

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 16 December 2025

TRIAL CHAMBER V

Before: Judge Beti Hohler , Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

***IN THE CASE OF
THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD
NGAISSONA***

**Public Document
with Confidential Annexes A and B**

Public Redacted Version of “Third Ngaïssona Defence request to introduce the prior recorded testimonies of Defence Witnesses P-4551 and P-4514 pursuant to Rule 68(2)(b) of the Rules”, ICC-01/14-01/18-2271-Conf, 15 December 2023

Source: Defence of Patrice-Edouard Ngaïssona

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

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☒ Counsel for the Defence

D30

D29

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V44

V45

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☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for Victims

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I. INTRODUCTION

1. The Defence for Mr Patrice-Edouard Ngaïssona ('the Defence') hereby requests the formal submission of the prior recorded testimonies and associated exhibits of Witnesses CAR-D30-P-4551 ('P-4551's proposed evidence') and CAR-D30-P-4514 ('P-4514's proposed evidence') pursuant to Rule 68(2)(b) of the Rules of Evidence and Procedure ('Rules') (altogether, the 'Request').¹
2. Both P-4551's and P-4514's prior recorded testimonies and associated exhibits satisfy the criteria set under Rule 68(2)(b) of the Rules.²
3. The Defence has also already liaised with the Registry for the purpose of certifying the statements of P-4551 and P-4514 as required by Rule 68(2)(b)(ii) and (iii) of the Rules. Should the Chamber grant the Defence's request, it will ensure that such certification process is completed reasonably close in time to the taking of the above witnesses' statements.

II. CONFIDENTIALITY

4. Pursuant to regulation 23bis(1) of the Regulations of the Court ('RoC'), this request and its Annexes are filed as confidential, since they contain confidential information that identifies the witness. The Defence will file a public redacted version in due course.

¹ The Proposed evidence consists of two witness statements and 1 associated exhibit, which are contained in Annexes A and B of the present request.

² At the outset, the Defence clarifies that the prior recorded testimonies and associated exhibits object of the Request are not yet on the Defence List of Evidence. The request seeking their late addition to the Defence List of Evidence is pending before the Chamber (ICC-01/14-01/18-2269). Therefore, the overarching pre-condition of the Request will be fulfilled upon the Chamber's decision granting the Request for leave to add items to the Defence List of Evidence.

III. APPLICABLE LAW

5. The Defence incorporates by reference the applicable law it previously set out in the “First Ngaïssona Defence request to introduce prior recorded testimony pursuant to Rule 68(2)(b)”.³

IV. SUBMISSIONS

A. Analysis

1. Overview of P-4551’s proposed evidence

6. P-4551 is [REDACTED]. Prior to the Seleka coup, he was living in BOSSANGO. His proposed evidence relates to the life in BOSSANGO prior to and after the arrival of the Seleka and the exactions they have committed in the area.
7. P-4551’s proposed evidence establishes that:
 - Muslims and Christians lived in harmony prior to the arrival of the Seleka in BOSSANGO. Following the arrival of the Seleka, Muslim civilians started to collaborate with the Seleka which led to the displacement of part of the Christian population to the Notre-Dame Cathedral;
 - P-4551’s own goods were pillaged and destroyed by the Seleka [REDACTED]. Following this event, P-4551 decided to [REDACTED];
 - P-4551 heard gunfire on 5 December but [REDACTED] and therefore did not witness any of the combats;
 - P-4551 [REDACTED] after DJOTOTIA’s resignation and when SAMBA-PANZA was already in office;
 - P-4551 does not personally know Danboy DEDANE;
 - P-4551 does not know Hisseine ABDOULAYE;
 - P-4551 does not personally know Patrice-Edouard NGAÏSSONA.

³ ICC-01/14-01/18-2238-Conf, paras 4 – 6.

