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**No. ICC-01/14 OA
Date: 11 March 2026**

THE APPEALS CHAMBER

Before: Judge Gocha Lordkipanidze, Presiding
Judge Tomoko Akane
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa
Judge Erdenebalsuren Damdin

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

Public document

Judgment

**on the appeal of Mr Edmond Beina against the decision of Pre-Trial Chamber II
entitled “Decision on the Central African Republic’s challenge to the
admissibility of the case against Edmond Beina”**

Judgment 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**
Competent authorities of the Central African
Republic

☐ **Amicus Curiae**

REGISTRY

Registrar
Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations
Section**

☐ **Other**

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Edmond Beina against the decision of Pre-Trial Chamber II entitled “Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina” of 12 September 2025 (ICC-01/14-217-Red),

After deliberation,

Delivers the following

JUDGMENT

The decision of Pre-Trial Chamber II entitled “Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina” of 12 September 2025 (ICC-01/14-217-Red) is confirmed.

REASONS

I. INTRODUCTION

1. This judgment is with respect to the appeal of Mr Edmond Beina against the “Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina”, rendered on 12 September 2025 (hereinafter: “Impugned Decision”).¹ In the Impugned Decision, Pre-Trial Chamber II (hereinafter: “Pre-Trial Chamber”) assessed the challenge of the Central African Republic (hereinafter: “CAR”) to the admissibility of the case against Mr Beina under article 19(2)(b) of the Statute (hereinafter: “Admissibility Challenge”), and determined that the case against Mr Beina is inadmissible under article 17(1)(a) of the Statute.²

2. The Pre-Trial Chamber found, *inter alia*, that it had not been demonstrated that the CAR did not bring its Admissibility Challenge “at the earliest opportunity”, in accordance with article 19(5) of the Statute,³ and considered irrelevant and/or unsubstantiated the submissions of the Defence for Mr Beina (hereinafter: “Appellant”)

¹ Pre-Trial Chamber II, [Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina](#), ICC-01/14-217-Conf (a public redacted version was registered on the same day, ICC-01/14-217-Red).

² [Impugned Decision](#), p. 28.

³ [Impugned Decision](#), paras 27-39.

concerning the independence and impartiality of the CAR’s judicial system as a whole and other cases.⁴ The Appellant contests these findings on appeal.

II. PROCEDURAL HISTORY

3. On 30 May 2014, the government of the CAR referred the situation in the CAR since 1 August 2012 to the Court.⁵

4. On 7 December 2018, the Pre-Trial Chamber issued a warrant of arrest against Mr Beina for crimes against humanity and war crimes allegedly committed in Guen between at least 1 February to early April 2014 (hereinafter: “ICC Arrest Warrant”).⁶

5. On 28 August 2019, the Registry notified the CAR authorities of the ICC Arrest Warrant and a request to cooperate in the arrest and surrender of Mr Beina.⁷

6. On 3 May 2022, the “*Cour pénale spéciale*” in the CAR (hereinafter: “CPS”) issued a warrant for the arrest of Mr Beina (hereinafter: “CPS Arrest Warrant”), which “substantially mirrors” the ICC Arrest Warrant.⁸

7. On 16 June 2024, Mr Beina was arrested in the CAR with the support of the Court.⁹

8. On 28 October 2024, the Registry transmitted to the Pre-Trial Chamber the Admissibility Challenge submitted by the CAR authorities on 22 October 2024, and on 30 and 31 October 2024, the material submitted in support thereof.¹⁰

⁴ [Impugned Decision](#), paras 68-72.

⁵ Presidency, [Annex I to the Decision Assigning the Situation in the Central African Republic II to Pre-Trial Chamber II](#), 18 June 2014, ICC-01/14-1-Anx1.

⁶ [Warrant of Arrest for Edmond Beina](#), ICC-01/14-32.

⁷ [Impugned Decision](#), para. 3.

⁸ [Impugned Decision](#), para. 23.

⁹ [Impugned Decision](#), para. 33.

¹⁰ [Impugned Decision](#), para. 4, fns 1, 5-6, *referring to, inter alia*, Request of the Central African Republic Challenging the Admissibility of the Case against Mr Edmond Beina, ICC-01/14-189-US-Exp-AnxII (a public redacted version dated 14 November 2024 and registered on 15 November 2024, ICC-01/14-194-AnxI; the English translation of the public redacted version was filed on 27 January 2026, ICC-01/14-194-AnxI-tENG), with confidential annexes 1-232; Addendum to ICC-01/14-189-US-Exp, ICC-01/14-190-US-Exp-tFRA (reclassified as confidential on 10 March 2025, ICC-01/14-190-Conf-tFRA); Second Addendum to ICC-01/14-189-US-Exp, ICC-01/14-191-US-Exp-tFRA (reclassified as confidential on 10 March 2025, ICC-01/14-191-Conf).

9. On 12 September 2025, the Pre-Trial Chamber issued the Impugned Decision.¹¹
10. On 19 September 2025, the Appellant filed a notice of appeal against the Impugned Decision.¹²
11. On 6 October 2025, the Appellant filed the appeal brief (hereinafter: “Appeal Brief”).¹³ The Appellant requests that the Appeals Chamber reverse the Impugned Decision and either: (i) reject the Admissibility Challenge and find the case against Mr Beina to be admissible before the Court; or, in the alternative, (ii) remand the matter back to the Pre-Trial Chamber for a new determination of the Admissibility Challenge following the Appeals Chamber’s instructions.¹⁴
12. On 21 October 2025, an *ad hoc* Presidency denied, by majority, the request of Judge Tomoko Akane to be excused from her functions as a judge of the Appeals Chamber in respect of the present appeal.¹⁵
13. On 24 October 2025, the Appeals Chamber decided on Judge Gocha Lordkipanidze as the Presiding Judge in the appeal against the Impugned Decision.¹⁶
14. On 28 October 2025, the Deputy Prosecutor (hereinafter: “Prosecutor”) filed his response to the Appeal Brief (hereinafter: “Prosecutor’s Response”).¹⁷ The Prosecutor submits that he “takes no position on the merits of the [a]ppeal as it concerns the correct interpretation of the [Impugned Decision], the impact of any alleged error of law, or the relevant facts in dispute in this matter”.¹⁸

¹¹ [Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina](#), ICC-01/14-217-Conf (a public redacted version was registered on the same day, ICC-01/14-217-Red).

¹² [Defence Notice of Appeal against the ‘Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina’](#), ICC-01/14-219-Conf (a public redacted version was registered on the same day, ICC-01/14-219-Red).

