

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 22 August 2025

TRIAL CHAMBER VI

Before:

**Judge Miatta Maria Samba, Presiding Judge
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godínez
Judge Keebong Paek, Alternate Judge**

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF

THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI

**Public Redacted
with two Public annexes**

**Decision on Three Defence Requests for the Submission of Evidence from
the Bar Table (ICC-01/14-01/21-966; ICC-01/14-01/21-973; ICC-01/14-01/21-
989)**

Decision 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 Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations
Section

☐ Other

TRIAL CHAMBER VI of the International Criminal Court, in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 64, 67(1), 69 and 74(2) of the Rome Statute (the ‘Statute’), rules 63, 64, 68, and 77 of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Decision on Three Defence Requests for the Submission of Evidence from the Bar Table (ICC-01/14-01/21-966; ICC-01/14-01/21-973; ICC-01/14-01/21-989)’.

I. PROCEDURAL HISTORY

1. On 13 February 2024, the Chamber issued the ‘Decision on the Prosecution’s Applications for Submission of Documents from the Bar Table’ (the ‘Prosecution Bar Table Decision’).¹
2. On 8 October 2024, the Chamber issued the ‘Third Directions on the Conduct of proceedings’.² Therein, the Chamber ordered the Defence to file any application for the submission of evidence via the bar table no later than one week after the last Defence witness has finished testifying.³
3. On 15 November 2024, the Office of the Prosecutor (the ‘Prosecution’) formally closed the presentation of its evidence.⁴
4. On 5 March 2025, the Chamber filed the ‘Fourth Directions on the Conduct of Proceedings’, instructing the Defence to file any application for the submission of evidence from the Bar Table one week after the first block of witness(es) and to make further requests to file additional evidence as soon as feasible.⁵

¹ Decision on the Prosecution’s Applications for Submission of Documents from the Bar Table, 13 February 2024, [ICC-01/14-01/21-694](#), with two public annexes.

² Third Directions on the Conduct of Proceedings, 8 October 2024, [ICC-01/14-01/21-873](#).

³ Third Directions on the Conduct of Proceedings, 8 October 2024, [ICC-01/14-01/21-873](#), para. 19.

⁴ Notification of the Conclusion of the Prosecution’s Presentation of Evidence, 15 November 2024, [ICC-01/14-01/21-895](#).

⁵ Fourth Directions on the Conduct of Proceedings, 5 March 2025, [ICC-01/14-01/21-932](#), para. 17.

5. On 12 March 2025, the Defence filed a request for an extension of time to file its Bar Table Motion,⁶ which the Chamber granted on 20 March 2025, ordering the Defence to file its Bar Table Motion on 17 April 2025.⁷

6. On 1 April 2025, the Chamber issued the ‘Decision on the Defence’s Request for Additional Time to Complete Its Investigation’, in which it, *inter alia*, ordered the Defence to file a further Bar Table motion relating to outstanding evidence no later than 2 May 2025.⁸

7. On 17 April 2025, the Defence filed its first request to submit evidence from the Bar Table (the ‘First Request’).⁹

8. On 25 April 2025, the Prosecution filed its response to the First Request (the ‘First Response’).¹⁰

9. On 2 May 2025, the Defence filed its second request to submit evidence from the Bar Table (the ‘Second Request’).¹¹

10. On 9 May 2025, the Prosecution responded to the Second Request (the ‘Second Response’).¹²

⁶ Version publique expurgée de la « Demande de prorogation de délai conformément à la Norme 35 du Règlement de la Cour pour déposer la requête Bar Table de la Défense », 12 March 2024, [ICC-01/14-01/21-936-Red](#). A confidential *ex parte* version was filed simultaneously (ICC-01/14-01/21-936-Conf-Exp).

⁷ Decision on the Defence’s Request for an Extension of Time to File Requests to Submit Evidence other than through a Witness, 20 March 2025, [ICC-01/14-01/21-942](#).

⁸ Decision on the Defence’s Request for Additional Time to Complete Its Investigation, 1 April 2025, [ICC-01/14-01/21-955-Red](#). A confidential version was filed simultaneously (ICC-01/14-01/21-955-Conf).

⁹ Requête de la Défense afin de soumettre des éléments de preuve par le biais d’une Bar Table, 17 April 2025, [ICC-01/14-01/21-966](#), with one confidential annex (ICC-01/14-01/21-966-Conf-AnxA).

¹⁰ 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), 25 April 2025, [ICC-01/14-01/21-970](#), with one confidential annex (ICC-01/14-01/21-970-Conf-AnxA).

¹¹ Version publique expurgée de la « Deuxième Requête de la Défense afin de soumettre des éléments de preuve par le biais d’une Bar Table », 5 May 2025, [ICC-01/14-01/21-973-Red](#), with one confidential annex (ICC-01/14-01/21-973-Conf-AnxA). A confidential version was filed on 2 May 2025 (ICC-01/14-01/21-973-Conf).

¹² Public redacted version of “Prosecution’s response to “Deuxième Requête de la Défense afin de soumettre des éléments de preuve par le biais d’une Bar Table” (ICC-01/14-01/21-973-Conf)”, ICC-01/14-01/21-978-Conf, dated 9 May 2025, 15 May 2025, ICC-01/14-01/21-978-Red, with one confidential annex (ICC-01/14-01/21-978-Conf-AnxA). A confidential version was filed on 9 May 2025 (ICC-01/14-01/21-978-Conf).

11. On 23 June 2025, the Chamber filed the ‘Decision Setting Final Deadlines for the Defence’s Presentation of Evidence and Related Directions’, in which it set deadlines for a number of final motions for the introduction of Defence evidence.¹³

12. On 30 June 2025, the Defence filed a third request to introduce evidence from the Bar Table (the ‘Third Request’).¹⁴

13. On 2 July 2025, the Prosecution indicated, via email, that ‘[w]hile [it] does not agree with the justification of relevance of CAR-D33-0014-3508, as put forward by the Defence in [the Third Request], it does not object to the Defence’s request for admission of this document through the bar table.’¹⁵

14. The Common Legal Representative of Victims (the ‘CLRV’) did not file responses to the First, Second or Third Request.

15. On 30 July 2025, the Defence filed additional submissions in respect of a number of items produced by a member of the Defence team, Mr Florian François-Jacquemin, contained in the First Request (the ‘Defence Additional Submissions’).¹⁶

II. SUBMISSIONS

16. The Defence requests the introduction of 264 items from the Bar Table in the First Request, seven items in the Second Request and one item in the Third Request. As stated in the Prosecution Bar Table Decision,¹⁷ given the volume and level of detail of the parties’ submissions, the Chamber will only summarise their overarching

¹³ Decision Setting Final Deadlines for the Defence’s Presentation of Evidence and Related Directions, 23 June 2025, [ICC-01/14-01/21-986-Red](#). A confidential *ex parte* and confidential redacted version were filed simultaneously (ICC-01/14-01/21-986-Conf-Exp; ICC-01/14-01/21-986-Conf-Red).

¹⁴ Version publique expurgée de la « Troisième requête de la Défense afin de soumettre un élément de preuve par le biais d’une Bar Table », 7 July 2025, ICC-01/14-01/21-989-Red, with one confidential annex (ICC-01/14-01/21-989-Conf-AnxA). A confidential version was notified on 30 June 2025 (ICC-01/14-01/21-989-Conf).

¹⁵ Email from the Prosecution to the Chamber, dated 2 July 2025, at 14:43.

¹⁶ Version publique expurgée de la « Demande visant à obtenir des clarifications calendaires concernant le moment où la Défense pourra être fixée sur la demande pendante du 17 avril 2025 (ICC-01/14-01/21-966) spécifiquement concernant la soumission par Bar Table du rapport CAR-D33-0015-0742 et des éléments y afférents afin que la Défense puisse en tirer les conséquences procédurales dans les délais impartis. », 13 August 2025, ICC-01/14-01/21-1004-Red. A confidential version was filed on 30 July 2025 (ICC-01/14-01/21-1004-Red).

¹⁷ See Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 11.

arguments below, as set out in their main filings.¹⁸ The Chamber has taken note of these overarching submissions, as well as the detailed submissions as set out in the relevant annexes in relation to the relevance, authenticity, probative value, and potential prejudice of individual items of evidence. In line with its approach to the submission of evidence, as reiterated below,¹⁹ these submissions will be considered in due course.²⁰

A. First Request

17. In the First Request, the Defence seeks submission of 264 items which it submits are relevant to its case.²¹

18. The Defence makes a number of overarching submissions in relation to the items it wishes to have submitted, noting that each item of evidence is relevant to its case for several reasons.