2. Overview of P-4514's proposed evidence

8. P-4514 is [REDACTED] before and during the relevant period.⁴ His proposed evidence covers the living conditions in BOSSANGOA under the Seleka regime, notably [REDACTED] and in BOSSANGOA after the 5 December 2013 attack.
9. P-4514's proposed evidence establishes that:
 - The Seleka entered BOSSANGOA armed with heavy weaponry such as Kalashnikovs, rocket launchers and machine guns, and set up their bases in different public buildings such as the Town Hall, Ministry of Public Works and the Police precinct. Some Seleka elements were already integrated into the local Muslim population six months prior to their formal take-over of the town. The leaders of the Seleka in BOSSANGOA were ISRAËL, BALADE and Colonel SALEH;
 - Upon the arrival of the Seleka, the Christian population fled in the bush out of fear, including the local gendarmes and police officers, while the local Muslims stayed in town as they were not the target of the Seleka's crimes. The Muslim population did not help the Christian population; some even helped the Seleka by pointing out houses that belonged to the Christian to be looted or by simply joining them. [REDACTED];
 - There were three containers in front of BOSSANGOA Town Hall, all of which the Seleka looted. The Seleka turned one of the containers into a prison;
 - The Seleka first started to pillage local goods by targeting cattle and local shops, in and around BOSSANGOA. The Seleka would then load the proceeds of their lootings into trucks to be sent out to CHAD;

⁴ The Relevant Period in Central African Republic spans from December 2013 to December 2014, *see* ICC-01/14-01/18-89, para. 2.

- The crimes committed by the Seleka in BOSSANGOA started when they learned about a group of youths who gathered in a village nearby and after their Marabouts got killed;
- There were weapons stored in the BOSSANGOA Mosque;
- The living conditions [REDACTED];
- The work with [REDACTED];
- The origins of the Anti-Balaka as people who fought the road cutters; and
- The voluntary departure of the Muslim community from BOSSANGOA in March 2014.

B. The proposed evidence constitutes “prior recorded testimony” under Rule 68(2)(b) of the Rules

10. In the “First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules” (‘First Rule 68(2)(b) Decision’), the Chamber recalled that the term “previously recorded testimony” includes statements and transcripts of interviews taken pursuant to Rules 111 and 112 of the Rules.⁵ The Chamber further reasoned that the notion of prior recorded testimony involves the person understanding that “when providing their statement, that ‘he or she is providing information, which may be relied upon in the context of legal proceedings’. This is the case when the person is questioned in the capacity of a witness in the context of, or in anticipation of legal proceedings.”⁶ Additionally, the Chamber recalled that “‘prior recorded testimony’ includes any annex to witness statements, or item otherwise associated with it, as long as it is used or explained by the witness in their statement and thereby forms an integral part of the testimony itself.”⁷

11. The Defence seeks the introduction of the prior recorded testimonies of P-4551 and P-4514 as well as the associated exhibit related to witness P-4514. At the time of the

⁵ ICC-01/14-01/18-1833-Conf-Corr 1, para. 23.

⁶ ICC-01/14-01/18-1833-Conf-Corr 1, para. 23.

⁷ Ibid., para. 24.

interviews with the witnesses, the Defence explained its mandate, that it was conducting investigations in the context of the proceedings against Mr Ngaïssona before the International Criminal Court ('ICC') and that it believed the witnesses held information that would assist the Chamber in the determination of the truth. As clearly acknowledged by the witnesses, both of them understood that the information provided in the statements may be relied upon in the current legal proceedings and that their identity and statement could be provided to the Prosecution, victim representatives and the Chamber.

12. In addition to providing his statement for the purpose of the present proceedings against Mr Ngaïssona, P-4514 provided a notebook⁸ wherein the witness kept [REDACTED]. The Notebook was created by the witness who explained the content of it.⁹ As such, the notebook forms an integral part of P-4514's testimony itself.

C. The prior recorded testimonies go to proof of matters other than the acts and conduct of the Accused

13. In the First Rule 68(2)(b) Decision, the Chamber found that, in the case against Mr Ngaïssona, "the acts and conduct of the accused, must be interpreted in its plain and ordinary meaning, namely as referring to the personal actions and omissions of the accused".¹⁰ In particular, it refers to "those actions of the accused described in the confirmed charges, or which are otherwise relied upon by the Prosecution to establish their criminal responsibility."¹¹ Limited, peripheral references to the accused do not preclude its introduction if the following conditions are met: (1) the calling party indicates that it does not intend to rely on the reference, and (2) this reference is not significant to the case or is, in any event, of limited importance and does not constitute the core of the testimony.¹²

⁸ CAR-D30-0014-0022.

⁹ CAR-D30-0025-0001-R01, l. 972 – 978.

¹⁰ ICC-01/14-01/18-1833-Conf-Corr, para. 28.

¹¹ *Ibid.*

¹² *Ibid.*, para. 29.

