

**Cour
Pénale
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**International
Criminal
Court**

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

Date: 25 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
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-ÉDOUARD
NGAISSONA***

Public

**Public Redacted Version of the “Consolidated Response of the Common Legal Representative of the Former Child Soldiers 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)’ and the ‘Second Defence Consolidated Request for Leave to add items to its List of Evidence, P-6046 & P-6042 to its List of Witnesses and submit their prior recorded testimony pursuant to Rule 68(2)(b)’”
(No. ICC-01/14-01/18-2575-Conf, dated 4 July 2024)**

Source: Office of Public Counsel for Victims (CLR1)

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

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I. INTRODUCTION

1. The Common Legal Representative of the Former Child Soldiers (the “CLR1”) herewith submits his 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)” (the “Defence First Request”)¹ and the “Second Defence Consolidated Request for Leave to add items to its List of Evidence, P-6046 & P-6042 to its List of Witnesses and submit their prior recorded testimony pursuant to Rule 68(2)(b)” (the “Defence Second Request”),² (together the “Defence Requests” or the “Requests”). With its First Request, the Defence seeks to add four witnesses to its list of witnesses and to have their respective statements formally submitted pursuant to rule 68(2)(b) of the Rules of Procedure and Evidence (the “Rules”).³ In its Second Request, the Defence aims to include two additional items in its evidence list and two new witnesses in its witness list, and to formally submit their respective statements under rule 68(2)(b) of the Rules.⁴

2. The CLR1 opposes both Requests. First, the Requests are untimely as the Defence should not be allowed to add six witnesses at the very end of the presentation of its case. Second, the Defence has already provided as part of its case sufficient submissions, witnesses statements and documentary material on the alleged fabrication scheme and on V45-P-0001’s and V45-P-0002’s identity. Finally, the statements of the prospective witnesses do not fulfil the criteria under rule 68(2)(b) of the Rules. Their formal submission at this stage would cause significant prejudice to the victims and to the fairness, expeditiousness and integrity of the proceedings.

¹ See the “Consolidated Yekatom Defence Request for Leave to add Four Witnesses and Request for the Formal Submissions of Prior Recorded Testimony pursuant to Rule 68(2)(b)”, [No. ICC-01/14-01/18-2541-Conf](#), 21 June 2024 (the “Defence First Request”).

² See the “Second Defence Consolidated Request for Leave to add items to its List of Evidence, P-6046 & P-6042 to its List of Witnesses and submit their prior recorded testimony pursuant to Rule 68(2)(b)”, [No. ICC-01/14-01/18-2555-Conf](#), 26 June 2024 (the “Defence Second Request”).

³ See the Defence First Request, *supra* note 1, paras. 1-2, 11, 54.

⁴ See the Defence Second Request, *supra* note 2, paras. 1-2, 14 and 27.

3. As a matter of fairness, if any, the prospective witnesses could be called either *viva voce* or under rule 68(3) of the Rules - to enable the CLR1 to question them. The Defence was previously allowed to introduce under rule 68(2)(b) of the Rules the statements of seven witnesses in order to challenge V45-P-0001's and V45-0002's identity and of twenty witnesses to demonstrate the alleged fabrication scheme.⁵ Should also the statements of the six prospective witnesses be submitted under rule 68(2)(b) of the Rules, most of the Defence testimonial evidence on these issues will remain untested.

II. PROCEDURAL BACKGROUND

4. On 29 May 2023, the Chamber issued its "Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLRV and the Defence)", whereby it ordered the Defence to file their final witness lists by 17 November 2023.⁶

5. On 7 July 2023, the CLR1 requested leave to present evidence.⁷

6. On 3 August 2023, the Chamber issued the "Decision on the Common Legal Representatives of Victims Requests for Leave to Present Evidence and Further Order on the Remainder of the Prosecution Presentation of Evidence", authorising victims a/20722/21 (V45-P-0001) and a/65991/19 (V45-P-0002) to testify.⁸

⁵ See the "Second Decision on the Yekatom Defence Requests for the Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) and Related Requests" (Trial Chamber V), [No. ICC-01/14-01/18-2424](#), 26 March 2024.

⁶ See the "Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLRV and the Defence)", [No. ICC-01/14-01/18-1892](#), 29 May 2023, para. 21(i).