¹³ [Defence Appeal Brief against the ‘Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina’](#), ICC-01/14-220-Conf-Exp (a public redacted version was registered on the same day, ICC-01/14-220-Red).

¹⁴ [Appeal Brief](#), para. 64.

¹⁵ Presidency, [Annex 2 to Notification of a decision on a request for excusal of a Judge](#), ICC-01/14-221-Anx2.

¹⁶ [Decision on the Presiding Judge of the Appeals Chamber in the appeal of Mr Edmond Beina against the decision of Pre-Trial Chamber II entitled “Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina”](#), ICC-01/14-222 (OA).

¹⁷ [Prosecution Response to the “Defence Appeal Brief against the ‘Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina’”](#), ICC-01/14-223.

¹⁸ [Prosecutor’s Response](#), para. 2.

15. On the same day, the Office of Public Counsel for Victims (hereinafter: “OPCV”) filed its response to the Appeal Brief (hereinafter: “OPCV’s Response”).¹⁹ The OPCV submits that the appeal should be dismissed as the Appellant has failed to identify any error of law, fact or procedure, or any abuse of discretion that materially affected the Impugned Decision.²⁰ Reiterating the victims’ preference and “strong interest” in proceedings being conducted in the CAR, the OPCV further submits that granting the Appellant’s appeal “would risk [...] frustrating [v]ictims’ access to justice”.²¹

16. On 14 November 2025, the Registry informed the Appeals Chamber that the CAR authorities were notified of the Appeal Brief on 3 November 2025, and transmitted to the Appeals Chamber the CAR authorities’ response to the Appeal Brief.²² The CAR authorities submit that the appeal should be dismissed and the Impugned Decision be upheld.²³

17. On 17 November 2025, the Appeals Chamber issued an order, directing the CAR authorities to file a public redacted version of the CAR’s Response or to request its reclassification as public.²⁴

III. STANDARD OF REVIEW

18. In the present appeal, the Appellant alleges errors of law and abuse of discretion.

19. Regarding errors of law, the Appeals Chamber has previously held that it

will not defer to the relevant Chamber’s interpretation of the law, but will arrive at its own conclusions as to the appropriate law and determine whether or not the first instance Chamber misinterpreted the law.²⁵

¹⁹ [Victims’ Response to “Defence Appeal brief against the ‘Decision on the Central African Republic’s challenge to the admissibility of the case against Edmond Beina’”](#), ICC-01/14-224-Conf (reclassified as public on 7 November 2025, ICC-01/14-224, pursuant to the Appeals Chamber’s order of 7 November 2025, ICC-01/14-225).

²⁰ [OPCV’s Response](#), paras 2, 37, 42, 53.

²¹ [OPCV’s Response](#), paras 36, 51.

²² [Transmission of Observations from the Central African Republic to the Defence’s Appeals Brief](#), ICC-01/14-226, with a confidential annex (“Observations du Ministère de la justice”), ICC-01/14-226-Conf-Anx; the English translation was filed on 20 November 2025, ICC-01/14-226-Red-Anx-tENG (hereinafter: “CAR’s Response”).

²³ CAR’s Response, p. 3.

²⁴ [Order on the filing of a public redacted version of a document](#), ICC-01/14-227 (OA).

²⁵ *Situation in the Republic of the Philippines*, [Judgment on the appeal of the Republic of the Philippines against Pre-Trial Chamber I’s “Authorisation pursuant to article 18\(2\) of the Statute to resume the](#)

20. If the relevant chamber committed such an error, the Appeals Chamber will only intervene if the error materially affected the decision impugned on appeal.²⁶ A decision is “materially affected by an error of law” if the chamber “would have rendered a [decision] that is substantially different from the decision that was affected by the error, if it had not made the error”.²⁷

21. Regarding errors in a chamber’s exercise of its discretion, the Appeals Chamber has stated that:

[A]n abuse of discretion occurs when the impugned decision is so unfair or unreasonable as to “force the conclusion that the Chamber failed to exercise its discretion judiciously”. The Appeals Chamber will also consider whether the first instance Chamber gave weight to extraneous or irrelevant considerations or failed to give weight or sufficient weight to relevant considerations in exercising its discretion.²⁸

22. The appellant is obliged to set out all the alleged errors in the appeal brief and “indicate, with sufficient precision, how [the] alleged error would have materially affected the impugned decision”.²⁹

23. Lastly, the Appeals Chamber has held that its function in respect of appeals brought under article 82(1)(a) of the Statute is “not to decide anew on the admissibility

[investigation](#)”, 18 July 2023, ICC-01/21-77 (OA) (hereinafter: “*Philippines* OA Judgment”), para. 35 and cited jurisprudence therein.

²⁶ *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, [Judgment on the appeal of Maxime Jeoffroy Eli Mokom Gawaka against the decision of Pre-Trial Chamber II of 19 August 2022 entitled “Decision on legal representation further to the Appeals Chamber’s judgment of 19 July 2022”](#), 19 December 2022, ICC-01/14-01/22-124-Red (OA3) (hereinafter: “*Mokom* OA3 Judgment”), para. 20 and cited jurisprudence therein.

²⁷ [Mokom OA3 Judgment](#), para. 20 and cited jurisprudence therein.

²⁸ *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Judgment on the appeal of Mr Al Hassan against the decision of Trial Chamber X entitled “Decision on application for notice of possibility of variation of legal characterisation pursuant to Regulation 55\(2\) of the Regulations of the Court”](#), 1 July 2021, ICC-01/12-01/18-1562-Red (OA3) (hereinafter: “*Al Hassan* OA3 Judgment”), para. 19 and cited jurisprudence therein.

