

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/21

Date: 25 April 2025

TRIAL CHAMBER VI

Before: Judge Miatta Maria Samba , Presiding Judge
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godinez
Judge Keebong Paek , Alternate Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI

Public

With confidential Annex A

Prosecution's response to "*Requête de la Défense afin de soumettre des éléments de preuve par le biais d'une Bar Table*" (ICC-01/14-01/21-966)

Source: Office of the Prosecutor

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☒ Legal Representatives of the Victims

☐ 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 Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) objects to the formal submission of 87 items of evidence set out in the Annex to the “*Requête de la Défense afin de soumettre des éléments de preuve par le biais d’une Bar Table*”¹ (“Request”) for the reasons stipulated below and detailed in the attached Annex A.
2. Alternatively, and if recognised by Trial Chamber VI (“Chamber”) as formally submitted, these items of evidence should be given no weight for the same reasons.

II. CONFIDENTIALITY

3. Pursuant to regulation 23bis(2) of the Regulations of the Court, this response is filed public with a confidential Annex A as it contains information regarding Prosecution and Defence evidence that is confidential and contains details of *inter partes* communications.

III. SUBMISSIONS

4. The Defence seeks the admission into evidence of 264 items of evidence.
5. The introduction of items of evidence from the bar table requires consideration of three standard evidentiary criteria. The items in question must be *prima facie* (i) relevant to material issues at trial, (ii) probative, and (iii) their potential prejudicial effect must be weighed against their probative value.²

¹ ICC-01/14-01/21-935.

² *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman* (‘*Ali Kushayb*’), Decision on the Prosecution’s bar table motion, 27 February 2023, ICC-02/05-01/20-885-Red, para. 25; *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the First Prosecution Submission Request from the Bar Table (Sexual and Gender Based Violence), 12 April 2022, ICC-01/14-01/18-1359, para. 10; *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Decision on the Prosecution’s Request for Admission of Documentary Evidence, 10 June 2014, ICC-01/09-01/11-1353, paras. 14-16; *The Prosecutor v. Jean-Pierre Bemba Gombo*, Public redacted version of the First decision on the prosecution and defence request for the admission of evidence, dated 15 December 2011, 9 February 2012, ICC-01/05-01/08-2012-Red, paras. 13-16; *The Prosecutor v. Thomas Lubanga Dyilo*,

Items of evidence falling outside the temporal and/or geographical scope of the charges

6. The Defence requests the formal submission of items of evidence whose content falls outside the temporal and/or geographical scope of the charges.
7. The Prosecution objects to the submission via a bar table of 30 items of evidence identified below on the ground that they lack *prima facie* relevance to material issues at trial as their content falls outside the temporal and/or geographical scope of the charges.
8. Twenty items CAR-D33-0011-0195, CAR-D33-0004-0174, CAR-D33-0004-0239, CAR-D33-0004-0325, CAR-D33-0004-0524, CAR-D33-0004-0546, CAR-D33-0004-0549, CAR-D33-0004-0616, CAR-D33-0004-0628, CAR-D33-0005-0034, CAR-D33-0005-0071, CAR-D33-0006-0385, CAR-D33-0006-0447, CAR-D33-0008-0014, CAR-D33-0009-0001, CAR-D33-0009-0044, CAR-D33-0009-0055, CAR-D33-0009-0060, CAR-D33-0009-0070, CAR-D33-0009-0077 pertain to events taking place outside the temporal scope of the charges and the justifications provided by the Defence in support of their admission fail to establish their *prima facie* relevance to material issues at trial. For instance, while the Defence suggests that some of these items of evidence³ purport to document the context of emergence of Seleka groups or the absence of cohesion amongst these groups, it fails to establish how these items are of assistance to inform the formation and actual structure of the Seleka during the period relevant to the charges.
9. Seven items, CAR-OTP-2092-2099, CAR-D33-0012-0162, CAR-D33-0014-0887, CAR-D33-0014-1024, CAR-D33-0014-1037, CAR-D33-0014-1042, CAR-D33-0014-

Corrigendum to Decision on the admissibility of four documents, 20 January 2011, ICC-01/04-01/06-1399-Corr, paras. 27-31; *The Prosecutor v. German Katanga and Mathieu Ngudjolo Chui*, Decision on the Prosecutor's Bar Table Motions, 17 December 2010, ICC-01/04-01/07-2635, para. 14.