⁷ See the "Request of the Common Legal Representative of the Former Child Soldiers for leave to present evidence", [No. ICC-01/14-01/18-1969-Conf](#), 7 July 2023. See also the "Corrigendum to the 'Request of the Common Legal Representative of the Former Child Soldiers for leave to present evidence' (No. ICC-01/14-01/18-1969-Conf, dated 7 July 2023)", [No. ICC-01/14-01/18-1969-Conf-Corr](#), 11 July 2023. A public redacted version was filed on 7 August 2023 as [No. ICC-01/14-01/18-1969-Corr-Red](#).

⁸ See the "Decision on the Common Legal Representatives of Victims Requests for Leave to Present Evidence and Further Order on the Remainder of the Prosecution Presentation of Evidence" (Trial Chamber V), [No. ICC-01/14-01/18-2016-Conf](#), 3 August 2023, para. 26. A public redacted version was filed on 6 September 2023 as [No. ICC-01/14-01/18-2016-Red](#).

7. On 23 August 2023, the CLR1 disclosed three documents related to V45-P-0001⁹ and three documents related to V45-P-0002.¹⁰

8. Witnesses V45-P-0001 and V45-P-0002 testified at the seat of the Court on 21 and 22,¹¹ and on 26 and 27 September 2023,¹² respectively.

9. On 27 November 2023, the CLR1 filed a request for leave to submit material from the bar table, in particular Items CAR-V45-00000012, CAR-V45-00000013, CAR-V45-00000014 and CAR-V45-00000015.¹³

10. On 17 and 29 January 2024, the CLR1 disclosed additional documents relating to V45-P-0002 and his identity — namely Items CAR-V45-00000011, CAR-V45-00000016, CAR-V45-00000017, CAR-V45-00000018, CAR-V45-00000019.¹⁴

11. On 23 January 2024 the CLR1 disclosed additional documents relating to V45-P-0001 and his identity - namely Items CAR-V45-00000020, CAR-V45-00000021 and CAR-V45-00000022.¹⁵

12. On 18 March 2024, the Chamber partly granted the CLR1 request for leave to present evidence from the bar table,¹⁶ authorizing the submission of four documents

⁹ See V45 Disclosure package 2: CAR-V45-00000004; CAR-V45-00000005 and CAR-V45-00000006.

¹⁰ See V45 Disclosure package 2: CAR-V45-00000007, CAR-V45-00000008 and CAR-V45-00000009.

¹¹ See the transcript of the hearing held on 21 September 2023, [No. ICC-01/14-01/18-T-245-CONF-ENG CT](#), page 4, line 17 to page 44, line 4; and the transcript of the hearing held on 22 September 2023, [No. ICC-01/14-01/18-T-246-CONF-ENG CT](#), page 2, line 19 to page 81, line 2.

¹² See the transcript of the hearing held on 26 September 2023, [No. ICC-01/14-01/18-T-247-CONF-ENG CT](#), page 3, line 21 to page 64, line 8; and the transcript of the hearing held on 27 September 2023, [No. ICC-01/14-01/18-T-248-CONF-ENG CT](#), page 3, line 1 to page 39, line 9.

¹³ See the “Request of the Common Legal Representative of the Former Child Soldiers for leave to submit into evidence material from the ‘bar table’”, [No. ICC-01/14-01/18-2222-Conf](#), 27 November 2023. A public redacted version was filed on 25 March 2024 as [No. ICC-01/14-01/18-2222-Red](#). The Items and the relevant metadata were attached to in Annexes 1-5 of the request.

¹⁴ See the Email correspondence from the CLR1 dated 17 January 2024 at 11:47. See also V45 Disclosure package 3 and V45 Disclosure package 5.

¹⁵ See the Email correspondence from the CLR1 dated 23 January 2024 at 17:52. See also V45 Disclosure package 6.

¹⁶ See the “Decision on the Common Legal Representative of the Former Child Soldiers Request for Leave to Submit Evidence from the Bar Table, [No. ICC-01/14-01/18-2412-Conf](#), 18 March 2024. By order of the Chamber dated 22 May 2024, this Decision was reclassified as public.

related to V45-P-0001's identity - namely, Items CAR-V45-00000012, CAR-V45-00000013, CAR-V45-00000014 and CAR-V45-00000015.

