



Original: English

No. ICC-01/14-01/18
Date of original: 10 March 2021
Date: 1 April 2021

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

Public redacted version of

Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-2926, P-2927, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926's Evidence

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart
Kweku Vanderpuye

Counsel for Alfred Yekatom

Mylène Dimitri
Thomas Hannis

Counsel for Patrice-Edouard Ngaïssona

Geert-Jan Alexander Knoops
Richard Omissé-Namkeamaï
Marie-Hélène Proulx

Legal Representatives of Victims

Abdou Dangabo Moussa
Elisabeth Rabesandratana
Yaré Fall
Marie-Edith Douzima-Lawson
Paolina Massidda
Dmytro Suprun

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

TRIAL CHAMBER V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Articles 64(2), 67(1) and 69 of the Rome Statute (the ‘Statute’) and Rule 68(1) and (3) of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-2926, P-2927, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926’s Evidence’.

I. Procedural history

1. On 26 August 2020, the Presiding Judge rendered the ‘Initial Directions on the Conduct of the Proceedings’ (the ‘Initial Directions’), providing directions for the introduction of prior recorded testimonies, including expert reports, under Rule 68(3) of the Rules.¹
2. On 6 and 16 October 2020, the Chamber ordered the Office of the Prosecutor (the ‘Prosecution’) to file any applications under Rule 68(3) of the Rules no less than 45 days before the scheduled start of the relevant witness’s testimony and provided initial guidance on such applications.²
3. On 9 November 2020, the Prosecution filed its Final Witness List, indicating that it intends to call 71 witnesses, including four experts, pursuant to Rule 68(3) of the Rules.³
4. Between 4 December 2020 and 9 February 2021, the Prosecution requested to introduce under Rule 68(3) of the Rules the statements and associated documents

¹ Initial Directions, ICC-01/14-01/18-631, paras 32-35, 58, 67.

² Email from the Chamber, 6 October 2020, at 15:00; Decision on the Prosecution Extension Request and Initial Guidance on Rule 68 of the Rules, 16 October 2020, ICC-01/14-01/18-685, paras 10, 11, 19 *et seq* (providing full reasons for the Chamber’s email decision of 6 October 2020).

³ Prosecution’s List of Witnesses and Evidence, ICC-01/14-01/18-724 (with confidential annexes A-C) (notified on 10 November 2020), para. 4, n. 3; Annex A to the Prosecution’s List of Witnesses and Evidence, ICC-01/14-01/18-724-Conf-AnxA (the ‘Final Witness List’).

of witnesses P-1962,⁴ P-1577⁵ and P-0287,⁶ and the reports and associated documents of expert witnesses P-0925, P-2193, P-2926 and P-2927⁷ (the ‘Applications’).⁸

5. Between 16 December 2020 and 22 February 2021, the Yekatom Defence, the Ngaïssona Defence (collectively, the ‘Defence’), the Common Legal Representative of the Former Child Soldiers and the Common Legal Representatives of the Victims of Other Crimes (jointly, the ‘CLRV’) filed their responses to the Applications concerning witnesses P-1962,⁹ P-0287,¹⁰ P-0925,

⁴ Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1962 pursuant to Rule 68(3), 4 December 2020, ICC-01/14-01/18-750-Conf (with confidential annexes A and B) (public redacted version notified on 22 February 2021, ICC-01/14-01/18-750-Red) (the ‘Rule 68(3) Request for P-1962’).

⁵ Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1577 pursuant to Rule 68(3), 1 February 2021, ICC-01/14-01/18-871-Conf (with confidential annexes A and B) (notified on 3 February 2021) (the ‘Rule 68(3) Request for P-1577’).

⁶ Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-0287 pursuant to Rule 68(3), 9 February 2021, ICC-01/14-01/18-877-Conf (with confidential annexes A-C) (public redacted version notified on 17 February 2021, ICC-01/14-01/18-877-Red) (the ‘Rule 68(3) Request for P-0287’).

⁷ Prosecution’s Request for the Formal Submission of the Expert Reports and Associated Materials of P-0925, P-2193, P-2926, and P-2927 pursuant to rule 68(3) and article 69(4), 19 January 2021, ICC-01/14-01/18-834-Conf (with confidential annexes A and B) (public redacted version notified on 25 January 2021, ICC-01/14-01/18-834-Red) (the ‘Rule 68(3) Request for Expert Witnesses’).

⁸ The Chamber further notes the following pending requests: Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-2012 pursuant to Rule 68(3), 1 February 2021, ICC-01/14-01/18-861-Conf (with confidential annexes A and B); Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-0627 pursuant to Rule 68(3), 10 February 2021, ICC-01/14-01/18-879-Conf (with confidential annexes A and B) (notified on 11 February 2021; public redacted version notified on 22 February 2021, ICC-01/14-01/18-879-Red); Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-0801 pursuant to Rule 68(3), 5 March 2021, ICC-01/14-01/18-900-Conf (with confidential annexes A and B).