³ See CAR-D33-0011-0195, CAR-D33-0004-0174, CAR-D33-0004-0239, CAR-D33-0004-0524, CAR-D33-0004-0546, CAR-D33-0004-0616, CAR-D33-0004-0628, CAR-D33-0005-0034, CAR-D33-0005-0071, CAR-D33-0009-0055, CAR-D33-0009-0060, CAR-D33-0009-0070.

1973 also concern events falling outside the temporal scope of the charges and the justifications provided by the Defence in support of their admission fail to establish their *prima facie* relevance to a material issue at trial. While these documents may suggest, as argued by the Defence, that individuals who held ministerial or other governmental appointments during the period of relevance to the charges were also part of the CAR Government before or after that period, these documents do not illustrate the continuity of the functions held by these individuals.

10. Similarly, one item CAR-D33-0014-1231 pertains to events taking place outside the temporal scope of relevance to the charges and the justifications provided by the Defence in support of its admission fail to establish its *prima facie* relevance to a material issue at trial. While the document may contain information, as suggested by the Defence, about the function of the OCRB in 2015 and 2016, it is of no assistance to inform the Chamber about its function during the time of relevance to the charges in 2013.
11. Item CAR-D33-0014-0133 is a United Nations Press Release dated 23 June 2011 announcing the appointment of the Permanent Representative of the CAR mission before the United Nations in New York. The Prosecution submits that its content falls outside the temporal scope of relevance to the charges. In addition, the justification provided by the Defence in support of its admission fails to establish its *prima facie* relevance to a material issue at trial. While the Defence contends that the document is of assistance to illustrate the absence of a Seleka government during the time of relevance to the charges, the Prosecution notes that it contains no information about the period of relevance to the charges when Mr. SAID and the Seleka are alleged to be in charge.
12. Finally item, CAR-D33-0014-2366, is a book of 325 pages whose content falls largely outside the temporal and geographical scope of the charges. While the

Defence contends that the document contains three relevant pages,⁴ it fails to establish the relevance of the other 322 pages. With regard to the pages presented as being relevant,⁵ the Prosecution notes that two of them⁶ contain information sourced from the final report of the International Commission of Inquiry on CAR and recalls that this report, CAR-OTP-2001-7017, was formally recognised by the Chamber in its decision of 13 February 2024.⁷ These pages have no probative value given that the actual source of the information is already on record.

Proof of death of Rule 68(2)(c) witnesses

13. The Defence requests the formal submission of three investigation reports⁸ and one death certificate⁹ related to witnesses admitted pursuant to Rule 68(2)(c) of the Rules of Procedure and Evidence ("Rules"), namely P-1004, P-1420, P-0881, and P-1297.

14. The Prosecution objects to the submission via a bar table motion of the aforementioned items of evidence.

15. The Prosecution submitted these items of evidence in the context of the Rule 68(2)(c) admission process in October 2022, which were then taken into consideration by the Chamber to assess the unavailability of these four witnesses to testify.¹⁰ The documents were only relevant to establish P-1004, P-1420, P-0881, and P-1297's unavailability for the purpose of that process, are deprived of *prima facie* relevance to material issues at trial.

⁴ See ERN pages 2432, 2441 and 2517.

⁵ See ERN pages 2432, 2441 and 2517.

⁶ See ERN pages 2432 and 2441.

⁷ Decision on the Prosecution's Applications for Submission of Documents from the Bar Table, 13 February 2024, ICC-01/14-01/21-694, Annex A, p. 1, item 25.

⁸ CAR-OTP-2130-7829, CAR-OTP-2130-6891, CAR-OTP-2135-2670.

⁹ CAR-OTP-2135-2547.

¹⁰ Public Redacted Version of "Prosecution Request under Rule 68(2)(c) to Introduce the Prior Recorded Testimony of Six Witnesses", ICC-01/14-01/21-290-Conf, dated 29 April 2022, 9 May 2022, ICC-01/14-01/21-290-Red, paras. 8, 14, 19-20, 25-26, ; Decision on the Prosecution's Request under Rule 68(2)(c) to Introduce the Prior Recorded Testimony of Six Witnesses, 26 October 2022, ICC-01/14-01/21-506-Red, paras. 42-44, p. 27.

