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**International
Criminal
Court**

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

Date: **27 September 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 ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

With Confidential Annexes A, B and C

**Public Redacted Version of the “Yekatom Defence Request for the formal submission of material related to the Fabrication of evidence”, 31 July 2024,
ICC-01/14-01/18-2611-Conf**

Source: Defence for Mr. Alfred Rombhot Yekatom

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

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INTRODUCTION

1. The Defence for Mr Alfred Rombhot Yekatom (“Defence”) hereby requests the formal recognition of 263 items submitted from the bar table (“Submitted Items”) in accordance with articles 64(9)(a), 69(3) and 69(4) of the Rome Statute and rule 63(2) of the Rules of Procedure and Evidence (“Request”). The Submitted Items comprise 179 items listed in part 1 of Annex A and 84 items listed in part 2 of Annex A.¹
2. As detailed in the present Request and Annex A, the Defence argues that the items for which submission into evidence is sought are relevant, *prima facie* reliable and meet the authenticity criteria. It is also argued that no procedural bars or obstacles affect the Submitted Items, and that the preconditions set out by the Chamber are fulfilled.² The Defence furthermore provides information as regards which other items disclosed in the case are related to the Submitted Items.
3. For ease of comprehension, the Defence also provides in Annex B a compilation of Facebook accounts belonging to the relevant individuals and their associated metadata as well as a list of the names and nicknames of other relevant individuals cited in Annex A. Finally, for the sake of clarity, the Defence provides in Annex C family trees of P-2475, P-2620 and P-2582.

PROCEDURAL HISTORY

4. On 17 November 2023, the Defence filed its List of Evidence.³
5. On 5 December 2023, the Defence submitted its Request for the Exclusion of Fabricated Evidence (“Exclusion Request”) where it requested the Chamber to

¹ The Defence notes that those Submitted Items highlighted in grey in Annex A have been previously recognised as formally submitted.

² ICC-01/14-01/18-631, para. 62.

³ ICC-01/14-01/18-2212-Conf-AnxD.

exclude the evidence of OTP witnesses P-2475, P-2018 and P-1974 and CLRV Witnesses P-0001 and P-0002, including their associates exhibits and items formally introduced through bar table motions or submitted items in relations to P-2620 and P-2582.⁴

6. On 2 February 2024, the Chamber issued its *“Further Directions on the Conduct of the Proceedings (End of Defence Presentation of Evidence and Closure of Evidence)”*.⁵ The Chamber set the deadline for the Defence to submit evidence in writing at one week after the testimony of the last witness called by the Defence; but encouraged requests to be filed on a rolling basis during the presentation of evidence.⁶
7. On 1 March 2024, the Defence filed its notice of information on prospective Bar Table Applications, indicating that it anticipated submitting 278 items concerning the fabrication of evidence, comprising of Facebook material obtained from the Irish authorities (including Facebook pages activities, metadata, audio messages and their transcriptions), TikTok videos, open source Facebook documents, WhatsApp material, photographs, items related to the ages of individuals involved in the fabrication of evidence, emails and Prosecution investigation reports.⁷ The Defence added that the “number of aforementioned items may be subject to change upon further assessment of the materials”.⁸
8. On 23 April 2024, the Chamber rejected the Exclusion Request.⁹

⁴ ICC-01/14-01/18-2240-Conf.

⁵ ICC-01/14-01/18-2342.

⁶ ICC-01/14-01/18-2342, para. 6.

⁷ ICC-01/14-01/18-2392, para. 2, page 1.

⁸ ICC-01/14-01/18-2392, para. 3.

⁹ ICC-01/14-01/18-2460-Conf.

9. On 29 April 2024, the Defence sought leave to appeal the Decision rejecting the Exclusion Request.¹⁰ The Chamber rejected the request on 4 June 2024.¹¹
10. On 15 May 2024, the Chamber ordered the Defence teams to file all remaining bar table applications by 18 July 2024.¹²
11. On 15 July 2024, the Defence provided the Prosecution and parties and participants with the two annexes of the present Request in order to obtain their positions pursuant to paragraph 62 of the Initial Directions on the Conduct of the Proceedings.¹³
12. On 16 July 2024, the Ngaïssona Defence informed the Yekatom Defence that it does not object to the submission of the documents contained in the bar table.¹⁴
13. On 17 July 2024, the Defence requested the Chamber for an extension of time to file its bar table motion by 31 July 2024. The Chamber granted the Defence request on the same day.
14. On 25 July 2024, the CLRV1 sent its position on the items in relation to V45-P-0001 and V45-P-0002.¹⁵
15. On 29 July 2024, the Prosecution provided the Defence with its position on the items present in the bar table application.¹⁶

SUBMISSIONS

16. The Defence refers to its previous submissions regarding the methodology adopted for the presentation of its bar table applications.¹⁷

¹⁰ ICC-01/14-01/18-2468-Conf.