13. On 2 April 2024, the CLR1 sought the formal submission of these four items from the bar table.¹⁷

14. On 4 June 2024, the Chamber granted the bar table motion and recognized as formally submitted Items CAR-V45-00000012, CAR-V45-00000013, CAR-V45-00000014 and CAR-V45-00000015.¹⁸ It also noted that [REDACTED].¹⁹

15. On 21 June 2024, the Defence filed the First Request.²⁰

16. On 26 June 2024, the Defence filed its Second Request.²¹

17. On 3 July 2024, the Prosecution filed its Response to the First Defence Request.²²

III. CLASSIFICATION

18. Pursuant to regulation 23*bis* and (2) of the Regulations of the Court, the present submissions are classified as confidential since the Defence Requests bears the same level of classification.

¹⁷ See the "Request of the Common Legal Representative of the Former Child Soldiers for the submission of evidence from the 'bar table'", [No. ICC-01/14-01/18-2428-Conf](#), 2 April 2024. A public redacted version was filed on 10 June 2024 as [No. ICC-01/14-01/18-2428-Red](#).

¹⁸ See the "Decision on the CLRV1 Submission Request from the Bar Table", [No. ICC-01/14-01/18-2520-Conf](#), 4 June 2024, para. 14.

¹⁹ *Idem*, para. 13.

²⁰ See the Defence First Request, *supra* note 1.

²¹ See the Defence Second Request, *supra* note 2.

²² See the "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)", [No. ICC-01/14-01/18-2574-Conf](#), 3 July 2024.

IV. SUBMISSIONS

a) The Defence Requests are untimely

19. It is submitted that the Defence Requests are untimely. Seeking out the six individuals as witnesses at this late stage is unjustified. In August 2023, the Defence was already in the possession of documents relevant to V45-P-0001's and V45-P-0002's background. The witnesses testified a month later, which allowed the Defence adequate time to undertake investigations into his family background and identity. Notwithstanding the fact that the in-court testimony raised several matters that could not have been foreseen, Item CAR-V45-00000011 was already transmitted to the Defence on 6 September 2023.²³ While Items CAR-V45-00000012, CAR-V45-00000013, CAR-V45-00000014 and CAR-V45-00000015 along with the respective metadata were disclosed to the Defence 27 November 2023.²⁴ Items CAR-V45-00000016, CAR-V45-00000017, CAR-V45-00000018 and CAR-V45-00000019, together with their metadata, were disclosed to the Defence on 17 and 29 January 2024²⁵ and Items CAR-V45-00000020, CAR-V45-00000021 and CAR-V45-00000022 on 23 January 2024²⁶ - thus more than five months ago.

20. Contrary to the Defence's contentions,²⁷ the mere notification of the intent to continue its investigations does not automatically entitle the Defence to add further witnesses to its list at the very end of the presentation of its case. Nor was the Defence obliged [REDACTED].²⁸ First, it is not the role of the Defence to conduct investigations into alleged crimes against the administration of justice; second, the matter [REDACTED].

²³ See the Email correspondence from the CLR1 dated 6 September 2023 at 14:29.

²⁴ See the "Request of the Common Legal Representative of the Former Child Soldiers for leave to submit into evidence material from the "bar table", *supra* note 13.

²⁵ See the Email correspondence from the CLR1 dated 17 January 2024 at 11:47. See also V45 Disclosure package 3 and V45 Disclosure package 5.

²⁶ See the Email correspondence from the CLR1 dated 23 January 2024 at 17:52.

²⁷ See the Defence First Request, *supra* note 1, para. 23; and the Defence Second Request, *supra* note 2, para. 23.

²⁸ See the Defence First Request, *supra* note 1, para. 19.