Items of evidence related to witnesses or potential witnesses

16. The Defence requests the formal submission of 50 items of evidence related to *viva voce*, Rule 68(3), Rule 68(2)(b) Prosecution witnesses as well as to potential Defence witnesses.

17. The Prosecution objects to the submission via a bar table motion of these items on the ground that the bar table is not the appropriate procedural avenue for their submission.

(i) *Viva voce* and Rule 68(3) witnesses

18. The Prosecution objects to the submission via a bar table motion of 13 items.

19. Concerning items CAR-D33-0014-1284, CAR-D33-0014-1374, CAR-OTP-00001147, CAR-D33-0014-0658, CAR-OTP-2127-0778, CAR-D29-0001-0115, CAR-D29-0001-0122, CAR-OTP-2101-3413, CAR-D33-0014-0374, CAR-D33-0014-0381, CAR-OTP-2066-1422. These items of evidence are related to P-0342, P-0481, P-0349, P-2328, P-0510, P-2232 who testified before the Chamber from 15-18 October 2024,¹¹ 29-31 October 2024,¹² 22-23 May 2024,¹³ 15-16 July 2024,¹⁴ 30 April and 10 June 2024,¹⁵ 28-30 August 2024,¹⁶ respectively. They were either collected by or disclosed to the Defence prior to the witnesses' testimonies on 14 October 2024,¹⁷ 31 May 2024,¹⁸

¹¹ ICC-01/14-01/21-T-123-CONF-ENG-CT, ICC-01/14-01/21-T-124-CONF-ENG-ET, ICC-01/14-01/21-T-125-CONF-ENG-CT, ICC-01/14-01/21-T-126-CONF-ENG-CT.

¹² ICC-01/14-01/21-T-129-CONF-ENG-CT, ICC-01/14-01/21-T-130-CONF-ENG-CT, ICC-01/14-01/21-T-131-CONF-ENG-CT.

¹³ ICC-01/14-01/21-T-172-CONF-ENG-CT, ICC-01/14-01/21-T-173-CONF-ENG-CT.

¹⁴ ICC-01/14-01/21-T-95-CONF-ENG-CT, ICC-01/14-01/21-T-196-CONF-ENG-CT.

¹⁵ ICC-01/14-01/21-T-069-CONF-ENG-CT, ICC-01/14-01/21-T-079-CONF-ENG-CT.

¹⁶ ICC-01/14-01/21-T-102-CONF-ENG-CT, ICC-01/14-01/21-T-103-CONF-ENG-CT, ICC-01/14-01/21-T-104-CONF-ENG-CT.

¹⁷ CAR-D33-0014-1284: Trial Rule 78 package 059, 15 octobre 2024.

¹⁸ CAR-D33-0014-1374: Trial Rule 78 package 062, 23 octobre 2024.

28 March 2023,¹⁹ 10 May 2024,²⁰ 3 March 2022,²¹ 23 June 2022,²² 13 June 2022,²³ 29 April 2024,²⁴ 7 April 2022.²⁵ Further, CAR-D33-0014-1284, CAR-D33-0014-1374, CAR-OTP-00001147, CAR-D33-0014-0658, CAR-OTP-2127-0778, CAR-D33-0014-0374, CAR-D33-0014-0381, and CAR-OTP-2066-1422 were also listed on the Defence lists of material for the cross-examination of P-0342,²⁶ P-2328,²⁷ P-0481,²⁸ P-0349,²⁹ P-0510,³⁰ P-2232,³¹ submitted on 16 October 2024, 28 October 2024, 29 April 2024, and 28 August 2024, respectively.

20. CAR-D33-0014-1284, more particularly, is a screenshot of a Facebook page dated 18 April 2013 and attributed to P-0342. The Prosecution notes that P-0342 was cross-examined extensively on the material he posted on Facebook. The Prosecution submits that the Defence had ample opportunity to put this document to the witness during its cross-examination giving the witness an opportunity to respond³² and to seek its admission through P-0342.