²⁹ *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”)*, [Judgment on the appeal of Mr Ali Muhammad Ali Abd-Al-Rahman against the decision of Trial Chamber I of 17 February 2023 entitled “Decision on the admissibility of video \(DAR-OTP-0216-0119\) and records of telephone calls \(DAR-OTP-0216-0127, DAR-OTP-0216-0128\)”](#), 28 June 2023, ICC-02/05-01/20-982 (OA12), para. 23 and cited jurisprudence therein.

of the case”.³⁰ Instead, it is “to determine whether the determination [by the Pre-Trial Chamber] on the admissibility of the case [...] was in accord with the law”.³¹

24. The above standard of review will guide the analysis of the Appeals Chamber.

IV. MERITS

A. First ground of appeal

1. *Relevant part of the Impugned Decision*

25. The Pre-Trial Chamber held that, in line with past decisions of the Court,

“the earliest opportunity” for a State to file an admissibility challenge within the meaning of article 19(5) of the Statute is construed around several factors: (i) the rationale behind article 19(5), namely that admissibility challenges should not be used by States as mechanisms to unduly delay or hinder the Court’s proceedings; (ii) a challenge should be submitted as soon as a State considers itself in a position to assert a conflict of jurisdiction and demonstrate the inadmissibility of a case before the Court; (iii) bar exceptional circumstances, the State has only one chance to challenge the admissibility of a case, and thus should refrain from premature challenges; and (iv) the circumstances of the individual case must be taken into account with a view to determining whether the challenge was filed in an untimely manner.³²

26. The Pre-Trial Chamber concluded that “it was only upon receiving notification of the CPS Arrest Warrant in August 2024 that the contours of the cases against Mr Beina before the Court and the CPS became sufficiently clear to [the CAR

³⁰ *The Prosecutor v. Simone Gbagbo*, [Judgment on the appeal of Côte d’Ivoire against the decision of Pre-Trial Chamber I of 11 December 2014 entitled “Decision on Côte d’Ivoire’s challenge to the admissibility of the case against Simone Gbagbo”](#), 27 May 2015, ICC-02/11-01/12-75-Red (OA) (hereinafter: “*Simone Gbagbo* OA Judgment”), para. 33, referring to Appeals Chamber, *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali*, [Decision on the “Filing of Updated Investigation Report by the Government of Kenya in the Appeal against the Pre-Trial Chamber’s Decision on Admissibility”](#), 28 July 2011, ICC-01/09-02/11-202 (OA) (hereinafter: “*Muthaura et al.* OA Decision”), para. 10; *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, [Decision on the “Filing of Updated Investigation Report by the Government of Kenya in the Appeal against the Pre-Trial Chamber’s Decision on Admissibility”](#), 28 July 2011, ICC-01/09-01/11-234 (OA) (hereinafter: “*Kenya* OA Decision”), para. 11.

³¹ *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen*, [Judgment on the appeal of the Defence against the “Decision on the admissibility of the case under article 19\(1\) of the Statute” of 10 March 2009](#), 16 September 2009, ICC-02/04-01/05-408 (OA3), para. 80; *Simone Gbagbo* OA Judgment, para. 33, referring to [Muthaura et al. OA Decision](#), para. 10; [Kenya OA Decision](#), para. 11.

³² [Impugned Decision](#), para. 29.

authorities] so as to enable them to submit an admissibility challenge”, which was then submitted “within a reasonably short timeframe thereafter”.³³

2. *Summary of the submissions*

a. Appellant’s submissions

27. The Appellant submits that the Pre-Trial Chamber committed an error of law when determining that the CAR brought the Admissibility Challenge “at the earliest opportunity”, in accordance with article 19(5) of the Statute.³⁴ Specifically, the Appellant argues that the Pre-Trial Chamber “erroneously distinguished between different organs of the CAR as a State”, instead of assessing when the CAR “as the ‘State’ became aware of [the jurisdictional] conflict”, given the ordinary meaning of the term “State” as used in article 19(2)(b) and (5) of the Statute.³⁵ According to the Appellant, this error materially affected the Impugned Decision since without the alleged error, the Pre-Trial Chamber “would have found cause to dismiss the Admissibility Challenge [*in limine*] as filed in non-compliance with [a]rticle 19(5) of the Statute”.³⁶

b. State’s submissions

28. The CAR authorities do not submit any arguments in response to the first ground of appeal.

c. OPCV’s submissions

29. The OPCV submits that the first ground of appeal should be “dismissed”, as the Appellant merely repeats its previous arguments which were dismissed by the Pre-Trial Chamber.³⁷ In its view, the Pre-Trial Chamber did not err in focusing on when the “competent Ministry” of the CAR became aware of the jurisdictional conflict in its assessment under article 19(5) of the Statute.³⁸ The OPCV argues that the Appellant’s interpretation of article 19(5) of the Statute is “overly rigid”, contrary to the purpose of

³³ [Impugned Decision](#), para. 38.

³⁴ [Appeal Brief](#), paras 24-29.

³⁵ [Appeal Brief](#), paras 25-28.

³⁶ [Appeal Brief](#), para. 29.

³⁷ [OPCV’s Response](#), paras 32, 37.

³⁸ [OPCV’s Response](#), paras 32, 34-35.

the provision and the relevant jurisprudence of the Court,³⁹ as well as “the broader framework of article 17 [of the Statute]”.⁴⁰

3. *Determination by the Appeals Chamber*

30. The Appellant submits that the Pre-Trial Chamber erred by distinguishing between different organs of the CAR in its assessment of whether the CAR, as “a State” within the meaning of article 19(2)(b) of the Statute, brought its Admissibility Challenge “at the earliest opportunity”, in accordance with article 19(5) of the Statute.⁴¹

31. The Appeals Chamber recalls its consistent jurisprudence that “[a]rticle 19(5) of the Statute requires a State to challenge admissibility as soon as possible once it is in a position to *actually* assert a conflict of jurisdictions”.⁴² It has also stated that “[t]he State cannot expect to be allowed to amend an admissibility challenge or to submit additional supporting evidence just because the State made the challenge prematurely”.⁴³ Indeed, “a State should, as a general rule, not challenge the admissibility of a case until it is in a position to substantiate that challenge”.⁴⁴ The Appeals Chamber has emphasised that:

[A]dmissibility proceedings should not be used as a mechanism or process through which a State may gradually inform the Court, over time and as its investigation progresses, as to the steps it is taking to investigate a case. Admissibility proceedings should rather only be triggered when a State is ready and able, in its view, to fully demonstrate a conflict of jurisdiction on the basis that the requirements set out in article 17 are met.⁴⁵

³⁹ [OPCV’s Response](#), paras 32, 35.

⁴⁰ [OPCV’s Response](#), para. 33.

⁴¹ [Appeal Brief](#), paras 19-29.

⁴² [Simone Gbagbo OA Judgment](#), para. 35; *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, [Judgment on the appeal of the Republic of Kenya against the decision of Pre-Trial Chamber II of 30 May 2011 entitled “Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19\(2\)\(b\) of the Statute”](#), 30 August 2011, ICC-01/09-01/11-307 (OA) (hereinafter: “*Ruto et al.* OA Judgment”), para. 46; *The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali*, [Judgment on the appeal of the Republic of Kenya against the decision of Pre-Trial Chamber II of 30 May 2011 entitled “Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19\(2\)\(b\) of the Statute”](#), 30 August 2011, ICC-01/09-02/11-274 (OA) (hereinafter: “*Muthaura et al.* OA Judgment”), para. 45 (emphasis added).