14. Both prior recorded testimonies go to the proof of matters other than the acts and conduct of the Accused as described in the confirmed charges, or which are otherwise relied upon by the Prosecution to establish their criminal responsibility. The prior recorded testimonies are limited to contextual elements surrounding the events in BOSSANGO in 2013 following the arrival of the Seleka. They describe the context in BOSSANGO prior to the arrival of the Seleka, the deterioration of the living conditions in BOSSANGO after the arrival of the Seleka and the exactions committed by both the Seleka and the civilians.
15. In addition, P-4551's proposed evidence comprises only one limited reference to Mr Ngaïssona where he states that he does not know him personally.¹³ This limited reference is peripheral and does not go to proof of the acts and conduct of the Accused and does not constitute the core of P-4551's statement. P-4551's proposed evidence will be relied upon to provide evidence in the context of the charged crimes, notably the background on the rising of the conflict and the origins of the Anti-Balaka in and around BOSSANGO. Therefore, and given the general and limited nature of the prior recorded testimony, Rule 68(2)(b) of the Rules is the appropriate procedural avenue to submit P-4551's evidence.
16. While P-4514's proposed evidence comprises references to Mr Ngaïssona, these references are only peripheral as well as of limited importance and does not constitute the core of the testimony. Indeed, references to Mr Ngaïssona are confined to two paragraphs¹⁴ and limited to the witness not having a special relationship with Mr Ngaïssona nor having heard about Mr Ngaïssona's alleged financial contribution to the Anti-Balaka movement. Given that the witness did not have a relationship with Mr Ngaïssona, nor have ever talked to him,¹⁵ references to Mr Ngaïssona are simply of a general nature. The Defence mainly seeks to rely on P-4514's proposed evidence to establish mostly the living conditions in BOSSANGO prior and after the Seleka attack [REDACTED] as well as the origin

¹³ P-4551: CAR-D30-0021-0001-R01, para. 14.

¹⁴ CAR-D30-0025-0001-R01, l. 1168 – 1181.

¹⁵ CAR-D30-0025-0001-R01, l. 1178 – 1181.

of the Anti-Balaka. In other words, P-4514's proposed evidence aims at providing information on the context of the charged crimes, such as the background on the rising of the conflict and the origins of the Anti-Balaka in and around BOSSANGO. As such, Rule 68(2)(b) of the Rules is the appropriate procedural avenue to submit P-4514's evidence.

D. The Introduction of the Proposed Evidence is warranted

1. The proposed evidence does not relate to facts that are materially in dispute

17. In determining this factor, "the Chamber shall consider whether the prior recorded testimony relates to matters which are soundly and conceivably disputed between the parties, and are crucial, or of at least sufficient significance for the Chamber's eventual determination of the charges against the accused in its judgment under Article 74 of the Statute. In doing so, the Chamber will objectively assess – irrespective of the parties' own assertions – the degree to which a prior recorded testimony potentially impacts on material matters actually contested in the proceedings."¹⁶ This interpretation was adopted by the Chamber in its "First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules" ('First Rule 68(2)(b) Decision').¹⁷ At the same occasion, the Chamber endorsed a broad interpretation of Rule 68(2)(b)(i) of the Rules by clarifying that the factor provided therein "should not be understood to provide either party with a unilateral 'veto power' over the introduction of a prior recorded testimony by indicating that the issues addressed in the testimony are materially in dispute."¹⁸

18. The above is all the more justified given that, *as per* the determination of Trial Chamber X, "it is inherent to the Defence case to dispute the facts and

¹⁶ ICC-01/12-01/18-2241, para. 15.

¹⁷ ICC-01/14-01/18-1833, para. 39.

¹⁸ *Ibid.*

circumstances as charged, as well as advance alternate narratives and evidence that supports its own case. This cannot, in and of itself, foreclose the Defence from submitting evidence according to Rule 68(2)(b) of the Rules. The Chamber must bear this in mind when conducting its assessment of the Rule 68(2)(b)(i) factors.”¹⁹

19. An important distinction must be drawn between the intention of the Defence to challenge a Prosecution witness’s credibility on a disputed fact and a testimony relating to a disputed fact. Conflating the two would prevent the Defence from the possibility to present an alternative narrative on limited facts that supports its Defence case through Rule 68(2)(b).

a. P-4551’s proposed evidence does not relate to facts that are materially in dispute

20. P-4551’s evidence is limited to his personal knowledge of the situation in BOSSANGO and his absence of knowledge of three individuals, namely DEDANE, Hisseine ABDOULAYE and Mr NGAÏSSONA.