21. Similarly, P-2328 was cross-examined extensively on the subject-matter of CAR-D29-0001-0115 and CAR-D29-0001-0122³³ but the Defence, despite having the opportunity to do so, failed to put this document to the witness during its cross-examination.

22. Lastly, CAR-D33-0014-1983 and CAR-D33-0014-1985, two press articles, dated November 2013, are related to P-0884 who testified before the Chamber on 28-30

¹⁹ CAR-OTP-00001147: Trial Rule 77 package 083, 28 March 2023.

²⁰ CAR-D33-0014-0658: Trial Rule 78 package 037, 16 mai 2024.

²¹ CAR-OTP-2127-0778: Pre-Trial Rule 77 package 025, 3 March 2022; Pre-Trial Rule 77 Package 050, 11 August 2022.

²² CAR-D29-0001-0115 and CAR-D29-0001-0122: Pre-Trial Rule 77 package 041, 23 June 2022.

²³ CAR-OTP-2101-3413: Pre-Trial INCRIM package 076, 13 June 2022

²⁴ CAR-D33-0014-0374 : Trial Rule 78 package 034, 29 April 2024.

²⁵ CAR-OTP-2066-1422: Pre-Trial Other Package 007, 7 April 2022.

²⁶ Email from the Defence dated 16 October 2024, 17:24 (CAR-D33-LOM-0342).

²⁷ Email from the Defence dated 28 October 2024, 21:20 (CAR-D33-LOM-2328).

²⁸ Email from the Defence dated 22 May 2024, 16:11 (CAR-D33-LOM-0481).

²⁹ Email from the Defence dated 14 July 2024, 15:31 (CAR-D33-LOM-0349).

³⁰ Email from the Defence dated 29 April 2024, 16:16 (CAR-D33-LOM-0510).

³¹ Email from the Defence dated 28 August 2024 at 18:07(CAR-D33-LOM-2232).

³² ICC-01/14-01/21-T-125-CONF-ENG, 31-48, ICC-01/14-01/21-T-126-CONF-ENG, 1-40. This issue was also the subject of re-examination by the Prosecution, ICC-01/14-01/21-T-126-CONF-ENG, 41-48.

³³ ICC-01/14-01/21-T-128-ENG CT.

May 2024.³⁴ They were obtained by the Defence in the context of an open source search after the witness' testimony. However, the subject-matter of these articles was a fact known to the Defence as it was mentioned in P-0884's prior recorded statement, disclosed to the Defence on 21 June 2021.³⁵

23. While the Defence contends that the aforementioned 13 items of evidence are relevant to assess the credibility of the aforementioned witnesses, it fails to identify how they pertain to critical elements of the charges. Admitting these documents at this stage of the proceedings would be unfair as the witnesses have been deprived of the opportunity to comment on these documents. The Defence was in possession of these items of evidence prior to the testimonies of these witnesses and could have put them to said witnesses. With regard to CAR-D33-0014-1983, CAR-D22-0014-1985, the Defence failed to exercise its due diligence and could have easily identified those items of evidence prior to P-0884's testimony through an open source search. The Prosecution submits that the prejudice of admitting untested items of evidence at this stage significantly outweighs any probative value they may have.

(ii) Rule 68(2)(b) witnesses

24. The Prosecution objects to the submission via a bar table motion of CAR-D33-0006-0376 and CAR-D33-0009-0024, two articles attributed to P-2926. P-2926 is a Defence witness whose prior recorded statement and associated material was admitted by the Chamber pursuant to Rule 68(2)(b) of the Rules on 2 April 2025.³⁶ CAR-D33-0006-0376 was disclosed by the Defence on 1 October 2021³⁷ and CAR-D33-0009-0024 on 16 September 2022.³⁸ Therefore, these items of evidence were in the possession of the Defence at the time of its application and, had it been the

³⁴ ICC-01/14-01/21-T-076-ENG CT, ICC-01/14-01/21-T-077-ENG CT, ICC-01/14-01/21-T-078-ENG CT.

³⁵ See CAR-OTP-2072-1356 at 1363, Pre-Confirmation INCRIM Package 024, 21 June 2021.