19. The Defence submits that several of the items allow it to test the credibility of witnesses whose prior recorded testimony was introduced pursuant to rules 68(2)(b) and (c) of the Rules.²² The Defence avers that in light of the fact that these witnesses did not appear orally before the Chamber, it is crucial that the Defence be able to submit all relevant items to test the content of the witnesses' evidence.²³

20. The Defence further submits that the evidence it seeks to introduce challenges the Prosecution's narrative concerning the contextual elements for crimes against humanity and war crimes, with a number of items corroborating evidence already on the record.²⁴ In particular, the Defence avers that the evidence it seeks to have introduced demonstrates, *inter alia*: (i) a lack of organisation of the relevant groups; (ii) the absence of a state or organisational policy; and (iii) the absence of an armed conflict.²⁵

¹⁸ See First Request, [ICC-01/14-01/21-966](#); First Response, [ICC-01/14-01/21-970](#); Second Request, [ICC-01/14-01/21-973-Red](#); Second Response, [ICC-01/14-01/21-978-Red](#).

¹⁹ See paragraphs 38-40, 43 below.

²⁰ Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 38. See also para. 11; Directions on the Conduct of Proceedings, 9 March 2022, [ICC-01/14-01/21-251](#), para. 16.

²¹ First Request, [ICC-01/14-01/21-966](#), para. 17.

²² First Request, [ICC-01/14-01/21-966](#), para. 19.

²³ First Request, [ICC-01/14-01/21-966](#), para. 19.

²⁴ First Request, [ICC-01/14-01/21-966](#), para. 20.

²⁵ First Request, [ICC-01/14-01/21-966](#), para. 20.

B. First Response

21. In the First Response, the Prosecution objects to the submission of 87 out of the 264 requested items of evidence that the Defence seeks to have introduced through the Bar Table.²⁶ In the alternative, should the Chamber decide to recognise the disputed items the Defence wishes to have submitted, the Prosecution requests that they be given no weight.²⁷

22. The Prosecution makes a number of overarching submissions in response to the First Request.

23. First, the Prosecution submits that a number of items fall outside the temporal and/or geographical scope of the charges, identifying 30 items of evidence which fall into this category.²⁸

24. Second, the Prosecution notes that the Defence seeks to submit four items which relate to the proof of death of four Prosecution rule 68(2)(c) witnesses. The Prosecution avers that these documents were already submitted in the context of the rule 68(2)(c) submission process and were taken into consideration by the Chamber for the purposes of assessing the unavailability of these witnesses.²⁹

25. Third, the Prosecution submits that 13 items of evidence relate to witnesses who have already testified before the Chamber and were not utilised by the Defence during its cross-examination of these witnesses.³⁰ The Prosecution avers, *inter alia*, that it would be unfair to introduce these documents at this stage because ‘the witnesses have been deprived of the opportunity to comment on these documents.’³¹

26. The Prosecution makes similar submissions with respect to a number of items relating to rule 68(2)(b) witnesses.³² In respect of the Defence’s rule 68(2)(b) witnesses, the Prosecution submits that items should have formed part of the Defence’s requests

²⁶ First Response, [ICC-01/14-01/21-970](#), para. 1.

²⁷ First Response, [ICC-01/14-01/21-970](#), para. 2.

²⁸ First Response, [ICC-01/14-01/21-970](#), paras 6-12.

²⁹ First Response, [ICC-01/14-01/21-970](#), paras 13-15.

³⁰ First Response, [ICC-01/14-01/21-970](#), paras 18-23.

³¹ First Response, [ICC-01/14-01/21-970](#), para. 23.

³² First Response, [ICC-01/14-01/21-970](#), paras 24-25.

pursuant to rule 68(2)(b) and cannot be introduced through the Bar Table.³³ In respect of the items relating to the Prosecution's rule 68(2)(b) witnesses, the Prosecution submits that the witnesses have not had an opportunity to comment on their content and are not, *inter alia*, relevant to testing the credibility of these witnesses, with the prejudice of introducing these items outweighing any probative value they may have.³⁴

27. Fourth, the Prosecution objects to a number of items which it avers relate to potential witnesses.³⁵

28. Last, the Prosecution makes a number of specific submissions on a number of discrete items,³⁶ which the Chamber will note below.³⁷

C. Second Request

29. In the Second Request, the Defence seeks submission of seven items which it submits are relevant to its case.³⁸

30. The Defence makes a number of overarching submissions in support of the items sought in the Second Request. First, the Defence makes submissions in respect of the introduction of a number of reports prepared by P-3112 (CAR-OTP-00037682,³⁹ CAR-OTP-00037673), noting that they contain useful information which can assist with the testing of accounts of a number of witnesses.⁴⁰ Similarly, the Defence avers that the reports are relevant as they concern places which are mentioned in the Prosecution's Trial Brief.⁴¹

31. Second, the Defence makes submissions in respect of the introduction of an exhibit (CAR-D33-0015-3466) from a potential Defence witness who was not able to testify.⁴² The Defence submits that this document is necessary to give credibility to this

³³ First Response, [ICC-01/14-01/21-970](#), para. 24.

³⁴ First Response, [ICC-01/14-01/21-970](#), para. 25.

³⁵ First Response, [ICC-01/14-01/21-970](#), paras 26-32.

³⁶ First Response, [ICC-01/14-01/21-970](#), paras 33-34.

³⁷ See paragraphs 95-98 below.

³⁸ Second Request, [ICC-01/14-01/21-973-Red](#), para. 13.

³⁹ The Chamber notes that CAR-OTP-00037683 is the English version of this exhibit, which the Defence seeks to submit into evidence.

⁴⁰ Second Request, [ICC-01/14-01/21-973-Red](#), para. 15.

⁴¹ Second Request, [ICC-01/14-01/21-973-Red](#), para. 15.

⁴² Second Request, [ICC-01/14-01/21-973-Red](#), para. 16.

individual's evidence, which is already on the record.⁴³ Furthermore, in response to the Prosecution's submissions, the Defence avers that obtaining this document earlier in the proceedings would not have allowed it to be submitted through other witnesses, noting that the Prosecution does not explain what other witnesses would have been able to usefully comment on.⁴⁴

32. Last, the Defence submits that this exhibit contains relevant information regarding an alleged lack of cohesion within the Seleka, useful information on the Anti-Balaka, as well as other information which the Defence submits is relevant, noting, *inter alia*, that it originates from an actor who was present on the ground in 2013.⁴⁵

D. Second Response

33. In the Second Response, the Prosecution objects to the submission of four out of the Defence's seven requested items.⁴⁶ In the alternative, the Prosecution requests that the Chamber afford no weight to any of the disputed items, should it decide to introduce them into evidence.⁴⁷

34. In respect of CAR-D33-0015-3466, which relates to the potential Defence witness who was unable to testify, the Prosecution submits that it lacks *prima facie* relevance and probative value as the evidence in relation to this potential Defence witness (CAR-OTP-2081-0496) has already been formally submitted and used during the cross-examination of two Prosecution witnesses.⁴⁸ In addition, the Prosecution avers that the Defence's contention that it will bolster the credibility of the potential Defence witness is inapposite because he did not appear before the Chamber and will not be called by the Defence.⁴⁹

35. In relation to CAR-OTP-00037673, CAR-OTP-00037682 and CAR-OTP-00037683, the Prosecution submits that the Defence does not demonstrate how these exhibits would affect the assessment of the credibility of Prosecution witnesses, noting

⁴³ Second Request, [ICC-01/14-01/21-973-Red](#), para. 16.

⁴⁴ Second Request, [ICC-01/14-01/21-973-Red](#), para. 17.

⁴⁵ Second Request, [ICC-01/14-01/21-973-Red](#), para. 18.

⁴⁶ Second Response, ICC-01/14-01/21-978-Red, para. 1.

⁴⁷ Second Response, ICC-01/14-01/21-978-Red, para. 18.

⁴⁸ Second Response, ICC-01/14-01/21-978-Red, para. 11.