21. The Defence intends to use the evidence of P-4551 to rebut P-2200 and P-2658’s evidence. It contradicts, *inter alia*, the following assertions:

- the Seleka caused no harm in BOSSANGO nor have they killed people;²⁰
- [REDACTED].²¹

22. The Defence should not be precluded from introducing P-4551’s evidence through Rule 68(2)(b) given that the related matters are not “soundly and conceivably disputed between the parties, and are [not] crucial, or of at least sufficient significance for the Chamber’s eventual determination of the charges against the accused in its judgment under Article 74 of the Statute”.

23. P-4551’s evidence rebuts P-2200’s stance that the Seleka caused no harm in BOSSANGO by describing the pillaging of [REDACTED], the fleeing of

¹⁹ ICC-01/12-01/18-2241, para. 11.

²⁰ P-2200: CAR-OTP-2088-2146-R04, paras. 23.

²¹ P-2658: [REDACTED].

Christians to the Cathedral Notre-Dame and explains that they were many killings following the arrival of the Seleka.

24. The Defence also intends to rely on P-4551's prior recorded statement to rebut evidence put forward by P-2658 i.e. that P-4551 [REDACTED].²²

25. P-2658's allegation is not mentioned in the Confirmation of Charges Decision ('CoC'). In addition, the Prosecution does not rely on this information in the Prosecution Trial Brief ('PTB') and did not try to corroborate the evidence with any other witnesses. P-2658 is the only source mentioning [REDACTED]. In addition, P-2658's evidence lacks probative value as this evidence is only based on hearsay. P-2658 allegedly obtained the information about [REDACTED]. [REDACTED] receiving weapons and ammunitions.²³ It is not a certainty that the Trial Chamber will give any weight to the evidence provided by P-2658.

26. The Defence should not be precluded from submitting rebuttal evidence through Rule 68(2)(b) given the broad nature and general character of his evidence and when it is used to rebut limited hearsay evidence on facts that are neither mentioned in the PTB nor in the CoC or evidence given by witnesses that are no longer able to testify live.

b. P-4514's proposed evidence does not relate to facts that are materially in dispute

27. As mentioned above, P-4514's proposed evidence relates to background information on the conflict, the Seleka and the Anti-Balaka in and around BOSSANGO. While the said evidence provides an alternative narrative of the events in BOSSANGO and its surroundings as alleged by the Prosecution, it is inherent to the Defence's role to call witnesses to rebut the Prosecution's allegations or impugn the credibility of Prosecution witnesses. In any event, should there be parts of P-4514's testimony that touch upon facts that may be conceived as disputed

²² [REDACTED].

²³ [REDACTED].

at trial, it goes to matters that are not of sufficient significance for the Chamber's eventual determination of the charges against Mr Ngaïssona.

2. The proposed evidence is of a cumulative and corroborative nature in that other witnesses have given oral or written testimony on similar facts

28. The proposed evidence of P-4551 and P-4514 corroborates and is cumulative to evidence in the case record, including that of Prosecution witnesses and Defence witnesses.

29. P-4551's proposed evidence is cumulative of or corroborated by several witnesses who have given or are expected to give oral or written testimony on the same or similar facts. In particular:

- P-4551's account about the different treatment of the Muslim and Christian population by the Seleka, the complicity of Muslim civilians with the Seleka and the fact that they were armed is confirmed by the accounts of, *inter alia*, Defence witnesses P-4514,²⁴ P-4608,²⁵ P-4496,²⁶ and P-4953;²⁷
- P-4551's description of the weaponry in possession of the Seleka is also corroborated by the prospective testimonies of Defence witnesses P-4608,²⁸ P-4496,²⁹ and Prosecution Witness P-2049;³⁰
- P-4551's account on the displacement of Christian civilians at the *Évêché* is corroborated by, *inter alia*, P-0966,³¹ P-2049,³² and P-4608;³³

²⁴ CAR-D30-0025-0001-R01, l. 364 – 374, 426-440, 463-481.

²⁵ CAR-D30-0017-0004-R01, paras 24-26, 39.

²⁶ CAR-D30-0022-0001-R01, paras 15-16, 21-24.

²⁷ ICC-01/14-01/18-2215-Conf-Anx1, p. 14.