¹¹ ICC-01/14-01/18-2519.

¹² Email sent by TC5 to the parties and participants on 15 May 2024 at 10:30.

¹³ ICC-01/14-01/18-631, para. 62.

¹⁴ Email sent by the Ngaïssona Defence on 16 July 2024 at 21:20.

¹⁵ Email sent by the CLRV1 on 25 July 2024 at 10:19.

¹⁶ Email sent by the Prosecution on 29 July 2024 at 17:21.

¹⁷ ICC-01/14-01/18-2515-Conf, paras 9-15.

A) Preliminary observations on the Facebook material and metadata received by the Irish authorities

17. The material obtained by the Irish authorities consists of information from Facebook accounts associated with P-2475 ([REDACTED]), P-2582 ([REDACTED]), P-2620 ([REDACTED]), P-2018 ([REDACTED]) and P-2580 ([REDACTED]) ("Five Facebook Users"). Given the technical nature of the material, the Defence wishes to address specific points important for the comprehension of the items displayed, as follows.

Facebook figures and account metadata

18. Facebook metadata provides information automatically generated by the platform, such as: registration date, account identifier and IP addresses. It also comprises data entered by the account holder such as user name (first, last names and vanity name), current city of residence, personal phone number (with country dialing code), email addresses and date of birth.
19. Each metadata page disclosed by the Defence relates to a Facebook account and indicates the time range for which the material was extracted.¹⁸
20. Table One in Annex B compiles the different Facebook accounts and relevant associated metadata obtained from the Irish authorities. With the exception of [REDACTED] (P-2018), the Five Facebook Users hold several accounts with different user names. For example, P-2475 has five different Facebook accounts under different user names (e.g. "[REDACTED]", "[REDACTED]", or "[REDACTED]").¹⁹

¹⁸ CAR-D29-0018-0002 ([REDACTED]); CAR-D29-0018-0008 ([REDACTED]); CAR-D29-0018-0015 ([REDACTED]); CAR-D29-0018-0024 ([REDACTED]); CAR-D29-0018-0065 ([REDACTED]); CAR-D29-0018-0085 ([REDACTED]); CAR-D29-0018-0095 ([REDACTED]); CAR-D29-0018-0100 ([REDACTED]); CAR-D29-0018-0109 ([REDACTED]); CAR-D29-0018-0113 ([REDACTED]); CAR-D29-0018-0146 ([REDACTED]).

¹⁹ See ICC-01/14-01/18-2135-Conf, para . 22 : [REDACTED].

21. Table Two in Annex B lists the names and nicknames of other relevant individuals cited in the present bar table application.
22. Finally, Annex C consists of P-2475, P-2620 and P-2582 family trees clarifying the links between the individuals involved in the Facebook material (Annex A).

Spelling errors

23. The conversations contain manifest spelling errors, given the phonetic writing of the messages exchanged between individuals who do not appear have a good command of the French language. For example, when [REDACTED] discusses with [REDACTED] (P-2475) the fabrication of the baptism certificate ultimately submitted in evidence by the Prosecution i.e. CAR-OTP-2128-1197: [REDACTED].²⁰

Transcription of the audio messages exchanges

24. Disclosed Facebook conversations comprise text and voice messages, photographs or pictures (e.g. emoticons or GIFs) exchanged between the account holder and his/her interlocutory.
25. Facebook generates a unique number for each voice message sent by a user which appears between parenthesis in the metadata of a conversation, as seen below.

[REDACTED]

26. The Defence refers to this number in the titles of both the voice message and its relevant (disclosed) transcription. For example:
 - ERN of the conversation: CAR-D29-0021-3190 at 3194.
 - ERN of the voice message: CAR-D29-0008-0062.

²⁰ CAR-D29-0020-0367, at 0421-0423.

- Title of the item: Audio fichier – [REDACTED].
- ERN of the transcript/translation: CAR-D29-0006-1390.
- Title of the item: Transcription de [REDACTED].

27. The corresponding transcript and conversation are cited in the column ‘related items’ for each voice message submitted in the table in Annex A.