⁴⁹ Second Response, ICC-01/14-01/21-978-Red, para. 12.

that the Defence must demonstrate how the requested items indeed affect the credibility of the Prosecution witnesses.⁵⁰

E. Third Request

36. In the Third Request, the Defence seeks the introduction of one item (CAR-D33-0014-3508). The Defence notes that CAR-D33-0014-3508 is a diplomatic telegram from [REDACTED] which demonstrates the will of the Seleka to maintain and promote the FACA within the army, making reference to the appointment of [REDACTED].⁵¹ The Defence submits that this document is relevant in the context of the analysis of the contextual elements of crimes against humanity, relating, *inter alia*, to an alleged lack of organisation of the State after 24 March 2013.⁵²

37. The Prosecution, whilst disagreeing with the Defence's submissions on relevance, does not object to the introduction of this document.⁵³

III. APPLICABLE LAW

38. As indicated in the Directions on the Conduct of Proceedings, and reiterated in the Prosecution Bar Table Decision, as a general rule, the Chamber will: (i) recognise the submission of items of evidence without a prior ruling on the admissibility of the evidence; and (ii) evaluate the standard evidentiary criteria as part of the holistic assessment of all evidence submitted when deciding on the guilt or innocence of the accused, in its judgment pursuant to article 74 of the Statute.⁵⁴ In other words, the Chamber will not pronounce on the alleged relevance, probative value and/or potential prejudice (or lack thereof) of any given item of evidence at this stage of the proceedings unless the Chamber deems it necessary to do so in order to provide clarity to the parties

⁵⁰ Second Response, ICC-01/14-01/21-978-Red, para. 16.

⁵¹ Third Request, ICC-01/14-01/21-989-Red, paras 15, 17.

⁵² Third Request, ICC-01/14-01/21-989-Red, para. 17.

⁵³ Annex A to the Third Request, ICC-01/14-01/21-989-Conf-AnxA, p. 2; Email from the Prosecution to the Chamber, dated 2 July 2025, at 14:43.

⁵⁴ See Directions on the Conduct of Proceedings, 9 March 2022, [ICC-01/14-01/21-251](#), para. 16; Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 38 and references therein.

and participants, to avoid the calling of unnecessary evidence or to otherwise advance the fairness or efficiency of the trial proceedings.⁵⁵

39. Furthermore, the Chamber recalls its position, as set out in the Fourth Directions on the Conduct of Proceedings, regarding the requirement pursuant to article 74(2) of the Statute that the Chamber's judgment be based on evidence that is submitted and discussed before it at trial.⁵⁶ As also noted in the context of the Prosecution's Bar Table motions,⁵⁷ the Chamber notes that the Defence makes vague and general explanations regarding relevance in respect of a large number of items it wishes to have submitted.⁵⁸ In line with the Chamber's approach to the submission of evidence, whilst this does not necessarily bar introduction, the Chamber reiterates that if the parties wish it to consider a particular item of evidence, then it must be referenced specifically in their Briefs and/or Closing Arguments with an explanation of the point(s) that they wish to raise in relation to such an item if this is not already clear from its context.⁵⁹

40. This is without prejudice to the parties and participants' obligation under rule 64(1) of the Rules to raise issues as to admissibility of evidence, including on any of the standard evidentiary criteria, at the time when the evidence is submitted to the Chamber or immediately after such an issue becomes known.⁶⁰

41. At this juncture, the Chamber notes that in all three requests the Defence makes submissions regarding the burden and standard of proof in respect of Defence Bar Table motions.⁶¹ Specifically, the Defence submits that because it does not have the burden of proof, which rests on the Prosecution, this legally implies that the Prosecution is held

⁵⁵ See Directions on the Conduct of Proceedings, 9 March 2022, [ICC-01/14-01/21-251](#), para. 21; Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 38.

⁵⁶ Fourth Directions on the Conduct of Proceedings, 5 March 2025, [ICC-01/14-01/21-932](#), paras 27-29.

⁵⁷ Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 65.

⁵⁸ Fourth Directions on the Conduct of Proceedings, 5 March 2025, [ICC-01/14-01/21-932](#), para. 28.

⁵⁹ See Fourth Directions on the Conduct of Proceedings, 5 March 2025, [ICC-01/14-01/21-932](#), para. 29.

⁶⁰ Directions on the Conduct of Proceedings, 9 March 2022, [ICC-01/14-01/21-251](#), para. 18; Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 39 and references therein.

⁶¹ First Request, [ICC-01/14-01/21-966](#), para. 17; Second Request, [ICC-01/14-01/21-973-Red](#), para. 13; Third Request, [ICC-01/14-01/21-989-Red](#), para. 15.

to a much higher standard of proof with respect to demonstrating the authenticity and probative value of the evidence the latter adduces.⁶²

42. The Chamber finds the Defence's submissions in this respect inapposite. Whilst indeed the Prosecution bears the burden of proof and must prove the charges beyond reasonable doubt, this is a separate exercise to determining the admissibility of evidence. In this regard, the Chamber notes that any party seeking to introduce evidence onto the record must demonstrate that such evidence is admissible, with reference to the standard evidentiary criteria.⁶³ It is only once evidence has been determined to be admissible, that the Chamber will then assess such evidence to determine whether the Prosecution has proven the charges beyond reasonable doubt. Accordingly, the Defence's submissions in this regard are rejected.

43. Based on the foregoing, in principle, the Chamber will recognise as formally submitted all items of evidence proposed by the Defence, insofar as: (i) the item is included in the Defence's List of Evidence; (ii) there is no procedural bar to its introduction from the Bar Table; (iii) the item does not fall foul of any of the Statute's exclusionary rules; and (iv) the Chamber sees no exceptional reason to apply the standard evidentiary criteria at this stage.⁶⁴ The Chamber may nevertheless disallow the introduction of an item of evidence through the Bar Table if it is of the view that a witness has been identified who can meaningfully comment on the relevance, authenticity or probative value of the item of evidence.⁶⁵

⁶² First Request, [ICC-01/14-01/21-966](#), para. 17; Second Request, [ICC-01/14-01/21-973-Red](#), para. 13; Third Request, [ICC-01/14-01/21-989-Red](#), para. 15.

⁶³ See Appeals Chamber, *The Prosecutor v. Bosco Ntaganda*, Judgment on the appeals of Mr Bosco Ntaganda and the Prosecutor against the decision of Trial Chamber VI of 8 July 2019 entitled 'Judgment', 30 March 2021, [ICC-01/04-02/06-2666-Red](#), para. 587.

⁶⁴ See Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 40.

⁶⁵ See Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 40.

IV. ANALYSIS

A. Preliminary Issues

1. *Items which are unopposed*

44. The Chamber notes that the Prosecution does not oppose the introduction of 177⁶⁶ of the 264 items requested for formal submission by the Defence in the First Request.⁶⁷ Similarly, the Chamber also notes that the Prosecution does not oppose the introduction of three out of the seven items in the Second Request and the one item requested in the Third Request.⁶⁸

45. The Chamber has reviewed these unopposed items and notes that the Defence seeks to introduce, *inter alia*, a number of *proces verbaux* from the Court of Appeal in Bangui, which contain the record of proceedings against a number of individuals, including warrants of arrest, police reports and a record of questions and answers by alleged perpetrators.⁶⁹ In support of their introduction the Defence submits that these documents are relevant to illustrate, *inter alia*, that: (i) the events in Boy Rabe were a result of uncontrolled elements; (ii) the looting of property was motivated by a desire for personal gain; and (iii) the State took steps to punish the perpetrators of these crimes, even when they were members of the Seleka, which in turn contradicts the Prosecution's submissions regarding an organisational policy.⁷⁰

46. The Chamber notes that there could be some discussion as to whether these items are testimonial in nature, as they contain the written record of statements made by alleged perpetrators in the context of legal proceedings regarding specific alleged crimes. However, as noted above, the Chamber observes that the documents are broader in nature containing the record of proceedings, including police reports and warrants of

⁶⁶ The Chamber notes that one of these items was already formally submitted (CAR-D33-0014-3215) – see paragraph 48 below.

⁶⁷ See First Response, [ICC-01/14-01/21-970](#), para. 1.

⁶⁸ See Second Response, ICC-01/14-01/21-978-Red, para. 1; Email from the Prosecution to the Chamber, dated 2 July 2025, at 14:43.

⁶⁹ CAR-OTP-2019-2842; CAR-OTP-2019-2850; CAR-OTP-2019-2853; CAR-OTP-2019-2858; CAR-OTP-2019-2911; CAR-OTP-2019-2927; CAR-OTP-2019-2933; CAR-OTP-2019-2943; CAR-OTP-2019-2949; CAR-OTP-2019-2957; CAR-OTP-2019-2965; CAR-OTP-2019-2970; CAR-OTP-2019-2979; CAR-OTP-2019-2985; CAR-OTP-2019-2992; CAR-OTP-2019-3006; CAR-OTP-2019-3008; CAR-OTP-2019-3010; CAR-OTP-2019-3018; CAR-OTP-2019-3025; CAR-OTP-2019-3027.