⁴³ [Simone Gbagbo OA Judgment](#), para. 35; [Ruto et al. OA Judgment](#), para. 100.

⁴⁴ [Simone Gbagbo OA Judgment](#), para. 35; *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*, [Judgment on the appeal of Libya against the decision of Pre-Trial Chamber I of 31 May 2013 entitled “Decision on the admissibility of the case against Saif Al-Islam Gaddafi”](#), 21 May 2014, ICC-01/11-01/11-547-Red (OA4) (hereinafter: “*Gaddafi and Al-Senussi* OA Judgment”), para. 164.

⁴⁵ [Simone Gbagbo OA Judgment](#), para. 35; [Gaddafi and Al-Senussi OA Judgment](#), para. 164.

32. In the present situation, the Appellant submits that the Pre-Trial Chamber erroneously assessed “the respective awareness of different internal organs of the CAR”, instead of interpreting the term “State” within the meaning of article 19 of the Statute as a collective legal entity with international legal personality.⁴⁶ The Appeals Chamber notes that, in fact, it is the Appellant which interprets the term “State” in a fragmented manner by arguing that the earliest opportunity for the CAR to assert a conflict of jurisdictions would have been “on or about May 2022, when the CPS Arrest Warrant was issued”.⁴⁷ In the view of the Appeals Chamber, the Appellant, in essence, equates one of the internal organs of a State being in possession of partial information to the State, as a whole, being in the position to actually and fully demonstrate that there was a jurisdictional conflict for purposes of a challenge under article 19(2) of the Statute.

33. In this regard, the Appeals Chamber notes that the Pre-Trial Chamber, in line with the aforementioned jurisprudence and based on the submissions before it, carried out a holistic examination of the timeline of relevant events, noting in particular: (i) that the CPS special prosecutor was informed of the existence of, but not the content of, the ICC Arrest Warrant in March 2024;⁴⁸ and that (ii) on 8 August 2024, following communication of the content of the ICC Arrest Warrant, the CPS special prosecutor notified the competent Ministry of the CAR of the existence of both the ICC Arrest Warrant and the CPS Arrest Warrant.⁴⁹ It is on this basis that the Pre-Trial Chamber concluded that, prior to August 2024, the State was not in a position to determine that there was a conflict of jurisdiction, nor could it have sought to demonstrate the inadmissibility of the case before the Court at an earlier juncture.⁵⁰

34. The Appeals Chamber emphasises that, as correctly assessed by the Pre-Trial Chamber, what matters is at which point in time, taking a comprehensive view on the question of “State” for the above purposes, the CAR was in a position to actually and fully demonstrate the jurisdictional conflict. Contrary to the Appellant’s claim, it is

⁴⁶ [Appeal Brief](#), paras 25-29.

⁴⁷ [Appeal Brief](#), para. 29.

⁴⁸ [Impugned Decision](#), para. 33.

⁴⁹ [Impugned Decision](#), para. 34.

⁵⁰ [Impugned Decision](#), para. 38.

clear from the reasoning of the Pre-Trial Chamber that the CAR would not have been in such position in May 2022.

35. In light of the foregoing, the Appeals Chamber finds that the Appellant has failed to demonstrate any error in the Pre-Trial Chamber's determination in this context, and thus rejects the first ground of appeal.

B. Second, third, fourth and fifth grounds of appeal

36. Under its second, third, fourth and fifth grounds of appeal, the Appellant submits that the Pre-Trial Chamber erroneously disregarded as irrelevant and/or unsubstantiated its submissions relating to the CAR's judicial system as a whole and other "comparable cases",⁵¹ including the information provided by an individual with knowledge of the CAR judicial system which the Appellant submitted in an annex to its observations (hereinafter: "Annex to Appellant's Observations").⁵² The Appeals Chamber notes that the Appellant's arguments under these four grounds of appeal relate to the question of whether the Pre-Trial Chamber erred in law or abused its discretion in its assessment of whether the CAR is "unwilling" or "unable" genuinely to carry out the proceedings against Mr Beina within the meaning of article 17 of the Statute. In the interests of clarity and a proper determination of the arguments raised, the Appeals Chamber deems it appropriate to consider these grounds of appeal together and in the order set out below.

1. Relevant part of the Impugned Decision

37. The Pre-Trial Chamber held that it was satisfied, on the basis of the material before it, "that the case against Mr Beina is currently being prosecuted by a State which has jurisdiction over it within the meaning of article 17(1)(a) of the Statute".⁵³

38. In determining whether the CAR, being that State, was "unwilling" or "unable" genuinely to carry out such proceedings within the meaning of article 17(2) and (3) of the Statute, the Pre-Trial Chamber noted that the Appellant's submissions "focus solely on the CAR's judicial system as a whole and fail to substantiate how the specific

⁵¹ [Appeal Brief](#), paras 34-36, 40, 50-51, 54-56, 60-62.

⁵² [Appeal Brief](#), para. 37, referring to Annex 1 to [Written Observations of Mr Edmond Beina on the Central African Republic's Admissibility Challenge](#), 17 March 2025, ICC-01/14-213-Conf-Exp-Anx1.

⁵³ [Impugned Decision](#), para. 55.

proceedings against Mr Beina would be affected by the alleged lack of independence and impartiality of the CAR's judicial system".⁵⁴ It further noted that "the manner in which *other* criminal proceedings are conducted in the CAR is, in itself, irrelevant for the purpose of establishing the first criterion under article 17(2)(c) of the Statute".⁵⁵

39. The Pre-Trial Chamber concluded that "[g]iven that it has not been established that the proceedings against Mr Beina before the CPS are not being conducted independently or impartially [...], it is not necessary to assess whether [other] proceedings are or have been conducted in a manner which is inconsistent with an intent to bring the person to justice".⁵⁶ In this context, the Pre-Trial Chamber did not deem it "relevant nor appropriate" for its determination to rely upon the information provided in the Annex to Appellant's Observations, noting that it "lacks concrete information specific to the proceedings against Mr Beina", and that "the CAR has not been privy to it".⁵⁷

40. With respect to the Appellant's submissions concerning Mr Beina's right to obtain the attendance and examination of witnesses "under the same conditions as witnesses against him", the Pre-Trial Chamber found the Appellant's arguments in this regard to be speculative since "none of [the] alleged instances concern proceedings involving Mr Beina".⁵⁸ Noting the absence of any information indicating that "witnesses in the proceedings against Mr Beina would be deliberately exposed to, or intentionally left unprotected from reprisals",⁵⁹ the Pre-Trial Chamber concluded that "it has not been demonstrated that Mr Beina's right to obtain the attendance and examination of witnesses is being violated, let alone established that such an alleged violation would be so egregious as to render the proceedings incapable of providing any genuine form of justice".⁶⁰

⁵⁴ [Impugned Decision](#), para. 69 (footnote omitted).