B) Relevance, reliability and probative value of the tendered material

28. The items for which submission is sought through this bar table application meet the criteria of relevance, reliability and probative value in accordance with the applicable law.²¹

Relevance of the items

29. As has been previously pleaded by the Defence, analysis of Prosecution evidence, field investigations, and open source research led the Defence to discover an extensive and long-running evidence fabrication scheme. The scheme was further uncovered through analysis of identification documents issued by official authorities and Facebook material disclosed by the Irish government. The material depicts a scheme of fabrication of evidence involving Prosecution and CLR1 witnesses and intermediaries. In particular, Facebook material outlined the connections between these individuals and issues of relevance to this case.

30. All of the items included in Annex A of the Request are relevant to the widespread evidence fabrication scheme that has contaminated the evidence brought by the Prosecution and CLR1. The bulk of the Submitted Items underpinned the Defence’s Exclusion Request (as set out in the ‘Chronology’²² setting out the evolution, development, and known extent of the fabrication

²¹ ICC-01/14-01/18-1359, paras 10-12 referring to ICC-01/14-01/18-631, paras. 53-54, 62.

²² Annexed to the Exclusion Request, at ICC-01/14-01/18-2240-Conf-AnxA.

scheme since 2018) and demonstrates *inter alia* the manner in which both the fabrication scheme and the Prosecution's investigation has fatally compromised the reliability of the fabricated evidence the subject of the Exclusion Request.²³

31. In this regard, the Defence recalls that in rejecting the Exclusion Request, the Chamber 'stressed' that its decision was distinct from its determination of the weight, if any, that it would award the fabricated evidence in its eventual article 74 judgment; and further, it 'assured the Defence' that it 'will duly examine' the submissions made in the Exclusion Request during its judgment deliberations.²⁴ The Chamber's 'due examination' of the submissions in the context of its article 74 judgment would necessarily require that the Chamber have before it the totality of the evidentiary material underpinning said submissions, i.e. the Submitted Items, which thus further demonstrates the relevance of the latter.
32. In the same vein, the Defence notes that in arguing that the Exclusion Motion ought to be denied, the Prosecution referred to the fact that the Chamber 'will account for [the issues raised in the Exclusion Request] in its evaluation of' the fabricated evidence for which exclusion was sought; and further, submitted that the Chamber's professional judges were 'perfectly able to assess and weigh the Impugned Evidence concerning Count 29 holistically, and in the context of other credible and reliable evidence before it [emphasis added]'.²⁵ The Prosecution's reliance on these factors should be taken into account when considering any Prosecution attempt to obstruct the Defence's efforts to put the Submitted Items before the Chamber, themselves aimed at ensuring that the Chamber has all relevant information before it in during said holistic

²³ See also, ICC-01/14-01/18-2240-Conf, paras 129-140.

²⁴ ICC-01/14-01/18-2460-Conf, para. 55 ('This evidence will be subject to the same scrutiny during the Chamber's deliberation as every other piece of evidence at the end of the trial. In this regard, the Chamber assures the Defence that it has taken due notice of the submissions in the present Request and during its opening statements, which all touch upon the standard evidentiary criteria of this evidence, and will duly examine them. This decision is by no means an indication whether, and to what extent, the Chamber will ultimately rely on the Allegedly Fabricated Evidence in its judgment.').

²⁵ ICC-01/14-01/18-2313-Conf, paras 67, 70.

assessment and its examination of the Defence's submissions in the Exclusion Motion.

33. The Defence further notes that the Chamber's rejection of the Exclusion Request was based on its finding that the Defence had not met the first limb of article 69(7), which itself was based in part on the Chamber's finding that the Defence had not established that the fabricated evidence was 'obtained by means of' the Prosecution's investigative failures.²⁶ The Chamber expressly declined to address the impact of the scheme and/or the Prosecution investigation on the reliability of the fabricated evidence sought to be excluded.²⁷ Further, the Chamber did not find that the Prosecution has violated its article 54(1) investigative duties.²⁸ This broader finding does not preclude the Chamber from assessing the question of whether and to what extent individual and specific Prosecution investigative steps, decisions or omissions have affected the reliability of Prosecution evidence, including (but not limited to) for the reasons set out in the Exclusion Motion.²⁹
34. The Prosecution's decision to withdraw certain purported 'child soldier' witnesses – including P-2582 and P-2620 – does not render irrelevant those Submitted Items that are probative of their involvement in the evidence fabrication conspiracy. Items demonstrating the fraudulent conduct of P-2582 and P-2620 remain relevant to demonstrating the broader evidence fabrication conspiracy, and its known extent and contours, their withdrawal as witnesses notwithstanding. Evidence demonstrating that individuals fabricated evidence to participate in these proceedings as 'child soldiers' is thus relevant per se: the matter of whether these individuals were relied on by the Prosecution as

²⁶ ICC-01/14-01/18-2460-Conf, paras 22-24, 54.