⁷⁰ See Annex to First Request, ICC-01/14-01/21-966-Conf-AnxA, pp. 47-67.

arrest. The Chamber further notes that the Defence seeks to introduce these items not for the truth of the contents of any written statements contained therein,⁷¹ but rather to demonstrate, *inter alia*, that legal proceedings were initiated against alleged (Seleka) pillagers in Bangui during the charged period.⁷² The Chamber finds that, in these circumstances, resort to rule 68 of the Rules is not required. Furthermore, the Chamber also takes note of the fact that the Prosecution does not object to their introduction through the Bar Table and that similar *proces verbaux* have already been introduced through other witnesses.⁷³

47. Accordingly, the Chamber recognises the formal submission of these items. In respect of the remaining unopposed items in the First, Second and Third Requests, the Chamber notes that there is no procedural bar to their introduction from the Bar Table, nor do they fall foul of any of the Statute's exclusionary rules. Accordingly, in light of the lack of opposition,⁷⁴ the Chamber will recognise these items⁷⁵ as formally submitted. For ease of reference, the Evidence Reference Numbers (the 'ERNs') of these items are set out in Annex A to the present decision.

2. *Items already Recognised as Formally Submitted*

48. The Chamber notes that two items have already been formally submitted through other means. Specifically, CAR-D33-0014-1617 and CAR-D33-0014-3215, which form part of the First Request, have already been formally submitted through P-0015. Accordingly, the Chamber sees no need to recognise their formal submission twice.

B. **Opposed Items**

49. In respect of the opposed items, as noted above, the Chamber will defer consideration of arguments relating to the relevance, probative value (including

⁷¹ See Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba et al*, Decision on Prosecution Rule 68(2) and (3) Requests, 12 November 2015, [ICC-01/05-01/13-1478-Red-Corr](#), para. 34. A confidential version was filed on 11 November 2015 (ICC-01/05-01/13-1478-Conf); Trial Chamber III, *The Prosecutor v. Paul Gicheru*, Decision on the Prosecution's Second Request to Introduce Evidence Other than Through a Witness, 15 March 2022, [ICC-01/09-01/20-299](#), para. 11.

⁷² See Annex to First Request, ICC-01/14-01/21-966-Conf-AnxA, pp. 47-67.

⁷³ See CAR-OTP-2135-3192.

⁷⁴ See Trial Chamber III, *The Prosecutor v. Paul Gicheru*, Decision on the Prosecution's First Request to Introduce Evidence Other than Through a Witness, 11 February 2022, [ICC-01/09-01/20-282-Red](#), para 10. A confidential version was filed simultaneously (ICC-01/09-01/20-282-Conf).

⁷⁵ With the exception of CAR-D33-0014-1375 and CAR-D33-0014-1380, which are linked to CAR-D33-0014-1374 – see paragraphs 67 to 69 below.

authenticity) and/or potential prejudice (or lack thereof) until the deliberation phase. In principle, the Chamber will consider the admissibility of certain items of evidence at this stage if the Prosecution claims – or the Chamber finds – that they fall foul of one of the exclusionary rules.

50. The Chamber notes that the Prosecution has not raised any violation of article 69(7) of the Statute in relation to any of the items included in the Defence’s three requests. However, it has raised several issues relating to the relevance and probative value of a number of items.

51. The Chamber will now turn its review of the opposed items and evaluate whether any of the opposed items fall foul to any of the exclusionary rules.

1. Opposed items in the First Request

52. The Chamber notes that the Prosecution makes several overarching objections to a number of items in the First Request. The Chamber will note each of these overarching objections in turn to determine whether they require an immediate ruling at this stage.

(i) Items of evidence alleged to fall outside the temporal and/or geographical scope of the charges

53. The Prosecution objects to thirty items 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.

54. First, the Prosecution submits that, for twenty items,⁷⁶ although the Defence submits that a number of items relate to the context of the emergence of the Seleka,⁷⁷ ‘[the Defence] 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.’⁷⁸

⁷⁶ 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.

⁷⁷ See Annex to First Request, ICC-01/14-01/21-966-Conf-AnxA, pp. 16-17 (items 16, 17), 19-20 (items 22, 23), 22-23 (items 27, 29), 25-26 (items 32, 33), 34-35 (items 48-50), 77 (item 1).

⁷⁸ First Response, [ICC-01/14-01/21-970](#), para. 8.

55. Second, the Prosecution objects to seven items,⁷⁹ noting that whilst the Defence avers that these documents may suggest that individuals who held ministerial or other governmental appointments during the period of relevance to the charges were also part of the government in Central African Republic (the ‘CAR’) before or after that period,⁸⁰ these documents do not illustrate the continuity of the functions held by these individuals.⁸¹

56. In respect of CAR-D33-0014-1231, which is a press article from Human Rights Watch, dated 27 June 2016, the Defence submits that this document demonstrates, *inter alia*, that crimes were committed at the OCRB outside the charged period, which contradicts the Prosecution’s case regarding the implementation of a policy.⁸² The Prosecution submits that whilst this document may contain information about the functioning 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.’⁸³

57. In respect of CAR-D33-0014-0133, which is a United Nations press release, dated 23 June 2011, the Defence avers that this document is relevant to the contextual elements of crimes against humanity and illustrates an absence of a Seleka government.⁸⁴ The Prosecution submits that this document ‘contains no information about the period of relevance to the charges when Mr Said and the Seleka are alleged to be in charge.’⁸⁵

58. Last, in respect of CAR-D33-0014-2366, which is a book by [REDACTED], published on 22 March 2018, the Defence submits that this item is relevant for the legal analysis relating to determining whether there was an armed conflict in CAR.⁸⁶ The Prosecution, in response, notes that this is a book of 325 pages whose content falls

⁷⁹ 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-D33-0014-1973.

⁸⁰ See Annex to First Request, ICC-01/14-01/21-966-Conf-AnxA, pp. 38 (item 55), 78 (items 2-4), 112-113 (item 16), 114-115 (items 20, 21).

⁸¹ First Response, [ICC-01/14-01/21-970](#), para. 9.

⁸² See Annex to First Request, ICC-01/14-01/21-966-Conf-AnxA, p. 116 (item 22).

⁸³ First Response, [ICC-01/14-01/21-970](#), para. 10.

⁸⁴ See Annex to First Request, ICC-01/14-01/21-966-Conf-AnxA, p. 121 (item 1).

⁸⁵ First Response, [ICC-01/14-01/21-970](#), para. 11.

⁸⁶ See Annex to First Request, ICC-01/14-01/21-966-Conf-AnxA, pp. 119-120 (item 29).

largely outside the temporal and geographical scope of the charges.⁸⁷ Specifically, whilst the Prosecution observes that the Defence has indicated the relevant pages in the document, it submits that the Defence fails to establish the relevance of the other 322 pages. In respect of the allegedly relevant pages, the Prosecution submits that for two of the pages the information is sourced from another item which has already been formally submitted.⁸⁸

59. The Chamber has taken note of the parties' submissions in respect of all of the above items, finds that there is no procedural bar to the introduction of these items of evidence and, in line with its approach to the submission of evidence, recognises them as formally submitted.⁸⁹

(ii) Proof of death of rule 68(2)(c) witnesses

60. The Prosecution objects to four items of evidence⁹⁰ which relate to Prosecution witnesses whose evidence has been introduced pursuant to rule 68(2)(c) of the Rules. The Defence notes that these items are relevant to proving the death of the relevant rule 68(2)(c) witnesses.⁹¹ The Prosecution notes that these items of evidence were submitted by it in the context of the rule 68(2)(c) introduction process in October 2022 and were taken into consideration by the Chamber for the purpose of assessing the unavailability of these witnesses.⁹² The Prosecution submits that, as a result, there is no need to allow their formal submission, noting that they are deprived of *prima facie* relevance to any material issues at trial.⁹³

61. The Chamber observes, as indicated by the Prosecution, that these items were considered by the Chamber for the purpose of determining whether to introduce the prior recorded testimony of a number of witnesses pursuant to rule 68(2)(c) of the

⁸⁷ First Response, [ICC-01/14-01/21-970](#), para. 12.

⁸⁸ First Response, [ICC-01/14-01/21-970](#), para. 12.