⁵⁵ [Impugned Decision](#), para. 69 (emphasis in original).

⁵⁶ [Impugned Decision](#), para. 69.

⁵⁷ [Impugned Decision](#), para. 68.

⁵⁸ [Impugned Decision](#), paras 70-71.

⁵⁹ [Impugned Decision](#), para. 72.

⁶⁰ [Impugned Decision](#), para. 72.

2. *Summary of the submissions*

a. Appellant's submissions

41. Under the second ground of appeal, the Appellant submits that the Pre-Trial Chamber's dismissal of its submissions concerning the independence and impartiality of the CAR judiciary and witness protection mechanisms is "tantamount to a reversal of the CAR's burden of proof".⁶¹

42. Under the third ground of appeal, the Appellant submits that the Pre-Trial Chamber erred when finding the information provided in the Annex to Appellant's Observations as not relevant to its determinations, and abused its discretion when refusing to consider such information on the basis of the CAR not having been privy to it.⁶² According to the Appellant, this refusal "infringed on Mr Beina's right to legal certainty", as it is "directly contradictory" to a previous email decision of the Pre-Trial Chamber in which it determined, *inter alia*, that the Annex to Appellant's Observations was justifiably withheld from the CAR authorities.⁶³

43. Under the fourth ground of appeal, the Appellant submits that the Pre-Trial Chamber took "a legally incorrect approach to the admissibility assessment under [a]rticle 17(2)(c) of the Statute" when it dismissed the Appellant's submissions on "a lack of independence and impartiality of the CAR's judicial system as a whole and/or a lack of independence and impartiality with respect to other high-profile cases".⁶⁴ In its view, the Pre-Trial Chamber erred in finding such information irrelevant to the assessment of the admissibility of the case against Mr Beina before the Court.⁶⁵

44. Under the fifth ground of appeal, the Appellant submits that the Pre-Trial Chamber erred in "focusing squarely on whether the [Appellant's] submissions concern[ed] the case of Mr Beina specifically", as its arguments regarding witness protection and security in other "comparable cases" are "relevant to the assessment of

⁶¹ [Appeal Brief](#), paras 31, 34-35.

⁶² [Appeal Brief](#), paras 39-40.

⁶³ [Appeal Brief](#), paras 40-50.

⁶⁴ [Appeal Brief](#), paras 54-55.

⁶⁵ [Appeal Brief](#), para. 54.

whether Mr Beina would enjoy the right to obtain attendance of [his] witnesses under the same conditions as Prosecution witnesses in the CAR”.⁶⁶

45. With regard to these four grounds appeal, the Appellant argues that the alleged errors materially affected the Impugned Decision since the Pre-Trial Chamber, without these errors, would have found that the CAR failed to meet its burden of proving the inadmissibility of the case.⁶⁷

b. State’s submissions

46. In relation to the fourth and fifth grounds of appeal, the CAR authorities submit that in line with the principle of complementarity, the CPS should take precedence to prosecute Mr Beina.⁶⁸ In support of their submission, the CAR authorities contend, *inter alia*, that: (i) the effective operation of the CPS demonstrates the willingness and capacity of the State to prosecute serious crimes;⁶⁹ and that (ii) the CPS may be able to bring justice closer to the victims, given its better knowledge of the situation on the ground, readier access to witnesses and evidence and greater legitimacy in the eyes of local communities.⁷⁰ The CAR authorities also provide that the CPS has already held pre-trial conferences and commenced public hearings during which the defence for Mr Beina raised preliminary objections and the summary of the indictments was read.⁷¹

c. OPCV’s submissions

47. With respect to the second ground of appeal, the OPCV submits that it should be “dismissed”, as the Appellant merely disagrees with “how the [Pre-Trial] Chamber weighed the evidence”.⁷² The OPCV contends that “no burden-shifting occurred”, since the Pre-Trial Chamber expressly and carefully assessed the Appellant’s submissions alleging the lack of impartiality in the CAR’s judiciary, and found them to be unsubstantiated and not linked to the specific case against Mr Beina.⁷³

48. As regards the third, fourth and fifth grounds of appeal, the OPCV submits that these grounds of appeal, which “share a common factual and legal foundation – namely

⁶⁶ [Appeal Brief](#), paras 60-61.

⁶⁷ [Appeal Brief](#), paras 36, 51, 56, 62.

⁶⁸ CAR’s Response, paras 3-4.

⁶⁹ CAR’s Response, paras 3, 10.

⁷⁰ CAR’s Response, para. 11.

⁷¹ CAR’s Response, paras 13-16.

⁷² [OPCV’s Response](#), paras 40-42.

⁷³ [OPCV’s Response](#), para. 41.

the alleged inability or unwillingness of the CAR judiciary to conduct genuine proceedings”, should be “dismissed in their entirety”, because, in its view, the Appellant “attempts to reframe its dissatisfaction with the [Pre-Trial] Chamber’s evidentiary assessment as separate ‘errors of law’”.⁷⁴ The OPCV avers that the Pre-Trial Chamber duly considered the Appellant’s arguments in this regard, namely the submissions pertaining to the Annex to Appellant’s Observations, judicial partiality and witness availability, and correctly found them to be irrelevant, speculative, unsubstantiated or insufficiently case-specific.⁷⁵

3. *Determination by the Appeals Chamber*

49. The Appellant submits that the Pre-Trial Chamber erred in its assessment under article 17(2)(c) of the Statute by considering as irrelevant or unsubstantiated certain submissions of the Appellant which allege the “unwillingness” of the CAR genuinely to carry out the proceedings against Mr Beina.

50. At the outset, the Appeals Chamber notes that the principle of complementarity, according to which the Court “shall be complementary to national jurisdictions”,⁷⁶ is “the cornerstone of the Statute and of the functioning of the Court”.⁷⁷ Accordingly, “States have the primary responsibility to exercise criminal jurisdiction and the Court does not replace, but complements them in that respect”.⁷⁸ This understanding of the principle is reflected in a number of statutory provisions, including the Preamble of the Statute and articles 17, 18 and 19 of the Statute.