²⁷ ICC-01/14-01/18-2460-Conf, para. 54.

²⁸ The Defence notes that in coming to this conclusion, the Chamber considered that it 'only has a very limited role in reviewing whether the Prosecution complied with its duties under article 54(1) of the Statute'; see, ICC-01/14-01/18-2460-Conf, para. 16.

²⁹ ICC-01/14-01/18-2240-Conf, paras 129-140.

witnesses is entirely immaterial in this regard. This is especially the case where the Prosecution has not withdrawn its broader allegations as to the legitimacy of the ESF demobilisation programme and its participants, and its reliance on the evidence relevant thereto.³⁰

35. In the same vein, the fact that certain key conspirators, such as P-2582 and P-2620, are inextricably linked to the conspiracy through their co-conspirators, who themselves remain current Prosecution and CLR1 witnesses (and former intermediaries), also reinforces the Defence position as regards the continuing relevance of their fraudulent conduct.³¹ Indeed, the Chamber has previously recognised the continuing potential relevance of the Defence's submissions in respect of P-2582's fraudulent conduct, post-withdrawal, for the purpose of its article 74 deliberations, vis-à-vis the evidence that does remain on the record.³²
36. By way of example, it is only in conjunction with an assessment of the fraudulent conduct of P-2582 and P-2620 that these individuals' collusive contact with P-2475, P-2580, and P-1974 can be properly appreciated and understood.
37. The Submitted Items provide direct information in relation to the fabrication of evidence. For instance, P-2475 [REDACTED] discuss via Facebook the fabrication of his baptism certificate indicating 1999 as a false date of birth.³³ The discussion is dated [REDACTED] and took place on [REDACTED] of

³⁰ See e.g. most recently, ICC-01/14-01/18-2578-Conf, paras 16-17, where the Prosecution refers to the fraudulent nature of the ESF programme as a 'core issue that is materially in dispute'. As an additional consideration in this regard, the Defence notes that certain such conspirators remain participating victims in these proceedings (e.g. P-2620).

³¹ In this regard, the Defence recalls that the Chamber has formally recognised the submission of testimonial evidence of numerous Defence witnesses who have provided information regarding P-2620's role in the conspiracy after her withdrawal as a witness; see e.g., ICC-01/14-01/18-2424-Conf, paras 56, 70 (regarding the prior recorded testimony D29-P-6010, [REDACTED]); see also, paras 80-88 (regarding the prior recorded testimony of D29-P-6012 and D29-P-6019, [REDACTED]).

³² ICC-01/14-01/18-1831-Conf, para. 10.

³³ CAR-D29-0020-0367, at 0421-0423.

Prosecution intermediary [REDACTED] (P-2580) [REDACTED] who had been tasked by the Prosecution to [REDACTED].³⁴

38. They also comprise indirect evidence of the conspiracy. For example, another specific Facebook item in relation to P-2475's involvement in fabricating evidence is a message P-2475 received on Facebook [REDACTED] warning him that investigations were ongoing and advising him to stop connecting with people [REDACTED].³⁵ This message was sent 10 days after the Defence met with [REDACTED].³⁶ While P-2475 initially claimed in his statement in [REDACTED] to have been forcibly recruited [REDACTED], he subsequently made a correction on his statement to adjust his testimony before his appearance in court stating that he was alone when he was enrolled.³⁷
39. Part 1 of Annex A also contains numerous photographs and messages exchanged through Facebook between P-2620, P-2582 and P-2475. It shows that they were mutually aware of their relocation and the reasons thereof and were regularly meeting in their relocation country [REDACTED].³⁸ This occurred prior to their respective anticipated testimony dates, although P-2582 and P-2620 were ultimately dropped by the Prosecution after P-2475's testimony.
40. The Submitted Items indicate that these individuals' extensive contact was not merely social but also demonstrate collusion. For example, Facebook conversations between P-2475, P-2620 and P-2582 also show collusive activities centered around P-2475's testimony. Besides [REDACTED] being untruthful [REDACTED]³⁹ and [REDACTED],⁴⁰ [REDACTED] had contacts with

³⁴ CAR-OTP-00000006, para. 2; see also, ICC-01/14-01/18-2240-Conf-AnxA, p. 12.