⁸⁹ For ease of reference, these items are noted in Annex B to the present decision.

⁹⁰ CAR-OTP-2130-7829; CAR-OTP-2130-6891; CAR-OTP-2135-2670; CAR-OTP-2135-2547.

⁹¹ See Annex to the First Request, ICC-01/14-01/21-966-Conf-AnxA, pp. 97-98 (items 61-63), 128 (item 21).

⁹² First Response, [ICC-01/14-01/21-970](#), para. 15.

⁹³ First Response, [ICC-01/14-01/21-970](#), para. 15.

Rules.⁹⁴ The Defence has not advanced any other arguments in respect of the relevance of these items beyond determining the unavailability of those witnesses, which has already been adjudicated.⁹⁵ Accordingly, the Chamber sees no reason to allow introduction of these items and rejects their formal submission.⁹⁶

(iii) Items of evidence related to witnesses or potential witnesses

62. The Prosecution objects to a number of items relating to fully *viva voce*, rule 68(3) and rule 68(2)(b) witnesses, as well as items relating to a number of potential witnesses.

(a) Fully *viva voce* and rule 68(3) witnesses

63. First, the Prosecution objects to 13 items⁹⁷ relating to fully *viva voce* and rule 68(3) witnesses on the grounds that they were either collected by or disclosed to the Defence prior to the relevant witnesses' testifying.⁹⁸ The Defence submits that a number of these items are relevant to, *inter alia*, the contextual elements, the credibility of a number of oral witnesses and the understanding of the evidence.⁹⁹ The Prosecution submits that '[a]dmitting 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.'¹⁰⁰ In this regard, the Prosecution avers that the Defence was in possession of 11 of these items of evidence¹⁰¹ prior to the testimony of the concerned witnesses and could have put them to said witnesses, and thus 'the prejudice of admitting untested

⁹⁴ See 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](#), fns 7, 21, 35, 36, 38-40, 58, 76, 105, 106. A confidential version was filed on 29 April 2022 (ICC-01/14-01/21-290-Conf).

⁹⁵ See 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](#). A confidential version was filed simultaneously (ICC-01/14-01/21-506-Conf).

⁹⁶ For ease of reference, these items are noted in Annex B to the present decision.

⁹⁷ 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; CAR-D33-0014-1983; CAR-D33-0014-1985.

⁹⁸ First Response, [ICC-01/14-01/21-970](#), paras 19-21.

⁹⁹ See Annex to the First Request, ICC-01/14-01/21-966-Conf-AnxA, pp. 7 (items 1, 2), 36-37 (item 52, 53), 39 (items 56, 57), 74 (item 111), 75-76 (item 114), 97 (item 59), 116 (item 23), 122 (item 4), 126 (item 15), 127 (item 18).

¹⁰⁰ First Response, [ICC-01/14-01/21-970](#), para. 23.

¹⁰¹ 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.

items of evidence at this stage significantly outweighs any probative value they may have.’¹⁰²

64. In respect of two further items,¹⁰³ the Prosecution takes a similar position and submits that whilst these appear to have been found after the concerned witness had testified, their subject matter was well known to the Defence as it was mentioned in his prior recorded testimony which was disclosed in 2021, and thus by implication could have been identified earlier.¹⁰⁴

65. The Chamber recalls that it stated in the Prosecution Bar Table Decision that ‘[i]f a witness can be identified who can give useful evidence about the authenticity and/or content of a particular item of evidence, it should ordinarily be introduced through that witness.’¹⁰⁵ Furthermore, the Chamber held that it may ‘disallow the introduction of an item of evidence via the bar table if it is of the view that a witness has been identified who can meaningfully comment on the relevance, authenticity or probative value of the item of evidence.’¹⁰⁶

66. The Chamber notes that it set out a number of considerations to guide its assessment as to whether or not an item of evidence may be introduced via the Bar Table instead of via a related witness, namely: ‘(i) whether the related witness is available and scheduled to testify; (ii) whether and to what extent the authenticity and probative value of the item are genuinely in doubt and/or contested; and (iii) the nature and apparent significance of the item.’¹⁰⁷ The Chamber also noted that it is the responsibility of the parties to assert that a related witness exists through whom an item of evidence should be submitted and the Chamber would not independently enquire as

¹⁰² First Response, [ICC-01/14-01/21-970](#), para. 23.

¹⁰³ CAR-D33-0014-1983; CAR-D33-0014-1985.

¹⁰⁴ First Response, [ICC-01/14-01/21-970](#), para. 22.

¹⁰⁵ Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 42. The Chamber notes that the Defence, broadly speaking, shared this position in its response to the Prosecution’s first Bar Table motion – see Version publique expurgée du « Corrigendum de la « Réponse de la Défense à la « Prosecution’s First Application for Submission of Documents from the Table Pursuant to Article 64(9) » (ICC-01/14-01/21-279-Conf) déposée le 14 avril 2022 » (ICC-01/14-01/21-292-Conf) » (ICC-01/14-01/21-292-Conf-Corr) », 9 May 2022, [ICC-01/14-01/21-292-Corr-Red](#), paras 14-16. A corrected confidential version was filed on 4 May 2022 (ICC-01/14-01/21-292-Conf-Corr).

¹⁰⁶ Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 40.

¹⁰⁷ Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 42.

to whether a related witness could be identified.¹⁰⁸ On this basis, the Chamber rejected similar documents sought to be introduced through the Bar Table by the Prosecution because the witnesses were due to testify and the documents could have been introduced through those witnesses.¹⁰⁹

67. The Chamber has had regard to the 11 items that the Prosecution asserts to be linked with the testimony of certain witnesses and in the possession of the Defence prior to their testimony.¹¹⁰ The Chamber accepts that the relevant witnesses could have meaningfully commented on the items now sought to be introduced through the Bar Table in that they concern either the witnesses personally or the substance of the witnesses' testimony. These witnesses have already testified and have been deprived of an opportunity to comment on the items of evidence.

68. The Chamber further accepts that the 11 items were in the possession of the Defence prior to the testimony of the related witnesses and the Chamber notes that the Defence chose not to use said items during their cross-examination,¹¹¹ although some appeared on the Defence's Lists of Material for those witnesses.¹¹²

69. The Chamber observes that the Defence has not advanced any reason as to why these items were not sought to be introduced through the concerned witnesses. Taking the foregoing together, the Chamber finds that these 11 items should have been introduced through those witnesses, rather than through the Bar Table and therefore rejects their introduction.

70. In relation to the two additional items referred to by the Prosecution which were obtained after the witness's testimony,¹¹³ the Chamber notes the Prosecution's

¹⁰⁸ Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 44.

¹⁰⁹ See, for example, Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), paras 85-91.

¹¹⁰ Specifically, P-0342 (CAR-D33-0014-1284), P-2328 (CAR-D33-0014-1374; CAR-OTP-2101-3413; CAR-OTP-00001147; CAR-D29-0001-0115; CAR-D29-0001-0122), P-0481 (CAR-D33-0014-0658) P-0349 (CAR-OTP-2127-0778), P-0510 (CAR-D33-0014-0374; CAR-D33-0014-0381) and P-2232 (CAR-OTP-2066-1422).

¹¹¹ See First Response, [ICC-01/14-01/21-970](#), para. 19, fns 17-25 and references therein.

¹¹² See First Response, [ICC-01/14-01/21-970](#), fns 26-31. CAR-D33-0014-1284 (appearing on CAR-D33-LOM-0342), CAR-OTP-00001147, CAR-D33-0014-1374 (appearing on CAR-D33-LOM-2328), CAR-D33-0014-0658 (appearing on CAR-D33-LOM-0481), CAR-OTP-2127-0778 (appearing on CAR-D33-LOM-0349), CAR-D33-0014-0374, CAR-D33-0014-0381 (appearing on CAR-D33-LOM-0510), CAR-OTP-2066-1422 (appearing on CAR-D33-LOM-2232).

¹¹³ CAR-D33-0014-1983; CAR-D33-0014-1985.

submission that the information contained therein was known to the Defence and they could have used it with the relevant witness.¹¹⁴ However, contrary to the aforementioned 11 items, the Chamber notes, as conceded by the Prosecution, that these items were not in the possession of the Defence at the time of P-0884's oral testimony. Accordingly, the Defence could not have used these items with P-0884 and therefore the Chamber will allow their introduction through the Bar Table.¹¹⁵

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

71. The Prosecution objects to two documents¹¹⁶ which relate to a Defence witness, P-2926, whose prior recorded testimony has been introduced pursuant to rule 68(2)(b) of the Rules.¹¹⁷ The Defence submits that these items contain a number of elements which are relevant to its case.¹¹⁸ The Prosecution avers that these documents were in the possession of the Defence prior to its application to introduce P-2926's prior recorded testimony and that it should have sought the introduction of those documents as associated material at that time.

