’s claimed relevance of the materials it is submitting⁴¹ can be found in the DCC alleging that “after the 5 December 2013 Attack, YEKATOM regularly met, communicated or coordinated, with the National Coordination and senior Anti-Balaka leaders. These leaders included [...] MOKOM [...]”⁴² Therefore, the Defence fails to see the reason why CAR-OTP-2065-1969, CAR-OTP-2065-2300 and CAR-OTP-2065-2903 could not have been included in the initial LoE when the Prosecution had ample opportunity to do so.

23. Therefore, the Prosecution’s submissions do not warrant the late addition of CAR-OTP-2065-1969, CAR-OTP-2065-2300 and CAR-OTP-2065-2903 to the LoE.

³⁷ ICC-01/14-01/18-1653-Conf, para. 15. ii.

³⁸ CAR-OTP-2065-2300 from [00:02:03] to [00:02:08].

³⁹ CAR-OTP-2065-1969, CAR-OTP-2065-2300 and CAR-OTP-2065-2903.

⁴⁰ ICC-01/14-01/18-1653-Conf, para. 15.

⁴¹ “connection between Yekatom’s Group and other Anti-Balaka figures and groups”, ICC-01/14-01/18-1653-Conf, para. 15.

⁴² ICC-01/14-01/18-282-Conf-AnxB1, para. 204.

24. *Third*, should the Chamber find the disputed “rushes” relevant, they bear little significance considering the rest of the evidence on the LoE. To date, the Prosecution’s LoE already contains 440 *Audio/Video Material* provided by [REDACTED]. This witness’s footage mainly focuses on Mr Yekatom’s group and its alleged connections with other Anti-Balaka figures and groups. The Prosecution has not explained how these five additional “rushes” would significantly help the Chamber in reaching a conclusion about the existence or non-existence of a connection between Anti-Balaka groups or in assessing the reliability of other evidence in the case that the 440 other “rushes” would not.⁴³ In other words, if 440 “rushes” do not already suffice to help the Chamber in its holistic assessment of the evidence available, five more will presumptively not help either.
25. Should the Chamber find the items to bear relevance and prospective significance to the proceedings, such marginal significance would in any event be insufficient to outweigh the undue prejudice which their late addition would cause to Mr Ngaïssona’s procedural rights.
26. *Finally*, the Defence notes along with the Prosecution that items CAR-OTP-2065-0850 and CAR-OTP-2065-2857 have already been recognised as formally submitted in evidence by the Chamber following P-2462’s testimony.⁴⁴ As recalled by the Chamber on several occasions, the addition of an item to the LoE is a precondition for its inclusion on the List of Materials for the examination of witnesses. This in turn is a prerequisite to its formal submission in evidence.⁴⁵ Therefore, the request to add the two “rushes” is a *post facto* request for remedy to an oversight by all parties to the proceedings. The Prosecution cannot rely upon its own lack of diligence to justify now an untimely request. The Prosecution should have

⁴³ On the definition of “significance of evidence”: *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Decision on the Prosecutor’s Bar Table Motions (ICC-01/04-01/07-2635), 17 December 2010, para. 35.

⁴⁴ Email Decision dated 25 November 2021, at 15:38.

⁴⁵ See Decision ICC-01/14-01/18-1301-Conf; Email Decision 25 November 2021, at 18:54; Email Decision dated 2 March 2022, at 16:10; Email Decision dated 07 March 2022, at 18:00.

requested the late addition of items to its LoE prior to using them in court and requesting their submission. As such, the Defence respectfully requests the Chamber to reconsider its Decision on Submitted Material for P-2462⁴⁶ and withdraw items CAR-OTP-2065-0850 and CAR-OTP-2065-2857 from the list of items recognised as formally submitted in evidence.

iv. 13 Anti-Balaka badges [REDACTED]

27. The request to add 13 Anti-Balaka badges is untimely. The Prosecution had the opportunity to seek their addition when it first requested the addition of Anti-Balaka badges collected from [REDACTED] (the “First Request”).⁴⁷ Today, the Prosecution argues that these badges are relevant in “rebutting the implication that they do not reflect the association of members of YEKATOM’s Group, inter alia, with [REDACTED]” following P-1839’s testimony.⁴⁸ But such argument, in stating the relevance, is no different in essence from the Prosecution’s prior argument that “the badges reflect links between [REDACTED] and YEKATOM’s Group”.⁴⁹ As such, the so-called relevance of these badges did not become apparent following the cross-examination of P-1839, contrary to the Prosecution’s assertion. Additionally, when the Prosecution first sought the addition of items collected [REDACTED], it minimised the prejudice caused by such addition by saying it had “carefully selected” the items upon exercising “reasonable diligence in reviewing and analysing the received material”, “rather than inundating the Parties with a request to add dozens of items to the LoE”.⁵⁰ Consequently, the Request not only amounts to a request to add dozens of items to the LoE, but should be read as a remedial *addendum* to the First Request, devoid of valid grounds.