21. The Chamber has previously held that the late addition of witnesses or evidence to a party's list is not a matter calling for the simple variation of a time limit under regulation 35(2) of the Regulations of the Court.²⁹ Therefore, the consideration of 'good cause' – as advanced by the Defence³⁰ – is as such not the main consideration in this case. Allowing the late addition of witnesses or material to a party's list at the very end of the presentation of its case - and well beyond the final deadline for the communication of evidence and witness lists - is a matter for the Chamber to weigh against the competing interests of the fairness, expeditiousness and integrity of the proceedings as well as the rights of other participants. As previously stated by the Presiding Judge:

"a request to add items to a list of evidence does not constitute a request for the variation of a time limit in accordance with Regulation 35 of the Regulations of the Court, but rather a request for leave from the Chamber to add items in accordance with its decision fixing the time limit for filing the initial list of evidence. [...] Factors to be considered in this determination include, inter alia, the extent to which the requested addition is opposed [...], the time when the addition was sought, the nature and amount of the material concerned, the intended purpose of the [...] requested reliance on such material, and its prospective significance in light of the charges brought against the accused and the rest of the available evidence".³¹

22. In light of the above, the Defence Requests should be rejected as untimely.

²⁹ See the "Decision on the Prosecution Request to Add Six Items to its List of Evidence", [No. ICC-01/14-01/18-1270-Conf](#), 3 February 2022 (a public redacted version was filed on the same date as [No. ICC-01/14-01/18-1270-Red](#)), para. 10; the "Decision on the Prosecution Request to Add 103 Items to its List of Evidence", [No. ICC-01/14-01/18-1597-Conf](#), 6 October 2022, para. 7; the "Decision on the Prosecution Request to Add Six Email Threads to its List of Evidence", [No. ICC-01/14-01/18-989-Conf](#), 30 September 2023 (a public redacted version was filed on the same date as [No. ICC-01/14-01/18-989-Red](#)), para. 5; the "Decision on the Ngaïssona Defence Request for Leave to Add Fourteen Items to its List of Evidence", [No. ICC-01/14-01/18-2292](#), 11 January 2024, para. 4; "Decision on the Ngaïssona Defence Request for Leave to Add Two Items to its List of Evidence", [No. ICC-01/14-01/18-2324](#), 24 January 2024, para. 4.

³⁰ See the Defence First Request, *supra* note 1, para. 1.

³¹ See the "Decision on the Prosecution Request to Add Six Email Threads to its List of Evidence", [No. ICC-01/14-01/18-989-Conf](#), 30 September 2023, para. 5. A public redacted version was filed on the same date as [No. ICC-01/14-01/18-989-Red](#).

- b) *The Defence has already presented sufficient submissions, witnesses statements and documentary material on V45-P-0001's and V45-P-0002's identity and on the alleged fabrication scheme*

23. When deciding on the CLR1's bar table motion, the Chamber underscored that it [REDACTED].³² It equally explained that [REDACTED].³³ It further recalled that, [REDACTED].³⁴

24. Accordingly, the Chamber has already received sufficient evidence from the Defence in relation to the discrete and limited issue of V45-P-0001's and V45-P-0002's identity - which it will assess during final deliberations. In particular, the Defence has put its position and theory regarding V45-P-0001 and V45-P-0002 on the record on a number of occasions through cross-examination,³⁵ its opening statement,³⁶ and several motions.³⁷ Furthermore, the Defence called one witness under rule 68(3) of the Rules,³⁸ submitted seven witness statements under rule 68(2)(b) of the Rules³⁹ and several

³² See the "Decision on the CLRV1 Submission Request from the Bar Table", [No. ICC-01/14-01/18-2520-Conf](#), 4 June 2024, para. 13.

³³ *Idem*, para. 11.

³⁴ *Idem*.

³⁵ See e.g. the transcript of the hearing held on 27 September 2023, [No. ICC-01/14-01/18-T-248-CONF-ENG CT](#).

³⁶ See the transcript of the hearing held on 28 November 202, [No. ICC-01/14-01/18-T-253-ENG ET](#), page 5, lines 21 to page 7 line 24 and page 32, line 24 to page 45, line 8.

³⁷ See e.g. the "Request for the Exclusion of Fabricated Evidence", [No. ICC-01/14-01/18-2240-Conf](#), 5 December 2023. A public redacted version was filed on 9 February 2024 as [No. ICC-01/14-01/18-2240-Red](#).

³⁸ See the "Yekatom Defence Application for the Introduction of P-6025 prior recorded testimony pursuant to Rule 68(3)", [No. ICC-01/14-01/18-2210-Conf](#), 17 November 2023. A public redacted version was filed on 28 December 2023 as [No. ICC-01/14-01/18-2210-Red](#). An amended version was filed on 8 January 2024 as [No. ICC-01/14-01/18-2210-Conf-Corr](#).