²⁸ CAR-D30-0017-0004-R01, paras 22, 40.

²⁹ CAR-D30-0022-0001-R01, paras 17-19.

³⁰ ICC-01/14-01/18-T-100-CONF-ENG CT, p. 12, l.10-21.

³¹ ICC-01/14-01/18-T-117-ENG ET WT, p. 56.

³² ICC-01/14-01/18-T-100-CONF-ENG CT, p. 29, l.23-25.

³³ CAR-D30-0017-0004-R01, para. 23.

30. P-4514's proposed evidence is cumulative of or corroborated by several witnesses who have given or are expected to give oral or written testimony on the same or similar facts. In particular:

- P-4514's account on the presence of Seleka elements in BOSSANGO prior to their attack on the town and the fact that they installed their bases in public buildings of the town is corroborated by, *inter alia*, P-4496,³⁴ and P-4608;³⁵
- P-4514's description of the attire and heavy weaponry of the Seleka is also corroborated by the prospective testimonies of Defence witnesses P-4608,³⁶ P-4496,³⁷ and Prosecution Witness P-2049;³⁸
- P-4514's account on the absence of State authorities under the Seleka in BOSSANGO is corroborated by, *inter alia*, P-4608,³⁹ P-4496,⁴⁰ and P-2049;⁴¹
- P-4514's account on the fact that the Seleka used a container in front of the Town Hall as a jail is corroborated by, *inter alia*, the prospective testimonies of P-4496⁴² and P-4608;⁴³
- P-4514's account about the different treatment of the Muslim and Christian population by the Seleka, the complicity of Muslim civilians with the Seleka and the fact that they were armed is confirmed by the accounts of, *inter alia*, Defence witnesses P-4551,⁴⁴ P-4608,⁴⁵ P-4496,⁴⁶ and P-4953;⁴⁷

³⁴ CAR-D30-0022-0001-R01, paras 15 and 26.

³⁵ CAR-D30-0017-0004-R01, para. 19.

³⁶ CAR-D30-0017-0004-R01, paras 22, 40.

³⁷ CAR-D30-0022-0001-R01, paras 17-19.

³⁸ ICC-01/14-01/18-T-100-CONF-ENG CT, p. 12, l.10-21.

³⁹ CAR-D30-0017-0004-R01, paras 31-32.

⁴⁰ CAR-D30-0022-0001-R01, paras 20, 25

⁴¹ ICC-01/14-01/18-T-103-CONF-ENG ET, p. 50, l. 13-16.

⁴² CAR-D30-0022-0001-R01, para. 35.

⁴³ CAR-D30-0017-0004-R01, para. 36.

⁴⁴ CAR-D30-0021-0001-R01, para. 8.

⁴⁵ CAR-D30-0017-0004-R01, paras 24-26, 39.

⁴⁶ CAR-D30-0022-0001-R01, paras 15-16, 21-24.

⁴⁷ ICC-01/14-01/18-2215-Conf-Anx1, p. 14.

- P-4514's account on the displacement of Christian civilians at the *Évêché* is corroborated by, *inter alia*, P-0966,⁴⁸ P-2049,⁴⁹ and P-4608;⁵⁰
- P-4514's evidence on the origins of the Anti-Balaka is corroborated by and cumulative of Defence witness P-4608;⁵¹
- P-4514's account on the absence of sexual violence during the 5 December attack is corroborated by, *inter alia*, Defence witnesses P-4608⁵² and P-4496;⁵³
- P-4514's account on the fact that Muslims civilians left BOSSANGOA voluntarily in March 2014 is corroborated by, *inter alia*, the prospective testimony of Defence witness P-4608.⁵⁴

3. The proposed evidence through Rule 68(2)(b) would serve the interests of justice

31. Within the specific context of Rule 68(2)(b), the Chamber determined in the First Rule 68(2)(b) Decision that the interests of justice are served by the introduction of the prior recorded testimony when such introduction allows to: "(i) safeguard the expeditiousness of the proceedings; (ii) streamline the presentation of evidence; (iii) focus live testimony on those topics of greatest relevance to the proceedings; (iv) minimise cumulative in-court testimony on aspects which are expected to also be addressed by other witnesses; (v) save resources which may instead be utilised for other purposes and/or avoid witnesses having to travel in order to appear in court; and (vi) best serve the victims' interests."⁵⁵ Introducing Witness P-4551 and P-4514 proposed evidence under Rule 68(2)(b) would serve these objectives for the reasons that follow.