51. Article 19(2)(b) of the Statute provides that “[c]hallenges to the admissibility of a case on the grounds referred to in article 17 [...] may be made by [...] [a] State which has jurisdiction over a case, on the ground that it is investigating or prosecuting the case or has investigated or prosecuted”. The Appeals Chamber recalls that article 17 of the Statute “gives effect to the principle of complementarity”, by stipulating “the substantive conditions under which a case is inadmissible before the Court”,⁷⁹ and that

⁷⁴ [OPCV’s Response](#), paras 44-45, 53.

⁷⁵ [OPCV’s Response](#), paras 46, 48-50, 52.

⁷⁶ Preamble of the Statute; [Muthaura et al. OA Judgment](#), para. 36.

⁷⁷ Pre-Trial Chamber II, *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen*, [Decision on the admissibility of the case under article 19\(1\) of the Statute](#), 10 March 2009, ICC-02/04-01/05-377, para. 34.

⁷⁸ [Muthaura et al. OA Judgment](#), para. 36.

⁷⁹ [Muthaura et al. OA Judgment](#), para. 36.

“the purpose of an admissibility challenge under article 17 (1) of the Statute is to resolve existing conflicts between competing jurisdictions – the Court’s on the one hand, and a national jurisdiction on the other hand”.⁸⁰

52. The Appeals Chamber has held that article 17(1)(a) of the Statute entails a two-step analysis to determine whether a case is inadmissible:

[I]n considering whether a case is inadmissible under article 17 (1) (a) and (b) of the Statute, the initial questions to ask are (1) whether there are ongoing investigations or prosecutions, or (2) whether there have been investigations in the past, and the State having jurisdiction has decided not to prosecute the person concerned. It is only when the answers to these questions are in the affirmative that one has to look to the second halves of sub-paragraphs (a) and (b) and to examine the question of unwillingness and inability. To do otherwise would be to put the cart before the horse.⁸¹

53. Article 17(2)(c) of the Statute provides that “[i]n order to determine unwillingness in a particular case, the Court shall consider, having regard to the principles of due process recognized by international law”, whether “[t]he proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice”. The Appeals Chamber has noted that the purpose of this provision is to ensure that

the principle of complementarity [...] is not abused, so that it would be contrary to the overall purpose of the Statute, which is to put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole.⁸²

54. In the instant situation, the Appellant appears to contend that the case against Mr Beina should be admissible before the Court because domestic proceedings of the CAR do not fully respect the due process rights of suspects in general. In this respect, the Appeals Chamber notes the Appellant’s arguments concerning: (i) a lack of

⁸⁰ [Muthaura et al. OA Judgment](#), para. 98.

⁸¹ Appeals Chamber, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, [Judgment on the Appeal of Mr. Germain Katanga against the Oral Decision of Trial Chamber II of 12 June 2009 on the Admissibility of the Case](#), 25 September 2009, ICC-01/04-01/07-1497 (OA8), para. 78; [Simone Gbagbo OA Judgment](#), para. 27.

⁸² *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*, [Judgment on the appeal of Mr Abdullah Al-Senussi against the decision of Pre-Trial Chamber I of 11 October 2023 entitled “Decision on the admissibility of the case against Abdullah Al-Senussi”](#), 24 July 2014, ICC-01/11-01/11-565 (OA6) (hereinafter: “*Al-Senussi* OA6 Judgment”), para. 217.

independence and impartiality of the CAR's judicial system as a whole; (ii) the same with respect to other "comparable cases"; and (iii) the operation of witness protection mechanisms in other cases before the CPS.⁸³

55. Turning first to the fourth and fifth grounds of appeal, the Appeals Chamber recalls that while "human rights standards may assist the Court in its assessment of whether the proceedings are or were conducted 'independently or impartially' within the meaning of article 17 (2) (c) of the Statute",⁸⁴ this Court "was not established to be an international court of human rights, sitting in judgment over domestic legal systems to ensure that they are compliant with international standards of human rights".⁸⁵ In this regard, the Appeals Chamber has regarded as significant that the text of article 17(2)(c) of the Statute "itself does not contain an express requirement for the Court to consider whether the domestic proceedings fully respect the due process rights of a suspect", especially given that "this was the subject of a specific proposal during the course of the negotiations of this provisions".⁸⁶ It follows that it is not for the Court to pass judgment "generally on the internal functioning of the domestic legal systems of States in relation to individual guarantees of due process".⁸⁷

56. The Appeals Chamber further recalls that "unwillingness" within the meaning of article 17(2)(c) of the Statute is "primarily concerned with a situation in which proceedings are conducted in a manner which would lead to a suspect evading justice as a result of a State not being willing genuinely to investigate or prosecute".⁸⁸ As such, "the notions of independence and impartiality [under this provision] must be seen in that light".⁸⁹ The Appeals Chamber has clarified that:

Taking into account the text, context, object and purpose of the provision, this determination is not one that involves an assessment of whether the due process rights of a suspect have been breached *per se*. In particular, the concept of proceedings "being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice" should generally be understood as referring to proceedings which will lead to [a] suspect evading justice, in the sense of not appropriately being tried genuinely to establish

⁸³ [Appeal Brief](#), paras 31, 34-36, 39-51, 54-56, 60-62.

⁸⁴ [Al-Senussi OA6 Judgment](#), para. 220.

⁸⁵ [Al-Senussi OA6 Judgment](#), para. 219.

⁸⁶ [Al-Senussi OA6 Judgment](#), para. 226.

⁸⁷ [Al-Senussi OA6 Judgment](#), para. 219.

⁸⁸ [Al-Senussi OA6 Judgment](#), para. 218.

⁸⁹ [Al-Senussi OA6 Judgment](#), para. 221.

his or her criminal responsibility, in the equivalent of sham proceedings that are concerned with that person's protection.

However, there may be circumstances, depending on the facts of the individual case, whereby violations of the rights of the suspect are so egregious that the proceedings can no longer be regarded as being capable of providing any genuine form of justice to the suspect so that they should be deemed, in those circumstances, to be "inconsistent with an intent to bring that person to justice".⁹⁰

57. In the situation at hand, the Appeals Chamber notes that the Pre-Trial Chamber, in accordance with the above-mentioned established jurisprudence of the Court, found that it did not need to assess whether the proceedings against Mr Beina before the CPS are or have been conducted in a manner which is inconsistent with an intent to bring the person to justice, given that it had not been established that these proceedings "are not being conducted independently or impartially".⁹¹

58. In this regard, the Appeals Chamber considers that the Appellant misrepresents the relevant jurisprudence in challenging the Pre-Trial Chamber's case-specific approach of examining whether the information concerning other cases and the independence and impartiality of the CAR's judicial system as a whole demonstrates that the State is unwilling genuinely to carry out the proceedings against Mr Beina.