³⁹ See the "Second Decision on the Yekatom Defence Requests for the Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) and Related Requests" (Trial Chamber V), [No. ICC-01/14-01/18-2424](#), 26 March 2024. See also Annex A to the "Yekatom Defence's List of Witnesses and Evidence", [No. ICC-01/14-01/18-2212-Conf-AnxA](#), 17 November 2023. The four witnesses related to V45-P-0001 are D20-P-6022, D29-P-6028, D29-P-6034 and D29-P-7011 and the five witnesses related to V45-P-0002 are D29-P-6022, D29-P-6027, D29-P-6030, D29-P-6039, D29-P-7011.

documentary items⁴⁰ to challenge V45-P-0001's and V45-P-0002's identity. It also called twenty witnesses under rule 68(2)(b) of the Rules on the alleged fabrication scheme.⁴¹

25. In the *Ruto* case, Trial Chamber V(A) emphasised the necessity of maintaining the focus of the trial firmly on the main charges and of delimiting the scope of litigation on ancillary matters.⁴² It recalled that the concept of a 'fair trial' enshrined in article 69(4) of the Statute, must include the principle of expeditiousness of proceedings not only for the accused, but also for the Prosecution, the victims and the public - all of whom have an interest in bringing the litigation to an end.⁴³

26. Given the large number of witnesses statements and documentary material on V45-P-0001's and V45-P-0002's identity presented by the Defence and admitted on the record, it is unwarranted to allow the Defence to add six additional witnesses on the very same matter and at the end of its presentation of the case. Thus, the Defence Requests should be rejected accordingly.

c) The criteria of rule 68(2)(b) of the Rules are not met

27. It is submitted that the statements of the six prospective witnesses do not meet the relevant criteria to be introduced under rule 68(2)(b) of the Rules. The Chamber previously held that "[i]n determining whether introduction of prior recorded testimony falling under Rule 68(2)(b) of the Rules may be allowed, the Chamber shall consider several factors, including those listed in sub-rule (i) of this provision [...] [and that] [a]n assessment under Rule 68(2)(b) of the Rules is thus essentially two-tiered. First, the Chamber needs to

⁴⁰ See e.g. CAR-D29-0013-0252, CAR-D29-0013-0254, CAR-D29-0013-0256, CAR-D29-0013-0265, CAR-D20-0014-0152, CAR-D29-0014-0157 and CAR-D29-0014-0165.

⁴¹ See the "Second Decision on the Yekatom Defence Requests for the Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) and Related Requests" (Trial Chamber V), [No. ICC-01/14-01/18-2424](#), 26 March 2024. See also Annex A to the "Yekatom Defence's List of Witnesses and Evidence", [No. ICC-01/14-01/18-2212-Conf-AnxA](#), 17 November 2023. The concerned witnesses are D29-P-6010, D29-P-6011, D29-P-6012, D29-P-6013, D29-P-6016, D29-P-6017, D29-P-6018, D29-P-6019, D29-P-6022, D29-P-6024, D29-P-6027, D29-P-6028, D29-P-6030, D29-P-6031, D29-P-6033, D29-P-6034, D29-P-6035, D29-P-6037, D29-P-6039 and D29-P-7011.

⁴² See the "Public redacted version of Decision on Defence Request for Disclosure of Material related to Witness 613" (Trial Chamber V(A)), [No. ICC-0109-01/11-1776-Red](#), 12 January 2015 with the public redacted version being published on 11 December 2017, paras. 18-19.

⁴³ *Idem*, para. 19.

*determine whether the prior recorded testimony goes to proof of a matter other than the acts and conduct of the accused. Where this is the case, chambers may advance to the second step of assessing the factors set out in Rule 68(2)(b) of the Rules, and any other factors deemed relevant under the circumstances”.*⁴⁴ It is not disputed that the proposed statements go to proof of a matter other than the acts and conduct of the accused. However, the other criteria are not fulfilled in the circumstances.