⁴⁸ ICC-01/14-01/18-T-117-ENG ET WT, p. 56.

⁴⁹ ICC-01/14-01/18-T-100-CONF-ENG CT, p. 29, l.23-25.

⁵⁰ CAR-D30-0017-0004-R01, para. 23.

⁵¹ CAR-D30-0017-0004-R01, para. 54.

⁵² CAR-D30-0017-0004-R01, para. 74.

⁵³ CAR-D30-0022-0001-R01, para. 40.

⁵⁴ CAR-D30-0017-0004-R01, paras 83-84.

⁵⁵ ICC-01/14-01/18-1833-Conf-Corr, para. 41.

32. First, the interests of justice will be best served by expediting the proceedings and streamlining the presentation of the Defence evidence and focus on elements that are at the core of the case against Mr Ngaïssona. Second, it would avoid cumulative testimony since the core of both statements touches upon topics that have already been addressed by other witnesses. Third, it would save Court's resources. P-4551 and P-4514 are located in the provinces in CAR. Their relocation will be costly for the already limited resources of the Defence.

4. The proposed evidence has sufficient indicia of reliability

33. In the First Rule 68(2)(b) Decision, the Chamber found that for the purposes of Rule 68(2)(b) it would conduct a *prima facie* analysis of whether the prior recorded testimony presents sufficient indicia of reliability. The Chamber determined that an important factor to consider in this determination is whether the statement fulfills the following formal requirements, in particular, whether the statement was: (1) was obtained ...in the ordinary course of its investigations; (2) was signed by the witness and the investigator(s) conducting the interview; (3) was given voluntarily; (4) was obtained in the presence of a qualified interpreter; (5) was verified by the witness at the time; and (6) includes information that the witness was given an explanation of the procedure and was informed of the significance of providing the statement...".⁵⁶

34. P-4551's and P-4514's statements have sufficient indicia of reliability for the purpose of their submission via Rule 68(2) : (i) the statements were obtained in the ordinary course of the Defence's investigation (ii) the statements were given voluntarily and declared to be accurate (iii) the statements were taken by a person authorised to witness such a declaration (iii) the statements were taken in a language that the accused understands and/or in the presence of a qualified interpreter (iv) was verified by the witness (v) includes information that the witness

⁵⁶ ICC-01/14-01/18-1833-Conf-Corr, para. 43.

was given an explanation of the procedure and was informed of the significance of providing the statement.

35. In addition, P-4514's prior recorded testimony was taken in a fully remote manner, that is by conducting a recorded read-back of their statement by phone. The procedure to take the statement remotely was authorised by the Chamber.⁵⁷ The Defence followed the Chamber's instructions in this regard and liaised closely with the Registry to ensure that the most secure means of communication was relied upon for the remote procedure.

E. Granting the Defence's request will not result in any prejudice to Mr Ngaïssona

36. Rule 68(1) does not mention the procedural rights of the Prosecution or victims, but rather limits the Chamber's consideration of prejudice specifically to the accused. Indeed, the preparatory works also explain that in amending Rule 68 to include more instances where prior recorded testimony could be introduced *in lieu* of live testimony, Rule 68(1) was included to safeguard the rights of the accused.⁵⁸ No mention was made of the other parties and participant's procedural rights. Therefore, the Defence submits that when the Defence seeks to submit evidence pursuant to Rule 68(2)(b) considerations of prejudice do not apply. Mr Ngaïssona has decided to not examine the two Witnesses, since he has determined that their testimonies are well suited for introduction under Rule 68(2)(b). This will save precious court time and contribute to reducing the length of the proceedings, which have already spanned five years, during the entirety of which Mr Ngaïssona has been deprived of his liberty.

⁵⁷ Trial Chamber V Decision, email dated 12/12/2023, at 11:13.

⁵⁸ Working Group Report, ICC-ASP/12/37/Add.1, Annex II.A, para. 12.

RELIEF SOUGHT

The Defence respectfully requests the Chamber to:

GRANT the present Request to introduce P-4551's and P-4514's proposed evidence, including their associated materials.

Respectfully submitted,



G. J. Alexander Knoops
on behalf of
Patrice-Edouard Ngaïssona

Dated this 16 December 2025

At The Hague, the Netherlands.