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

Date: **18 July 2024**

TRIAL CHAMBER V

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

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

Public

Public redacted version of “Prosecution’s Response to the “Consolidated Yekatom Defence Request for Leave to add Four Witnesses and Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b)” (ICC-01/14-01/18-2541-Conf)”, 3 July 2024, ICC-01/14-01/18-2574-Conf

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”) defers to Trial Chamber V’s (“Chamber”) discretion regarding the Defence’s “Consolidated Defence Request for Leave to add Four Witnesses and Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b)”¹ (“Request”), subject to the observations below.

II. CONFIDENTIALITY

2. Pursuant to regulation 23*bis*(2) of the Regulations of the Court (“RoC”), this document is filed as “Confidential”, as it responds to a filing of the same designation. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

3. Concerning the Defence’s request to add four witnesses to its list of witnesses (“LOW”),² the Prosecution reiterates that it does not intend to rely on the evidence provided by Common Legal Representative of Victims 1 (“CLRV1”) witness CAR-V45-P-0001 in its case against the Accused.

4. In regard to the Defence’s Rule 68(2)(b) requests, the Prosecution notes a number of irregularities among the Four Witnesses’ statements and associated exhibits. Annex A to the Request lists CAR-V45-00000010 (a photo of CAR-V45-P-0001) as an associated exhibit to the statement of P-6043,³ and references paragraph 27.⁴ However, this ERN is not listed at that paragraph number, nor does it appear elsewhere in the

¹ ICC-01/14-01/18-2541-Conf.

² See ICC-01/14-01/18-2541-Conf para. 1 (“[t]he Defence for Mr Alfred Rombhot Yekatom (“Defence”) respectfully requests leave to add four witnesses to [sic], namely [REDACTED] (P-6043), [REDACTED] (P-6044), [REDACTED] (P-6049) and [REDACTED] (P-6050) (collectively the “Four Witnesses”) to its List of Witnesses (“LoW”)”).

³ CAR-D29-0009-0692-R01.

⁴ ICC-01/14-01/18-2541-Conf-AnxA, p. 1.

statement. Without this information, it is impossible to ascertain whether or not this photograph was in fact shown to the witness.

5. Additionally, the Prosecution is concerned about the possible contamination of P-6043's evidence given the manner in which the Defence conducted her and her partner's interviews. It appears that both P-6043's and P-6044's took place on the same day and at the same location. The Defence commenced P-6044's interview while P-6043's interview was interrupted for a break. It then put P-6044's response concerning the identity of the person shown in photograph CAR-D29-0016-0159 to P-6043 when her interview was resumed.⁵ This significantly led P-6043 to change her statement about the person to agree with her partner's identification of him as [REDACTED].⁶

6. Last, the Prosecution notes that while the electoral cards of P-6043 and P-6044 are listed as associated exhibits, no mention of these documents is made in either witness's statement.⁷

7. Having noted the above, and reiterating that it does not in any event intend to rely on the evidence of CAR-V45-P-0001 for its case-in-chief, the Prosecution defers to the Chamber's discretion regarding any eventual submission of the Four Witnesses' prior recorded testimony under rule 68(2)(b) of the Rules of Procedure and Evidence.

⁵ CAR-D29-0009-0692-R01, para. 42.

⁶ CAR-D29-0009-0692-R01, para. 45.

⁷ ICC-01/14-01/18-2541-Conf-AnxA, p. 1-2.

IV. CONCLUSION

8. Subject to the above, the Prosecution respectfully defers to the Chamber with respect to the disposition of the Defence's Request.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a dot.

Karim A. A. Khan KC, Prosecutor

Dated this 18th day of July 2024
At The Hague, The Netherlands