³⁵ CAR-D29-0020-1347 at 1417.

³⁶ See, CAR-D29-0010-0140 (photograph taken by Defence during meeting on [REDACTED]). See also, CAR-OTP-2071-0279, at 0281 (ESF Program participant list, at [REDACTED]). The Defence met [REDACTED]. [REDACTED].

³⁷ CAR-OTP-2135-3160, at 3160-3162. See also, ICC-01/14-01/18-T-129 CONF-FRA ET, 10:22-11:4.

³⁸ ICC-01/14-01/18-2135-Conf, para. 22.

³⁹ ICC-01/14-01/18-T-133-CONF-FRA ET at [14 :22 :45].

⁴⁰ ICC-01/14-01/18-T-133-CONF-FRA ET at [14 :27 :27], [14 :32 :28] and [12 :51 :19].

[REDACTED] a few days before his testimony and the day after its conclusion with [REDACTED].⁴¹ Some of the contacts show lengthy phone conversations via Facebook in the aftermath of [REDACTED]'s questioning by the Defence, involving [REDACTED].⁴² It also appears that [REDACTED] removed, within [REDACTED], previously public content from [REDACTED] Facebook account.⁴³

41. A further example: among the Submitted Items is a batch of messages exchanged on Facebook between P-2620 and [REDACTED], through which [REDACTED] direct [REDACTED] to delete any evidence showing contact between them; and [REDACTED] fabricates and conveys a "common" account of the circumstances under which they met.⁴⁴
42. Some of the Submitted Items are also relevant in demonstrating that P-2475 was untruthful when [REDACTED]. In reality, they were so close that when P-2620 [REDACTED] distanced herself, P-2475 expressed anger; per P-2620 herself, "[REDACTED]⁴⁵" ([REDACTED]).
43. Finally, the items displayed show that relocation and its concomitant benefits were the motivation of the conspirators behind the fabrication of evidence. It is for example reflected in the picture [REDACTED] sent his Facebook interlocutors, showing himself covered with banknotes and boasting about his new life.⁴⁶ This motivation can likewise be seen in the messages the conspirators receive from third parties, also interested in being part of the fraudulent

⁴¹ CAR-D29-0019-8014, at 8016.

⁴² CAR-D29-0019-8014 at 8016; P-2475 and [REDACTED] exchange Facebook calls each call respectively lasting [REDACTED]; See also ICC-01/14-01/18-2240-Conf-AnxA pp. 27-28.

⁴³ CAR-D29-0016-0084; See also ICC-01/14-01/18-T-133-CONF-FRA ET at [14 :22 :45] (see also item. 86, CAR D29-0016-0087-R01).

⁴⁴ Entire conversation: CAR-D29-0021-1868, from page 1868 to page 1873 and voice messages from CAR-D29-0008-0083 to CAR-D29-0008-0099.

⁴⁵ CAR-D29-0008-0059.

⁴⁶ CAR-D29-0020-2006.

‘program’. For example, P-2475 receives the following message from a Facebook contact:

[REDACTED].⁴⁷

44. Part 2 of Annex A contains documents relevant to demonstrate the fraudulent nature of the ‘demobilization’ program set up by ESF in 2014. For example, the photograph of the grave of the former Mayor of [REDACTED], indicating that the latter passed away on [REDACTED], demonstrates the fabricated nature of the birth certificate of P-2511 ([REDACTED]) indicating that he was born on [REDACTED], and supposedly signed by [REDACTED] despite the latter having died five years prior.⁴⁸ In the same vein, the *Bulletin de naissance* of [REDACTED]⁴⁹ indicating that the latter is born on [REDACTED] 1998 attests that he was [REDACTED] years old in 2014. Both [REDACTED] and [REDACTED] appear in the ESF list CAR-OTP-2115-0369 provided by [REDACTED].⁵⁰
45. Prosecution investigation reports among the Submitted Items are also relevant to corroborate the family relations and links of the relevant individuals. For example, CAR-OTP-2127-3960-R02 indicating that P-2582 has [REDACTED], corroborates the Facebook material submitted in Part 1 of the Annex. The investigation reports also confirm P-2018, P-1974, P-2580 and P-2638’s involvement with the NGO ESF and their employment by the Court, therefore demonstrating their direct implication within the fraudulent program and the professional benefits they gained by fraudulently engaging with the Court.

⁴⁷ CAR-D29-0020-0611.

⁴⁸ CAR-D29-0010-0020.