72. The Chamber notes that CAR-D33-0006-0376 is a press article containing an interview with P-2926 and CAR-D33-0009-0024 is a journal article authored by P-2926. The Chamber notes these documents were in the Defence's possession at the time it made its application pursuant to rule 68(2)(b) of the Rules for P-2926, yet the Defence chose not to include them as associated material. As a result, these documents have not been reviewed by P-2926 as part of the certification process pursuant to rule 68(2)(b) of the Rules. The Chamber finds that these documents should have been introduced as associated material for P-2926 and accordingly rejects the introduction of these two items through the Bar Table.

73. The Prosecution also objects to the introduction of three screening notes¹¹⁹ relating to three Prosecution witnesses whose prior recorded testimony has been

¹¹⁴ First Response, [ICC-01/14-01/21-970](#), para. 22. See P-0884, CAR-OTP-2072-1356, at 1363.

¹¹⁵ For ease of reference, these items are noted in Annex B to the present decision.

¹¹⁶ CAR-D33-0006-0376; CAR-D33-0009-0024.

¹¹⁷ See 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](#). A confidential version was filed simultaneously (ICC-01/14-01/21-957-Conf).

¹¹⁸ See Annex to First Request, ICC-01/14-01/21-966-Conf-AnxA, pp. 29 (item 39), 33 (item 45).

¹¹⁹ CAR-OTP-2035-0239; CAR-OTP-2099-0003; CAR-OTP-2120-0143.

introduced pursuant to rule 68(2)(b) of the Rules. The Prosecution submits that the witnesses have not had an opportunity to comment on these documents and screening notes are not statements signed by witnesses, having limited probative value.¹²⁰

74. The Chamber notes that, as these individuals did not appear orally before the Chamber, the Defence would not have been able to put the documents to them. The Chamber has reviewed these documents and takes note of the parties' submissions. The Chamber notes that there is no procedural bar to the introduction of these items of evidence and in line with its approach to the submission of evidence recognises them as formally submitted.¹²¹

(c) Potential witnesses

75. The Prosecution objects to a number of documents which relate to 'potential witnesses'.¹²²

76. First, the Prosecution objects to 'one out-of-court statement' and related material collected by the Defence, submitting that the former is testimonial in nature.¹²³ The Chamber notes that these documents relate to an individual called [REDACTED]. In this regard, the Chamber observes that CAR-D33-0014-2056 is a written statement which has been signed by [REDACTED] and dated 12 February 2025. In the statement, [REDACTED] indicates, *inter alia*, that he maintains the content of articles which he authored, statements he gave in media interviews and further explains his methodology and experience in CAR.¹²⁴

77. The Chamber finds that CAR-D33-0014-2056 is testimonial in nature. Specifically, the Chamber notes that this is statement by [REDACTED], which has been signed by him, in which he gives information in a capacity as a witness in the context of legal proceedings.¹²⁵ The Chamber further notes that the Defence appears to

¹²⁰ First Response, [ICC-01/14-01/21-970](#), para. 25.

¹²¹ For ease of reference, these items are noted in Annex B to the present decision.

¹²² See First Response, [ICC-01/14-01/21-970](#), paras 26-32.

¹²³ See First Response, [ICC-01/14-01/21-970](#), paras 26, 28.

¹²⁴ See CAR-D33-0014-2056.

¹²⁵ See 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](#), para. 11 and references therein. A confidential version was filed on 20 October 2022 (ICC-01/14-01/21-506-Conf); Trial

view [REDACTED] as a witness as the relevant coding on the requested documents in eCourt provides him with a witness code (CAR-D33-P-0006). Accordingly, the Chamber finds that this document is procedurally barred from being introduced through the Bar Table and rejects its introduction through the Bar Table.

78. In any event, the Chamber notes that this statement is similar in nature to those which were rejected in its decision on the Defence's rule 68(2)(b) requests, where the Chamber held that it was only necessary to introduce the associated material through the Bar Table and such statements loosely describing, *inter alia*, the methodology employed in creating the associated material added little to no weight or value.¹²⁶

79. In this regard, the Chamber has reviewed the associated material¹²⁷ and has taken note of the parties' submissions. The Chamber notes that there is no procedural bar to the introduction of these items of evidence and in line with its approach to the submission of evidence recognises them as formally submitted.¹²⁸

80. Second, the Prosecution objects to the introduction of an *entretien préalable* (CAR-D33-0014-3459). The Defence submits that this document is relevant to a number of aspects relating to the contextual elements.¹²⁹ The Prosecution submits in the First Response that this document is a screening note,¹³⁰ which is not a statement and therefore has limited probative value.¹³¹ In addition, the Prosecution notes that the Defence indicated that the individual interviewed was not authorised by his hierarchy

Chamber VII, *The Prosecutor v. Jean-Pierre Bemba et al*, Decision on Prosecution Rule 68(2) and (3) Requests, 12 November 2015, [ICC-01/05-01/13-1478-Red-Corr](#), paras 27-32. A confidential version was filed on 11 November 2015 (ICC-01/05-01/13-1478-Conf).

¹²⁶ See 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 14, 19. A confidential version was notified simultaneously (ICC-01/14-01/21-957-Conf).

¹²⁷ 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.

¹²⁸ For ease of reference, these items are noted in Annex B to the present decision.

¹²⁹ See Annex to the First Request, ICC-01/14-01/21-966-Conf-AnxA, p. 114 (item 19).

¹³⁰ The Chamber notes that the Prosecution's submissions in the First Response that it is a screening note somewhat contradicts its submissions in the Annex to the First Response, where it submits that document is testimonial in nature – Annex to the First Response, ICC-01/14-01/21-970-Conf-AnxA, pp. 155-156 (item 19).

¹³¹ First Response, [ICC-01/14-01/21-970](#), paras 26-27.

to testify, but the person agreed that the Defence could use the information shared during his interview in an anonymous way.¹³²

81. The Chamber notes that this document is a summary, prepared presumably by Counsel or associate counsel, of an interview conducted with an individual whom they hoped to call as a witness for the Defence. The potential witness did not sign the statement or any declaration as to the truth of its contents. The witness was ultimately unable to testify and the Defence now seeks to introduce into evidence the summary that it prepared of the interview it conducted with him for the truth of its contents.¹³³

82. The Chamber finds that this document essentially represents a hearsay statement from Counsel and/or associate counsel and is procedurally barred from being introduced through the Bar Table. Accordingly, the Chamber rejects the introduction of CAR-D33-0014-3459.

83. Third, the Prosecution objects to the introduction of a report and a number of associated items relating to a mission undertaken by a member of the Defence team, Mr Florian François-Jacquemin, to Bangui.¹³⁴ The Prosecution submits that the report is testimonial in nature and therefore cannot be introduced through the Bar Table.¹³⁵ In addition, the Prosecution also highlights that the Chamber has previously stated that if a witness can give useful evidence about the authenticity and/or content of a particular item of evidence, then it ordinarily should be introduced through that witness.¹³⁶

84. In the Defence Additional Submissions the Defence, reiterates, *inter alia*, that the items produced by Mr Florian François-Jacquemin can be introduced through the Bar

¹³² First Response, [ICC-01/14-01/21-970](#), para. 27 referring to 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 », 26 March 2025, [ICC-01/14-01/21-948-Red](#), para. 22. A confidential *ex parte* and confidential redacted version were filed on 21 March 2025 respectively (ICC-01/14-01/21-948-Conf-Exp; ICC-01/14-01/21-948-Conf-Red).

¹³³ Annex to the First Request, ICC-01/14-01/21-966-Conf-AnxA, p. 114 (item 19).

¹³⁴ 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.

¹³⁵ First Response, [ICC-01/14-01/21-970](#), para. 28.

¹³⁶ Annex to the First Response, ICC-01/14-01/21-970-Conf-AnxA, pp. 57-58 (item 64).