³⁶ Decision on the Defence's Request under Rule 68(2)(b) to Introduce the Prior Recorded Testimony of P-0015, P-0025, P-2926 and P-0405, 2 April 2025, ICC-01/14-01/21-957-Red, paras. 21-26, p. 11.

³⁷ Pre-Confirmation Rule 78 Package 004, 1 October 2021.

³⁸ Trial Rule 78 package 007, 16 September 2022.

Defence's intention to seek their admission, they should have formed part of the associated material cited in the Annex 1 of the application for consideration by the Chamber.³⁹ The Prosecution submits that seeking admission through the bar table circumvents the Rule 68(2)(b) procedure.

25. The Prosecution further objects to the submission via a bar table motion of three screening notes related to P-1277, P-2337, P-0100, three Rule 68(2)(b) witnesses.⁴⁰ Screening notes are not statements signed by witnesses and have a limited probative value. Further, the witnesses have not had the opportunity to comment on the content of these documents. Therefore such items of evidence are of no relevance to test the credibility of these witnesses and the prejudice of admitting untested items of evidence at this stage significantly outweighs any probative value they may have.

(iii) Potential witnesses

26. The Prosecution objects to the submission via a bar table motion of: (i) one out-of-court statement ("*Attestation*") collected by the Defence and its associated material;⁴¹ (ii) one screening note ("*Entretien préalable*") produced by the Defence;⁴² (iii) one mission report of the Defence and its associated material;⁴³ and (iv) three articles attributed to, quoting, or falling within the specific scope of P-0015's potential testimony which is yet to be scheduled.⁴⁴

³⁹ Version publique expurgée de la « Requête visant à introduire la Déclaration Antérieure des témoins P-0015, P-0025, P-2926 et P-0405 en vertu de la Règle 68(2)(b) du Règlement de procédure et de preuve », 10 March 2025, ICC-01/14-01/21-931-Red, Confidential Annexe 1.

⁴⁰ CAR-OTP-2035-0239, CAR-OTP-2099-0003, CAR-OTP-2120-0143.

⁴¹ CAR-D33-0014-2056, CAR-D33-0014-2059, CAR-D33-0014-2118, CAR-D33-0014-2060, CAR-D33-0014-2110, CAR-D33-0014-2188, CAR-D33-0014-2054, CAR-D33-0014-2055, CAR-D33-0014-2720, CAR-D33-0005-0007

⁴² CAR-D33-0014-3459.

⁴³ CAR-D33-0015-0742, CAR-D33-0015-0725, CAR-D33-0015-0726, CAR-D33-0015-0727, CAR-D33-0015-0728, CAR-D33-0015-0729, CAR-D33-0015-0730, CAR-D33-0015-0731, CAR-D33-0015-0732, CAR-D33-0015-0733, CAR-D33-0015-0734, CAR-D33-0015-0735, CAR-D33-0015-0736, CAR-D33-0015-0737, CAR-D33-0015-0738, CAR-D33-0015-0739, CAR-D33-0015-0740, CAR-D33-0015-0741.

⁴⁴ CAR-D33-0014-1617, CAR-D33-0014-2219, CAR-D33-0014-2269.

27. With regard to the item listed under (ii), the Prosecution notes that the Defence indicated that the individual interviewed has not been authorized by his hierarchy to testify but “[l]a personne a néanmoins donné son accord pour que la Défense puisse utiliser de manière anonymisée les éléments partagés avec la Défense lors des entretiens⁴⁵”. The Prosecution submits that a screening note is not a statement and has a limited probative value. In this case, the individual has not had the opportunity to see or comment on the truth of this document’s content. Therefore, the prejudice of admitting an untested item of evidence at this stage significantly outweighs any probative value it may have.

28. Concerning the items listed under (i) and (iii), the Prosecution submits that they are testimonial in nature and that a bar table motion is not the appropriate procedural avenue to seek admission of these items. It is settled law that “[e]vidence which is testimonial in nature is [...] inadmissible [...] when not elicited orally or when the conditions for the introduction of the prior recorded testimony specially provided for in the Court’s applicable law are not met⁴⁶”.

29. Therefore, the Prosecution submits that the submission via a bar table motion of the items of evidence listed under (i) and (ii) and referred to in paragraph 26 is inadmissible given their testimonial nature.