59. First, the Appellant misstates a finding of Pre-Trial Chamber I in the case of *Al-Senussi*. The Appellant contends as follows, adding that "[t]he Appeals Chamber endorsed this approach".⁹²

PTCI considered that [] 'a systemic lack of independence and impartiality of the judiciary such that would demonstrate, alone or in combination with other relevant circumstances, that the proceedings against [the suspect]' may demonstrate that the Second Limb [of the test under article 17(2)(c) of the Statute] is not met.⁹³

60. However, the Appeals Chamber notes that Pre-Trial Chamber I found as follows:

[T]he Chamber is not persuaded that the information provided by the Defence and the OPCV indicates a systemic lack of independence and impartiality of the judiciary such that would demonstrate, alone or in combination with other relevant circumstances, that the proceedings against Mr Al-Senussi "are not being conducted independently or impartially and they [...] are being conducted in a

⁹⁰ [Al-Senussi OA6 Judgment](#), para. 230.

⁹¹ [Impugned Decision](#), para. 69.

⁹² [Appeal Brief](#), para. 54.

⁹³ [Appeal Brief](#), para. 54.

manner which, in the circumstances is inconsistent with an intent to bring [Mr Al-Senussi] to justice”, within the meaning of article 17(2)(c) of the Statute.⁹⁴

61. It is clear from the aforementioned finding that Pre-Trial Chamber I assessed whether the information before it demonstrated that, due to the alleged systemic lack of independence and impartiality of the judiciary at issue, the specific proceedings against Mr Al-Senussi were not being conducted independently and impartially or were being conducted in a manner in which was inconsistent with an intent to bring Mr Al-Senussi to justice. In other words, the above reasoning of Pre-Trial Chamber I, contrary to what the Appellant appears to imply, did not comprise of a general statement about systemic lack of independent and impartiality, but rather an assessment of the information before it in the context of the specific case under consideration. The Appeals Chamber, in the *Al-Senussi* OA6 Judgment, observed generally that this approach was “careful and considered”.⁹⁵

62. Second, the Appeals Chamber notes that the Appellant’s reliance upon the *Al-Senussi* OA6 Judgment is misplaced. In that case, the Appeals Chamber found relevant the information concerning “other senior members of the former regime, at least one of whom [was] being held in the same prison as Mr Al-Senussi, and whose cases are joined to and part of the same case as that against Mr Al-Senussi”.⁹⁶ In the present situation, however, the Appellant does not provide relevant examples in respect of the independence and impartiality of the CAR judiciary which sufficiently establish how the specific proceedings against Mr Beina may be affected. In fact, the Pre-Trial Chamber carefully addressed the Appellant’s submissions and noted that they concern only the “instances whereby individuals or witnesses who were associated with or provided information to defence teams representing ‘political opponents’ of the CAR government, would have been the subject of reprisals or expressed fears of retaliation”, and “none of these alleged instances concern proceedings involving Mr Beina”.⁹⁷ Moreover, the Pre-Trial Chamber held that:

⁹⁴ Pre-Trial Chamber I, *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*, [Decision on the admissibility of the case against Abdullah Al-Senussi](#), 11 October 2013, ICC-01/11-01/11-466-Red, para. 258.

⁹⁵ [Al-Senussi OA6 Judgment](#), para. 256.

⁹⁶ [Al-Senussi OA6 Judgment](#), para. 258.

⁹⁷ [Impugned Decision](#), paras 69-71.

[I]t has not been demonstrated that Mr Beina’s right to obtain the attendance and examination of witnesses is being violated, let alone established that such an alleged violation would be so egregious so as to render the proceedings incapable of providing any genuine form of justice so that they should be deemed to be “inconsistent with an intent to bring the person concerned to justice”.⁹⁸

63. Therefore, the Appeals Chamber considers that the Appellant has failed to show that the Pre-Trial Chamber erred when finding that the Appellant’s arguments in this regard were speculative.

64. The Appeals Chamber notes in this respect the Appellant’s claim that the consideration of evidence relating to the circumstances of witnesses and the operation of witness protection mechanisms in other comparable cases is “the most appropriate metho[d] to assess whether Mr Beina will enjoy the relevant fair trial rights”.⁹⁹ The Appeals Chamber is not persuaded. It considers that such approach, in the absence of any specific information about the prospective witnesses of Mr Beina at his trial before the CPS, would have required the Pre-Trial Chamber to engage in a general and improper assessment of the domestic legal system of the CAR.

65. Furthermore, the Appeals Chamber notes that the Pre-Trial Chamber considered that the CPS has a witness protection mechanism,¹⁰⁰ and duly assessed the Appellant’s submissions concerning the “individuals and witnesses in other cases who were associated with or provided information to defence teams representing ‘political opponents’ of the CAR government”.¹⁰¹ On this basis, the Pre-Trial Chamber found that “there is no information before the Chamber suggesting that witnesses in the proceedings against Mr Beina would be deliberately exposed to, or intentionally left unprotected from reprisals”.¹⁰²

66. In this regard, the Appeals Chamber further notes in particular the State’s assurances that the CPS adheres to the international standards of independence,

⁹⁸ [Impugned Decision](#), para. 72.

⁹⁹ [Appeal Brief](#), para. 60.

¹⁰⁰ [Impugned Decision](#), para. 72.

¹⁰¹ [Impugned Decision](#), paras 70-71.

¹⁰² [Impugned Decision](#), paras 71-72.

impartiality and due process,¹⁰³ and that the CPS proceedings against Mr Beina are being carried out in a manner that respects his fair trial rights.¹⁰⁴

67. In light of the above, the Appeals Chamber finds that the Appellant has failed to show any error in the Pre-Trial Chamber's assessment of whether the proceedings against Mr Beina before the CPS are being or have been conducted independently or impartially, or in a manner inconsistent with an intent to bring Mr Beina to justice. Concretely, the Pre-Trial Chamber found the Appellant's submissions concerning other criminal proceedings in the CAR and the judicial system of the State as a whole to be irrelevant on the basis of the Appellant not providing sufficient substantiation in respect of potential consequences on the specific proceedings against Mr Beina. Similarly, the Pre-Trial Chamber found it not demonstrated that Mr Beina's right to obtain the attendance and examination is being violated.

68. Accordingly, the Appeals Chamber finds that the Appellant has failed to establish any error of the Pre-Trial Chamber in this regard. Therefore, the Appeals Chamber rejects the fourth and fifth grounds of appeal.