Table. The Defence notes that Mr François-Jacquemin can be distinguished from Prosecution investigators whose evidence was sought to be introduced by the Prosecution through the Bar Table, and ultimately rejected by the Chamber,¹³⁷ as the Prosecution was already planning on calling the relevant investigators and the Defence cannot be forced to add an individual to its list of witnesses.¹³⁸ Furthermore, the Defence submits that there is no reason why evidence collected by a member of a legal team cannot be introduced through the Bar Table if that individual is not due to testify. In this respect, the Defence submits that the Prosecution submitted a large number of documents through the Bar Table even though individuals (who were not witnesses) could have provided useful information about those documents.¹³⁹

85. The Chamber notes that CAR-D33-0015-0742 is a signed report by Mr François-Jacquemin, in which he details what he saw and what others told him at the PK9 barrier in Bangui, providing a number of associated exhibits¹⁴⁰ in this respect. In view of the nature of the evidence (as further explained below) and in line with its discretion to pronounce on the evidentiary criteria of specific items at this stage of the proceedings,¹⁴¹ the Chamber considers it necessary to consider the admissibility of the report and associated materials.

86. At the outset, the Chamber notes that the Defence submits that the report and associated material produced by Mr Florian François-Jacquemin are relevant to allowing an understanding of the topography of the PK9 barrier, which in turn, the Defence submits, will assist in understanding the testimony of witnesses, such as P-2573 and P-0529, who have testified about the alleged PK9 Minibus incident.¹⁴² Having reviewed the report and associated material, the Chamber has concerns regarding the

¹³⁷ See, for example, Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), paras 85-91.

¹³⁸ Defence Additional Submission, ICC-01/14-01/21-1004-Red, paras 16-18.

¹³⁹ Defence Additional Submission, ICC-01/14-01/21-1004-Red, paras 19-22.

¹⁴⁰ 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.

¹⁴¹ See paragraphs 38 and 43(iv) above. See also Directions on the Conduct of Proceedings, 9 March 2022, [ICC-01/14-01/21-251](#), paras 19, 21; Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), para. 38 and references therein.

¹⁴² Annex A to First Request, ICC-01/14-01/21-966-Conf-AnxA, p. 46 (item 81). See also pp. 43-46 (items 64-80).

methodology employed during the mission,¹⁴³ and notes that the report comprises hearsay evidence from an advocate on the Defence team in relation to the PK9 barrier in 2025.¹⁴⁴ The Chamber considers that this evidence has limited probative value in relation to events alleged to have taken place at the PK9 checkpoint in 2013.

87. Turning to potential prejudice, the Chamber notes that in the Prosecution Bar Table Decision it rejected a number of requests by the Prosecution to introduce investigative reports through the Bar Table because they were better introduced through the investigators themselves, who were due to testify, and could give evidence regarding the authenticity and content of the reports, as well as address the Defence's criticisms.¹⁴⁵ The Chamber notes that the Prosecution submits that a similar approach should be applied in this instance and that Mr François-Jacquemin should be required to testify as to the authenticity and/or content of the report and associated material.¹⁴⁶

88. However, given Mr François-Jacquemin's status and the nature of his involvement with the Defence team, the Chamber does not consider it appropriate to allow him to testify in the present case. The Chamber notes that Mr François-Jacquemin is on the List of Counsel appearing before the Court¹⁴⁷ and has been a member of the Defence team representing Mr Said since the confirmation stage of proceedings.¹⁴⁸ The Chamber recalls Mr François-Jacquemin's significant involvement in the questioning of witnesses in this case, in that he led the cross-examination of eleven Prosecution witnesses,¹⁴⁹ including one witness (P-0358) whom the Prosecution relies upon in support of the alleged PK9 Minibus Incident.¹⁵⁰ The Chamber observes that Mr François-Jacquemin seeks to give evidence about, *inter alia*, the layout of the PK9

¹⁴³ For example, the Chamber notes that a number of exhibits referenced in CAR-D33-0015-0742 taken on Mr François-Jacquemin's mobile phone are of poor quality and the methodology and quality control in relation to the information recorded are unclear – see, for example, CAR-D33-0015-0733.

¹⁴⁴ In particular, the Chamber notes that the report includes hearsay evidence from unnamed individuals regarding the PK9 barrier – see CAR-D33-0015-0742, at 0749-0750 referring to CAR-D33-0015-0739.

¹⁴⁵ Prosecution Bar Table Decision, [ICC-01/14-01/21-694](#), paras 85-91. See also paras 42-44.

¹⁴⁶ Annex to the First Response, ICC-01/14-01/21-970-Conf-AnxA, pp. 57-58 (item 64).

¹⁴⁷ CAR-D33-0015-0742, at 0742. See also [List of Counsel before the ICC - 24 February 2025](#).

¹⁴⁸ See Transcript of hearing, 13 October 2021, ICC-01/14-01/21-T-005-Red2-ENG.

¹⁴⁹ Specifically, P-1743, P-0358, P-0342, P-1563, P-1263, P-1180, P-2179, P-3064, P-1524, P-1289, P-3056.

¹⁵⁰ See Prosecution Trial Brief, 28 July 2022, [ICC-01/14-01/21-359-Red](#), paras 70-71 and references therein. A confidential version was filed on 13 June 2022 (ICC-01/14-01/21-359-Conf).

barrier,¹⁵¹ which the Defence asserts may have a bearing on the Chamber's evaluation of the evidence in support of the alleged PK9 Minibus Incident. As previously stated, the Chamber must evaluate the credibility of all witnesses who appear before it¹⁵² and, if Mr François-Jacquemin gives evidence, the Chamber would be required to evaluate his evidence. Although Mr François-Jacquemin did not cross-examine witnesses on the specific issues he seeks to give evidence about, the Chamber considers that it would be inappropriate and undermine public confidence in the administration of justice for it to evaluate and weigh the evidence of an advocate in relation to matters which witnesses have also given evidence on.¹⁵³

89. Furthermore, as a member of the Defence team who has appeared before the Chamber on behalf of the accused, Mr François-Jacquemin is ethically obligated to maintain his independence in the representation of Mr Said's interests, to avoid conflicts of interests and to tell the truth to the Chamber. The Chamber does not consider it appropriate to place Mr François-Jacquemin in a position where he may be forced to provide answers that may not serve the interests of Mr Said or where he may be subsequently consciously or unconsciously moved to defend the credibility and reliability of his own testimony over the interests of Mr Said. The Chamber finds that, to do so, could create issues of conflict of interest and questions regarding the duty of independence of defence advocates.

90. Last, the Chamber notes that Mr François-Jacquemin's position is not analogous to a Prosecution investigator or analyst who does not examine witnesses in court on behalf of the Prosecution.

91. In short, the Chamber considers that the prejudicial effect of introducing CAR-D33-0015-0742 and its associated material¹⁵⁴ into evidence outweighs its probative

¹⁵¹ See CAR-D33-0015-0742.

¹⁵² See Decision on the Prosecution's Request for an Order to Exclude Defence Counsel from the Defence's List of Witnesses and Evidence, 11 March 2025, [ICC-01/14-01/21-935](#), para. 47.

¹⁵³ See Decision on the Prosecution's Request for an Order to Exclude Defence Counsel from the Defence's List of Witnesses and Evidence, 11 March 2025, [ICC-01/14-01/21-935](#), para. 42.

¹⁵⁴ 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.

value. Accordingly, it rejects the formal submission of CAR-D33-0015-0742 and its associated material.

92. The Chamber reiterates, as stated in the Decision on the Prosecution's Request for an Order to Exclude Defence Counsel from the Defence's List of Witnesses and Evidence, that the Defence has had ample opportunity and resources to carry out its investigative missions.¹⁵⁵ The Chamber recalls that the Court's Legal Aid Policy allocates resources to cover costs associated with the investigation or analysis activities of defence teams, including 'fees of the professional investigators or resource persons assigned to the team to conduct investigative work in the field [...]'.¹⁵⁶ Instead of availing itself of this option, which it had already alluded to during its cross-examination of P-2573 on the issue of the layout of the PK9 barrier,¹⁵⁷ the Defence elected to send its own lawyers who have played an active role in the examination of witnesses. The Chamber also notes that the Defence elected to carry out the mission in February 2025 after the Prosecution witnesses had already testified and had it been conducted earlier¹⁵⁸ the Defence would have been able to put the information gathered to P-2573 and P-0529 in cross-examination, to clarify any issues deemed relevant.¹⁵⁹

93. The Chamber finds that the Defence must take responsibility for the manner in which it conducts its case and submits evidence. The Chamber will not accept any further requests from the Defence to introduce Mr François-Jacquemin's evidence

¹⁵⁵ Decision on the Prosecution's Request for an Order to Exclude Defence Counsel from the Defence's List of Witnesses and Evidence, 11 March 2025, [ICC-01/14-01/21-935](#), para. 52.