⁴⁹ CAR-D29-0013-0064.

⁵⁰ CAR-OTP-2115-0369, [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. [REDACTED] is also listed in CAR-OTP-2071-0279 [REDACTED] (Liste des [REDACTED] provided by [REDACTED] ([REDACTED])).

46. Finally, some documents relate to the credibility of V45-P-0001 and V45-P-0002's testimonies as regards the improper production of their birth certificate and the names of their relatives.⁵¹

Reliability and probative value of the tendered material

47. The Defence submits that the sought items bear sufficient indicia of reliability and authenticity as described in the relevant column of tables displayed in Annex A.
48. First, large part of the items submitted were disclosed by the Prosecution. Official documents are signed and stamped by the relevant authorities. Where the Submitted Items are mutually corroborative and/or are corroborated by other items formally submitted, this is reflected in the 'related items' column of the annexed tables.⁵² For some of the items, Defence witnesses have confirmed the production and/or confirm the content of the document in their statements, which have been formally submitted under Rule 68(2)(b).⁵³
49. Second, Facebook material among the Submitted Items was obtained from the Irish authorities following an order issued by the Chamber on 10 August 2022.⁵⁴ This confirms the authenticity of the documents. As described above in paragraphs 18-19, the metadata provided by the platform offers an additional point of attribution,⁵⁵ which enhances the reliability of linking the account to a specific individual (i.e. P-2475, P-2620, P-2582, P-2018 and P-2580). Finally, the

⁵¹ See for example CAR-D29-0016-0147: WhatsApp conversation between [REDACTED] and [REDACTED] concerning the issuance of the *jugements de retranscription* of alleged victims represented by the CLRV1.

⁵² For example, the baptism card of P-2620 (CAR-D29-0013-0025) is corroborated with a copy baptism registry (CAR-D29-0014-0044) and the authorization from the Church to allow the Defence to take pictures (CAR-D29-0013-0071).

⁵³ See e.g, CAR-D29-0008-0048, or CAR-D29-0008-0051.

⁵⁴ ICC-01/14-01/18-1531-Conf-Red.

⁵⁵ Attribution of certain Facebook accounts was confirmed by their own owners during their testimony before the Court (i.e [REDACTED]), some of them ([REDACTED]) also confirmed that they were in contact with specific individuals ([REDACTED]). This not only confirms the attribution of their own accounts, but also validates the account of others.

content of the conversations and activities, including posts, exchanges of photos, videos and voice messages, safely ascertain the attribution.

50. Third, some items from social media platforms 'TikTok' and 'Facebook' (Meta) are publicly available and were obtained through open source research conducted by the Defence. Their content is easily accessible and can be verified (unless the account user has removed the content or modified the privacy settings). To this end, the Defence kept the URL visible within the Submitted Items to locate and retrieve the resource.⁵⁶ The reliability of the items also derives from the material obtained via the Irish authorities: photographs and voice messages allow to identify them as pertaining to P-2620, P-2582 and P-2475 (in addition, P-2475's appearance before the Chamber for his testimony facilitates a facial and vocal attribution through photographs and audio/video material posted by the latter).
51. Lastly, for certain identifying documents among the Submitted Items, the Defence does not tender them for the truth of their contents, but as further evidence of the falsification of documents further to the fabrication scheme.⁵⁷

CONCLUSION

52. In light of the above, the Submitted Items listed in Annex A meet the criteria for the recognition of their formal submission, in accordance with the applicable law. They are relevant to material issues at trial, mutually corroborative of other evidence in the case file, and bear sufficient indicia of reliability and authenticity. Recognising their formal submission will enable the Chamber to better understand and contextualise the Defence's case, ultimately assisting the Chamber in its determination of the truth.

⁵⁶ See e.g. CAR-D29-0016-0031: [REDACTED] - Screenshot of Facebook - Main page.

⁵⁷ See e.g. CAR-D29-0015-0003 (Passport request of [REDACTED]).

CONFIDENTIALITY

53. This application is filed on a confidential basis as it contains information susceptible to identify witnesses. Annexes A, B and C are filed as confidential as they refer to confidential material and testimonies of witnesses who testified with protective measures. A public redacted version will be filed in due course.

RELIEF SOUGHT

54. In light of the above, the Defence respectfully requests Trial Chamber V to:

RECOGNIZE as formally submitted into evidence the items listed in Annex A.

RESPECTFULLY SUBMITTED ON THIS 27th DAY OF SEPTEMBER 2024



Me Mylène Dimitri
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