69. Consequently, and noting the Appellant's submission that the third ground of appeal is "fund[amentally] linked with" the fourth ground of appeal,¹⁰⁵ the Appeals Chamber deems it unnecessary to entertain the Appellant's arguments under the third ground of appeal which concern the Pre-Trial Chamber's determination on the relevance of the information provided in the Annex to Appellant's Observations pertaining to the alleged lack of independence of the CPS, without any concrete information specific to the proceedings against Mr Beina.

70. This notwithstanding, the Appeals Chamber notes that the Appellant appears to have miscomprehended the Pre-Trial Chamber's email decision of 2 June 2025 which, in its view, "constitutes *res judicata* with respect to the present proceedings".¹⁰⁶ However, the email decision concerned whether the non-disclosure to the CAR authorities of the Annex to Appellant's Observations would affect *the CAR authorities'*

¹⁰³ CAR's Response, para. 2.

¹⁰⁴ CAR's Response, paras 15, 19.

¹⁰⁵ [Appeal Brief](#), para. 39.

¹⁰⁶ [Appeal Brief](#), para. 44, *referring to* Email from Pre-Trial Chamber II to Participants: Decision in relation to ICC-01/14-213-Conf-Exp and ICC-01/14-213-Conf-Anx1, 28 May 2025, at 15:16 (hereinafter: "Pre-Trial Chamber's Email Decision").

assessment of whether the State may challenge the admissibility of the case against Mr Beina before the Court,¹⁰⁷ rather than the Pre-Trial Chamber's adjudication of the Admissibility Challenge. Accordingly, the Appeals Chamber dismisses the third ground of appeal.

71. Lastly, the Appeals Chamber notes the Appellant's contention under the second ground of appeal that the Pre-Trial Chamber, in essence, reversed the CAR's burden of proof to show that the case against Mr Beina before the Court is inadmissible when it dismissed the Appellant's submissions alleging a lack of independence and impartiality of the CAR judiciary and an absence of effective witness protection mechanisms in the CAR.¹⁰⁸

72. In this respect, the Appeals Chamber recalls that "a State that challenges the admissibility of a case bears the burden of proof to show that the case is inadmissible".¹⁰⁹ The Appeals Chamber has held that to discharge this burden, the State must provide the Court "with evidence of a sufficient degree of specificity and probative value" which demonstrates that "it is conducting a genuine investigation or prosecution", and that "[i]t is not sufficient merely to assert that investigations are ongoing".¹¹⁰ The Appeals Chamber notes that this was also the approach adopted by the Pre-Trial Chamber.¹¹¹

73. The above-mentioned jurisprudence illustrates that the State bears the burden to prove inadmissibility before the Court when challenging the admissibility of a case in accordance with article 19(2) of the Statute. In the view of the Appeals Chamber, the Appellant fails to demonstrate that the Pre-Trial Chamber erred in this assessment. Contrary to the Appellant's submissions, rather than putting on the Appellant the burden of proving admissibility of the case against Mr Beina before the Court, the Pre-Trial Chamber assessed the two-limb test under article 17(1)(a) of the Statute on the basis of the information provided by the CAR authorities and in light of the

¹⁰⁷ The Pre-Trial Chamber's Email Decision states: "[T]he Chamber considers that, in the circumstances, [...] the non-disclosure to the CAR authorities of the Expert Report [...] would not unduly deprive them from any information crucial to the adjudication of *their* admissibility challenge" (emphasis added).

¹⁰⁸ [Appeal Brief](#), paras 31, 34.

¹⁰⁹ [Ruto et al. OA Judgment](#), para. 62; [Muthaura et al. OA Judgment](#), para. 61.

¹¹⁰ [Ruto et al. OA Judgment](#), para. 62; [Muthaura et al. OA Judgment](#), para. 61; [Al-Senussi OA6 Judgment](#), para. 166.

¹¹¹ See [Impugned Decision](#), para. 50.

Appellant's submissions. This is to be distinguished from finding that the Appellant failed to substantiate how the general information it provided concretely impacts the proceedings against Mr Beina. In this regard, the Appeals Chamber recalls that "it is an essential tenet of the rule of law that judicial decisions must be based on facts established by evidence" and, crucially, that "[p]roviding evidence to substantiate an allegation is a hallmark of judicial proceedings".¹¹² Accordingly, the Appeals Chamber finds that the Appellant has not demonstrated any error in the approach or findings of the Pre-Trial Chamber. Therefore, the Appeals Chamber rejects the second ground of appeal.

74. Having rejected or dismissed all of the Appellant's arguments thereunder, the Appeals Chamber rejects the second, third, fourth and fifth grounds of appeal in their entirety.

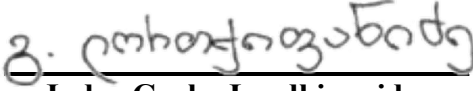
V. APPROPRIATE RELIEF

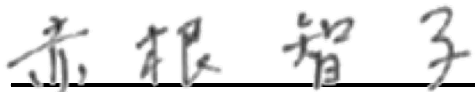
75. In an appeal pursuant to article 82(1)(a) of the Statute, the Appeals Chamber may confirm, reverse or amend the decision appealed.¹¹³ In the present case it is appropriate to confirm the Impugned Decision.

¹¹² [*Philippines OA Judgment*](#), para. 73; Appeals Chamber, *Situation of Uganda*, [Judgment on the appeals of the Defence against the decisions entitled "Decision on victims' applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06, a/0082/06, a/0084/06 to a/0089/06, a/0091/06 to a/0097/06, a/0099/06, a/0100/06, a/0102/06 to a/0104/06, a/0111/06, a/0113/06 to a/0117/06, a/0120/06, a/0121/06 and a/0123/06 to a/0127/06"](#), 23 February 2009, ICC-02/04-179 (OA) and ICC-02/04-01/05-371 (OA2), para. 36; [*Al-Senussi OA6 Judgment*](#), para. 167.

¹¹³ See rule 158(1) of the Rules of Procedure and Evidence.

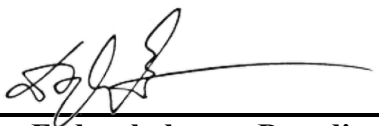
Done in both English and French, the English version being authoritative.


Judge Gocha Lordkipanidze
Presiding


Judge Tomoko Akane


Judge Luz del Carmen Ibáñez Carranza


Judge Solomy Balungi Bossa


Judge Erdenebalsuren Damdin

Dated this 11th day of March 2026

At The Hague, The Netherlands