¹⁵⁶ Decision on the Prosecution's Request for an Order to Exclude Defence Counsel from the Defence's List of Witnesses and Evidence, 11 March 2025, [ICC-01/14-01/21-935](#), para. 52, fns 83-84, referring to Legal Aid Policy of the International Criminal Court, [ICC-ASP/22/9](#), para. 84, adopted effective 1 January 2024 by Assembly of States Parties Resolution ICC-ASP/22/20.

¹⁵⁷ See Transcript of hearing, 11 July 2024, ICC-01/14-01/21-T-093-CONF-ENG, p. 13, line 22 to 25. See also Transcript of hearing, 11 July 2024, ICC-01/14-01/21-T-093-CONF-ENG, p. 14, line 25 to p. 15, line 5.

¹⁵⁸ The Chamber reiterates that the Defence's investigations should have commenced much earlier and recalls that it instructed the Defence in 2022, prior to the commencement of the trial, to commence its investigations – see Decision Setting Final Deadlines for the Defence's Presentation of Evidence and Related Directions, [ICC-01/14-01/21-986-Red](#), para. 40; Decision on the Defence's Request for Additional Time to Complete Its Investigation, [ICC-01/14-01/21-955-Red](#), paras 25-26; Decision Setting the Commencement Date of the Trial and Related Deadlines, 21 February 2022, [ICC-01/14-01/21-243](#), para. 19.

¹⁵⁹ The Chamber notes that the Defence was on notice regarding the subject matter of their testimony (see P-2573, CAR-OTP-2119-0532, at 0536, paras 25-31; P-0529, CAR-OTP-2051-0159, at 0163-0165, paras 21-30) and these witnesses testified late in the Prosecution's case (P-2573 testified in July 2024 and P-0529 testified in October 2024).

through other means. The Chamber has granted the Defence a significant period of time to present its case, including allowing the Defence additional time to cure errors made in the presentation of its evidence.¹⁶⁰ Accordingly, the Chamber also rejects the Defence Additional Submissions.

94. Last, the Prosecution objects to three items¹⁶¹ which it submits relate to P-0015.¹⁶² The Chamber recalls that P-0015 testified on 3 to 4 June 2025, which post-dates the First Request. The Chamber notes that one of the items sought to be introduced has now been introduced through P-0015 during her testimony.¹⁶³ In respect of the remaining two items,¹⁶⁴ whilst they may have been cited by P-0015 in her articles, they were not authored by her directly and therefore the Chamber finds that she would likely not have been able to give any further useful testimony as to their authenticity or content. Accordingly, the Chamber allows their introduction through the Bar Table.

(iv) Other items in the First Request

95. The Prosecution makes a number of discrete submissions in respect to three items.

96. The Prosecution objects to CAR-OTP-2088-2315 on the grounds that it ‘lacks justification and does not support the Defence contention of an incomplete Investigation by the Prosecution.’¹⁶⁵ The Chamber has reviewed this document and takes note of the parties’ submissions. The Chamber notes that there is no procedural bar to the introduction of this item of evidence and in line with its approach to the submission of evidence recognises it as formally submitted.

97. The Prosecution objects to two exhibits CAR-D33-0004-0437 and CAR-D33-0004-0457. The Defence submits that these are tweets from two relevant individuals which demonstrate, *inter alia*, the absence of cohesion amongst the Seleka.¹⁶⁶ The Prosecution submits that these are two tweets and no information has been provided to

¹⁶⁰ See Decision Setting Final Deadlines for the Defence’s Presentation of Evidence and Related Directions, [ICC-01/14-01/21-986-Red](#), paras 22-26 and references therein.

¹⁶¹ CAR-D33-0014-1617; CAR-D33-0014-2219; CAR-D33-0014-2269.

¹⁶² First Response, [ICC-01/14-01/21-970](#), paras 26, 30-32.

¹⁶³ CAR-D33-0014-1617.

¹⁶⁴ CAR-D33-0014-2219; CAR-D33-0014-2269.

¹⁶⁵ First Response, [ICC-01/14-01/21-970](#), para. 33.

¹⁶⁶ Annex to the First Request, ICC-01/14-01/21-966-Conf-AnxA, p. 18 (items 19, 20).

authenticate them.¹⁶⁷ In this regard, the Prosecution submits that the Defence has failed to comply with the eCourt protocol in order to explain the methodology regarding the collection of the tweets, which the Prosecution avers is ‘essential for the purpose of forensic verification of the preserved item of evidence, to ensure that the evidence has not been modified or tampered with between the time of posting and time of collection.’¹⁶⁸

98. The Chamber has reviewed these two items and takes note of the parties’ submissions. The Chamber notes that there is no procedural bar to the introduction of these items of evidence and, in line with its approach to the submission of evidence, recognises them as formally submitted.

2. *Opposed Items in the Second Request*

99. In the Second Response, the Prosecution objects to the introduction of four items of evidence.

100. The Prosecution objects to CAR-D33-0015-3466, which is a document relating to an individual who was not called by the Defence as a witness, but whose evidence has already been introduced onto the record during the testimony of two Prosecution witnesses.¹⁶⁹ The Defence submits that CAR-D33-0015-3466 is necessary to contextualise this individual’s evidence and give it credibility.¹⁷⁰ In addition, the Defence avers that CAR-D33-0015-3466 provides a number of useful elements relevant to the Defence’s case.¹⁷¹

101. The Chamber has reviewed this item and takes note of the parties’ submissions. The Chamber notes that there is no procedural bar to the introduction of this item of evidence and, in line with its approach to the submission of evidence, recognises it as formally submitted.

¹⁶⁷ First Response, [ICC-01/14-01/21-970](#), para. 34.

¹⁶⁸ First Response, [ICC-01/14-01/21-970](#), para. 34.

¹⁶⁹ Second Response, ICC-01/14-01/21-978-Red, paras 10-12.

¹⁷⁰ Second Request, [ICC-01/14-01/21-973-Red](#), paras 16-17.

¹⁷¹ Second Request, [ICC-01/14-01/21-973-Red](#), para. 18.

102. The Prosecution objects to three further items which comprise two expert reports¹⁷² and one translation thereof.¹⁷³ The Defence submits that these reports contain important information regarding the topography of various sites and are relevant to evaluating the credibility of a number of witnesses, making reference to a number of Prosecution witnesses in this respect.¹⁷⁴ The Prosecution submits that the Defence does not demonstrate or give examples as to how these reports affect the credibility of Prosecution witnesses and that their introduction should be rejected.¹⁷⁵

103. The Chamber notes that these reports were authored by P-3112 but only disclosed to the Defence on 4 April 2025,¹⁷⁶ after the closure of the Prosecution's case, and therefore could not have been used during its cross-examination of P-3112 or any of the other witnesses identified by the Defence whom it submits have issues with their credibility as a result of these reports.

104. The Chamber has reviewed these items and takes note of the parties' submissions. The Chamber notes that there is no procedural bar to the introduction of these items of evidence and, in line with its approach to the submission of evidence, recognises them as formally submitted.

¹⁷² CAR-OTP-00037673; CAR-OTP-00037682.

¹⁷³ CAR-OTP-00037683.

¹⁷⁴ Second Request, [ICC-01/14-01/21-973-Red](#), para. 15.

¹⁷⁵ Second Response, ICC-01/14-01/21-978-Red, para. 16.

¹⁷⁶ Annex A to the Prosecution's Communication of the Disclosure of Evidence on 25 and 27 March 2025 and on 4, 8 and 11 April 2025, ICC-01/14-01/21-964-Conf-AnxA, p. 13 (item 25), p. 16 (items 34, 35).

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the First and Second Requests in part;

GRANTS the Third Request;

REJECTS the Defence Additional Submissions;

RECOGNISES the formal submission of the items listed in Annexes A and B to the present decision; and

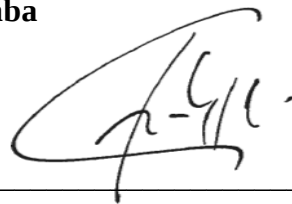
INSTRUCTS the Registry to mark the items listed in Annexes A and B to the present decision as formally submitted in eCourt.



Judge Miatta Maria Samba
Presiding Judge



Judge María del Socorro Flores Liera



Judge Sergio Gerardo Ugalde Godínez

Done in both English and French, the English version being authoritative.

Dated 22 August 2025

At The Hague, The Netherlands