⁴⁶ ICC-01/14-01/18-1227-Anx1.

⁴⁷ ICC-01/14-01/18-1394-Conf.

⁴⁸ ICC-01/14-01/18-1653-Conf, para. 18.

⁴⁹ ICC-01/14-01/18-1394-Conf, para. 15.

⁵⁰ ICC-01/14-01/18-1394-Conf, paras 17-18.

28. Moreover, the Defence reiterates its objection to the late addition to the LoE of items collected in the course of an investigation in another case. The Chamber rightly noted that investigations should largely be completed at the stage of the confirmation of charges hearing, and added that it trusted that the Prosecution had fully completed its investigations in this case.⁵¹ Yet, and for the second time, the Prosecution uses its investigation in the case of Maxime Mokom to bring new items into the present one and to fill gaps in its investigation against Mr Ngaïssona. The Chamber should not permit the Prosecution to use Mr Mokom's case to bypass procedural safeguards set up to guarantee Mr Ngaïssona's fair trial rights in the present case. Should the Prosecution continue to introduce items collected in the Mokom case investigations, it will be greatly prejudicial to Mr Ngaïssona's statutory rights to be informed promptly and in detail of the cause and content of the charges as well as to have adequate time for the preparation of the Defence.

B. The Prosecution undermines the importance of the List of Evidence

29. The Defence notes that the Prosecution repeatedly relies on compliance with its disclosure obligations to (1) be excused of its delays in requesting the late addition of the Items to the LoE or (2) to minimise the prejudicial effect such late addition of items has on the Defence and fair trial rights.⁵² Disclosure of material is no substitute for inclusion on the LoE, as mere disclosure does not put the Defence on notice that the Prosecution intends to use the items at trial.⁵³ If disclosure of material constituted sufficient notice for the accused, the LoE would be devoid of purpose.

⁵¹ ICC-01/14-01/18-1597-Conf, para. 23.

⁵² ICC-01/14-01/18-1653-Conf, paras 9, 13, 17, 19.

⁵³ *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Trial Chamber VII, 'Decision on Prosecution's Motion for Reconsideration of the Decision on Outstanding Evidentiary Applications' (ICC-01/05-01/13-1896), p. 6, para. 11.

30. In a similar vein, the Prosecution argues that the late addition of the Items would cause no unfair prejudice to the Defence as it “will have ample opportunity to address the substance of the Items in the course of trial”.⁵⁴ This argument is meritless as the prejudice would not only stem from the Defence’s inability to address the substance of the Items at trial, but also from the lack of adequate time for the preparation of the Defence to effectively investigate and address the substance at trial, keeping in mind that more than half of the Prosecution witnesses have already testified, and that few of the remaining witnesses will be in a position to meaningfully comment on the Items. The Prosecution misconceives the purpose of the LoE, the submission of which is to facilitate the Defence’s preparation by allowing it to identify the sub-set of materials the Prosecution actually intends to use at trial.⁵⁵ Allowing late modifications to the LoE on the basis that the Defence will have the opportunity to address the substance of the Items at trial would be tantamount to depriving the LoE of any meaningful content, and would significantly compromise Defence fair trial rights, and defeat the purpose of the LoE.

⁵⁴ ICC-01/14-01/18-1653-Conf, para. 19.

⁵⁵ *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Trial Chamber VII, ‘Decision on Prosecution’s Motion for Reconsideration of the Decision on Outstanding Evidentiary Applications’ (ICC-01/05-01/13-1896), para. 11.

VI. Relief sought

31. The Defence respectfully requests the Chamber to:

(1) **REJECT** the Request; and

(2) **RECONSIDER** its email Decision on Submitted Material for P-2462 dated 25 November 2021 and **ORDER** the withdrawal of CAR-OTP-2065-0850 and CAR-OTP-2065-2857 from items recognised as formally submitted.

Respectfully submitted,



Mr. Knoops, Lead Counsel for Patrice-Edouard Ngaïssona

The Hague, 09 January 2023