30. Lastly, concerning the items listed under (iv), the Prosecution recalls that on 11 April 2025, the Defence filed a notice,⁴⁷ wherein it confirmed its intention to call P-

⁴⁵ Version publique expurgée des « Soumissions de la Défense conformément à la « Decision on the Defence’s Request for an Extension of Time to File its Final List of Witnesses, List of Evidence and Complete Disclosure » (ICC-01/14-01/21-920-Conf-Exp) rendue par la Chambre de première instance VI le 21 février 2025, 21 March 2025, ICC-01/14-01/21-948- Red, para. 22.

⁴⁶ *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the First Prosecution Submission Request from the Bar Table (Sexual and Gender Based Violence), 12 April 2022, ICC-01/14-01/18-1359, para. 15 citing *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wanda and Mr Narcisse Arido against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute”, 8 March 2018, ICC-01/05-01/13-2275-Red, para. 581.

⁴⁷ Version publique expurgée de la « Notification par la Défense de la venue de P-0015 de manière viva voce », 11 April 2025, ICC-01/14-01/21-959-Red, paras. 12-13.

0015 as a *viva voce* witness. The Chamber has yet to rule on the scheduling of P-0015's testimony.

31. Further, on 1 April 2025, the Chamber granted the Defence *inter alia* an extension of time until 2 May 2025 to file its complete List of Witnesses as well as additional requests to introduce the prior recorded testimony pursuant to Rule 68 of the Rules of Procedure and Evidence.⁴⁸

32. Therefore, the Prosecution submits that the submission via a bar table motion of the items of evidence listed under (iv) and referred to in paragraph 26 is premature given that P-0015 has yet to testify.

Other

33. The Prosecution objects to the submission via a bar table motion of CAR-OTP-2088-2315 on the ground that the document lacks justification and does not support the Defence contention of an incomplete Investigation by the Prosecution.

34. The Prosecution objects to the submission via a bar table of CAR-D33-0004-0437 and CAR-D33-0004-0457, two tweets dated 26 August 2012 and 24 December 2013, on the ground that no information was provided to authenticate them. In the metadata, the Defence provided general links to twitter profiles. The Defence failed to provide the necessary metadata, namely the path and digital signature required by the E-court Protocol,⁴⁹ adopted by the Chamber,⁵⁰ in order to provide explanation concerning the methodology of collection of the tweets. These metadata are essential for the purpose of forensic verification of the preserved item

⁴⁸ Decision on the Defence's Request for Additional Time to Complete Its Investigation, 1 April 2025, ICC-01/14-01/21-955-Red, p. 9. See also, *Version publique expurgée des « Soumissions de la Défense conformément à la « Decision on the Defence's Request for an Extension of Time to File its Final List of Witnesses, List of Evidence and Complete Disclosure » (ICC-01/14-01/21-920-Conf-Exp) rendue par la Chambre de première instance VI le 21 février 2025*, 21 March 2025, ICC-01/14-01/21-948- Red, para. 22.

⁴⁹ Unified Technical protocol ("E-court Protocol") for the provision of evidence, witness and victims information in electronic form, ICC-01/14-121-610-AnxI, pp. 14, 17-18.

⁵⁰ Decision adopting an updated E-court Protocol, see email from the Chamber dated 11 May 2023 at 09:48.

of evidence, to ensure that the evidence has not been modified or tampered with between the time of posting and time of collection. The Prosecution further submits that the Defence failed to comply with the E-court Protocol which reflects the basic standards required for the purpose of collection, preservation, and authentication of digital material in order to submit them for admission. Therefore the two items of evidence are inadmissible.

IV. RELIEF REQUESTED

35. In light of the aforementioned reasons, the Prosecution respectfully requests the Chamber to reject the formal submission of 87 items of evidence, listed in Annex A appended to this response.

36. In the alternative, and if recognised as formally submitted, the Chamber should grant no weight to these documents, when deciding on the guilt or innocence of Mr. SAID in its judgement pursuant to Article 74 of the Rome Statute of the International Criminal Court.



Karim A. A. Khan KC, Prosecutor

Dated this 25th day of April 2025

At The Hague, The Netherlands