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Date: 25 August 2023

TRIAL CHAMBER V

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

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public

With Confidential Annexes A to C

**Prosecution's Sixteenth supplementary submission of call data records and related
evidence *via* the "bar table"**

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") hereby seeks Trial Chamber V's ("Chamber") formal recognition of an additional eight items of Call Data Records ("CDR") and attribution evidence submitted from the bar table ("Submitted Items"), in accordance with articles 64(9)(a), 69(3) and 69(4), rule 63(2) of the Rules of Procedure and Evidence ("Rules"), and the Initial Directions on the Conduct of Proceedings ("Initial Directions").¹ This submission supplements the Prosecution's previous motion regarding call data records and related evidence ("main CDR bar table motion").²

2. The Submitted Items are *prima facie* relevant to and probative of material issues at trial. They are also mutually corroborative of other submitted evidence and bear sufficient indicia of reliability on which the Chamber may properly base its article 74 decision. Recognising their formal submission causes no prejudice. To the contrary, it would assist the Chamber's determination of the truth and ensure an expeditious trial.

3. Confidential Annexes A to C follow the same format as in the Prosecution's main CDR bar table motion. **Confidential Annex A** contains Call Sequence Tables ("CST") presenting in an easily readable and accessible format the additional call data relied upon in the Prosecution's case. **Confidential Annex B** lists the (single) additional CDR underlying the CST, by individual Evidence Registration Number ("ERN"). **Confidential Annex C** contains an attribution table, listing the evidence relied upon to substantiate the additional telephone number attributions.

¹ ICC-01/14-01/18-631, para. 61.

² ICC-01/14-01/18-1296.

II. CONFIDENTIALITY

4. Pursuant to regulation 23*bis*(1) of the Regulations of the Court (“RoC”), Annexes A to C are classified as “Confidential” because they identify the telephone numbers of individuals, including Prosecution witnesses, which should not be made public.

III. SUBMISSIONS

5. The Prosecution tenders a limited number of evidentiary items relevant to showing telephone contacts between certain individuals of consequence, including contacts corroborating important email communications that NGAISSONA had with Sex Perrieur Moteme DONGOMBE and Eric DANBOY in October 2013 regarding the provision of military supplies and weapons. Whereas the main CDR bar table motion principally cited in the Prosecution’s Trial Brief,³ the present motion introduces evidence of a handful of significant contacts that have arisen in the course of the trial. The relevance of the corresponding CDR is set out for each individual CST in Confidential Annex A.

6. In total, the Prosecution seeks the formal recognition of one additional item containing CDR and seven items relevant to phone number attribution. As required by the Initial Directions,⁴ the Prosecution has inquired with the Defence teams as to their respective positions on the items to be tendered. It is the Prosecution’s understanding that both Defence teams are opposed to the submission of the entirety of all items.

7. The Prosecution incorporates by reference the submissions made in its main CDR bar table motion at paragraphs 7-12 and 15-23 on the nature of CDR, and the standard evidentiary criteria (relevance, probative value and potential prejudice). The

³ See ICC-01/14-01/18-1296, para. 3, 9.

⁴ ICC-01/14-01/18-631, para. 62.

annexes to this motion should be read together with those of the main CDR bar table motion. This means, in particular, that attributions made out in the main CDR bar table motion will not be repeated with all the underlying evidence, and call data relied upon and extracted in the CSTs will not be “re-submitted”, if the Chamber has already formally recognised their submission. While one attribution (of Maxime MOKOM) is indeed repeated in the attribution table at Confidential Annex C, this is to supplement the entry from the main CDR bar table motion with one additional source which has since been added to the Prosecution’s list of evidence.⁵

IV. CONCLUSION

8. For the foregoing reasons, the Prosecution requests that the Chamber recognise as formally submitted the eight items of evidence listed in Confidential Annexes B and C (Part II), to this filing.



Karim A. A. Khan KC, Prosecutor

Dated this 25th day of August 2023
At The Hague, The Netherlands

⁵ See ICC-01/14-01/18-1573-Conf.