28. Trial Chamber IX in the *Ongwen* case considered “[t]he crucial question under consideration is whether a testimony which was previously recorded may, in light of its content and significance to the case, be introduced without the need that the provided information be ‘tested’ through oral examination of the witness at trial”.⁴⁵ In the present instance, prospective Defence witness D29-P-6043 raises new issues and alleges kinship scenarios that are different to any information thus far before the Chamber.⁴⁶ In turn, prospective Defence witness D29-P-6046 brings forth conflicting information and admits that she [REDACTED].⁴⁷ Which in turn, raises doubts on the reliability and probative value of documents CAR-D29-0014-0189 and CAR- D29-0014-0249. Allowing the Defence to introduce this disputed account without affording the CLR1 the opportunity to confront the witness or, in the alternative, have further material submitted through a Bar Table Motion or call additional witnesses in rebuttal would affect the fairness of the proceedings and the victims’ procedural rights.

29. In the same vein, it cannot be said that any of the statements of the six prospective witnesses is such as to “*minimize cumulative in-court testimony on aspects which are expected to also be addressed by other witnesses, save resources of the institution which may rather be utilised for other purposes and/or avoid witnesses having to travel in order*

⁴⁴ See the “First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules” , [No. ICC-01/14-01/18-1833-Conf-Corr](#), 17 April 2023, paras. 19-20.

⁴⁵ See the “Decision on n on the Prosecution’s Applications for Introduction of Prior Recorded Testimony under Rule 68(2)(b) of the Rules” (Trial chamber IX), [No. ICC-02/04-01/15-596-Red](#), 18 November 2016, para. 7.

⁴⁶ See the Defence Request, *supra* note 1, paras. 33-36.

⁴⁷ See the Second Defence Request, *supra* note 2, paras. 29-26.

to appear in court”,⁴⁸ which is the other main criterion militating in favour of the introduction of witness statements under rule 68(2)(b) of the Rules. As briefly canvassed above, the statements rather create additional confusion and raise novel questions.

30. Trial Chamber IX in the *Ongwen* case held that “the relevant factors listed in Rule 68(2)(b)(i) of the Rules – including whether the prior recorded testimony ‘is of cumulative or corroborative nature’ and ‘relates to background information’ – all respond, from different angles, to the same consideration, namely to identify situations in which the prior recorded testimony provided by a witness is – also in light of its relative importance in the system of evidence expected to be presented at trial – of such nature that it is unnecessary that the witness be called to testify live, and examination by the parties may rather be dispensed of without prejudicing the rights of the accused”.⁴⁹

31. In the present circumstances, these considerations apply *mutatis mutandis* to the victims represented by the CLR1 in the case. Having been authorized to present evidence, the procedural rights of the participating victims are paramount in considering whether the addition of two documents and six witnesses at the very end of the presentation of the Defence case prejudices and undermines the fairness, expeditiousness and integrity in these proceedings. The introduction of the additional testimonial and documentary material should be denied also on this ground.

32. Lastly, should the Chamber consider allowing the six prospective witnesses to be added on the Defence list, these must be called either *viva voce* or under rule 68(3) of the Rules to enable the CLR1 to question them. In this regard, the CLR1 recalls that the Defence previously requested and was allowed to introduce the statements of

⁴⁸ See the “Decision on the Prosecution’s Applications for Introduction of Prior Recorded Testimony under Rule 68(2)(b) of the Rules”, [No. ICC-02/04-01/15-596-Red](#), 1 December 2016, para. 16.

⁴⁹ *Idem*, para. 20.

seven witnesses under rule 68(2)(b) of the Rules to challenge V45-P-0001's and V45-P-0001's identity⁵⁰ and of twenty witnesses to allege a fabrication scheme.⁵¹

33. Should the statements of these six prospective witnesses also be submitted under the same provision, most of the Defence testimonial evidence in relation to the V45-P-0001's and V45-P-0002's identity and the alleged fabrication scheme will remain untested.

V. RELIEF SOUGHT

34. For the foregoing reasons, the CLR1 respectfully requests that the Chamber:

- **REJECT** the Defence Requests in their entirety.

RESPECTFULLY SUBMITTED,



Dmytro Suprun
Common Legal Representative of the Former Child Soldiers

Dated this 25th Day of July 2024
At The Hague, The Netherlands

⁵⁰ See the "Second Decision on the Yekatom Defence Requests for the Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) and Related Requests" (Trial Chamber V), [No. ICC-01/14-01/18-2424](#), 26 March 2024.

⁵¹ *Idem*.