⁹ Yekatom Defence Response to the “Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1962 pursuant to Rule 68(3)”, 4 December 2020, ICC- ICC-01/14-01/18-750-Conf (*sic*), 16 December 2020, ICC-01/14-01/18-776-Conf (notified on 17 December 2020; public redacted version notified on 24 February 2021, ICC-01/14-01/18-776-Red) (the ‘Yekatom Defence Response to the Rule 68(3) Request for P-1962’); Ngaïssona Defence Response to the “Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1962 pursuant to Rule 68(3)”, ICC-01/14-01/18-750-Conf, 17 December 2020, ICC-01/14-01/18-782-Conf (public redacted version notified on 24 February 2021, ICC-01/14-01/18-782-Red) (the ‘Ngaïssona Defence Response to the Rule 68(3) Request for P-1962’); Common Legal Representatives’ Joint Response to the “Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1962 pursuant to Rule 68(3)”, 17 December 2020, ICC-01/14-01/18-779-Conf (the ‘CLRV Response to the Rule 68(3) Request for P-1962’).

¹⁰ Defence Consolidated Response to the “Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-0287 pursuant to Rule 68(3)” and the “Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-0627 pursuant to Rule 68(3)”, 22 February 2021, ICC-01/14-01/18-888-Conf (public redacted version notified on 23 February 2021, ICC-01/14-01/18-888-Red) (the ‘Ngaïssona Defence Response to the Rule 68(3) Request for P-0287’).

P-2193, P-2926 and P-2927.¹¹

6. On 2 March 2021, the Ngaïssona Defence filed a motion requesting the Chamber to ‘reduce the scope of Witness P-2926’s evidence at trial’ (the ‘Motion on the Scope of P-2926’s Testimony’).¹²
7. On 8 March 2021, the Yekatom Defence joined the Motion on the Scope of P-2926’s Testimony¹³ and the Prosecution filed its response to said motion.¹⁴

II. Analysis

A. Applicable law

8. As an exception to the principle of orality, Article 69(2) of the Statute provides that the Court may permit the introduction of recorded testimonies of witnesses, as well as documents or written transcripts, subject to the Statute and in accordance with the Rules.
9. Rule 68(1) of the Rules gives the Chamber discretion to allow the introduction of prior recorded testimonies of witnesses provided that ‘this would not be prejudicial to or inconsistent with the rights of the accused’ and that the

¹¹ Yekatom Defence Response to the “Prosecution’s Request for the Formal Submission of the Experts Reports and Associated Materials of P-0925, P-2193, P-2926 and P-2927 pursuant to rule 68(3) and article 69(4)”, 19 January 2021, ICC-01/14-01/18-834-Conf, 1 February 2021, ICC-01/14-01/18-864-Conf (public redacted version notified on 3 February 2021, ICC-01/14-01/18-864-Red) (the ‘Yekatom Defence Response to the Rule 68(3) Request for Expert Witnesses’); Defence Response to the “Prosecution’s Request for the Formal Submission of the Expert Reports and Associated Materials of P-0925, P-2193, P-2926, and P-2927 pursuant to rule 68(3) and article 69(4)”, 29 January 2021, ICC-01/14-01/18-859-Conf (public redacted version notified the same day, ICC-01/14-01/18-859-Red) (the ‘Ngaïssona Defence Response to the Rule 68(3) Request for Expert Witnesses’); Common Legal Representatives’ Joint Response to the “Prosecution’s Request for the Formal Submission of the Expert Reports and Associated Materials of P-0925, P-2193, P-2926, and P-2927 pursuant to rule 68(3) and article 69(4)”, 1 February 2021, ICC-01/14-01/18-860-Conf (the ‘CLRv Response to the Rule 68(3) Request for Expert Witnesses’).

¹² Ngaïssona Defence Motion to Limit the Scope of P-2926’s Evidence, ICC-01/14-01/18-897-Conf (notified on 3 March 2021; public redacted version notified on 4 March 2021, ICC-01/14-01/18-897-Red), paras 1, p. 21.

¹³ Yekatom Defence Joinder to ‘Ngaïssona Defence Motion to Limit the Scope of P-2926’s Evidence’ (ICC-01/14-01/18-897), ICC-01/14-01/18-903-Conf (the ‘Yekatom Defence Response to the Motion on the Scope of P-2926’s Testimony’).

¹⁴ Prosecution’s Response to the Ngaïssona Defence Motion to Limit the Scope of P-2926’s Evidence (ICC-01/14-01/18-897-Conf), ICC-01/14-01/18-904-Conf (the ‘Prosecution Response to the Motion on the Scope of P-2926’s Testimony’).

requirements of one or more of the remaining sub-rules under Rule 68 of the Rules are met.

10. Rule 68(3) of the Rules allows the introduction of prior recorded testimonies of witnesses who are present before the Chamber, provided that the witness ‘does not object to the submission of the previously recorded testimony and the Prosecutor, the defence and the Chamber have the opportunity to examine the witness during the proceedings’.
11. As established in the jurisprudence of the Court, the notion of ‘prior recorded testimony’ includes audio- and video-recorded testimony, transcripts of a testimony of a witness and written statements taken under Rules 111 and 112 of the Rules.¹⁵ A statement can be considered prior recorded testimony if the person when providing the statement understands that they are ‘providing information which may be relied upon in the context of legal proceedings’.¹⁶ 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.¹⁷
12. The Chamber recalls at this juncture that, while expert reports are not statements within the meaning of Rules 111 and 112 of the Rules, the Presiding Judge decided in the Initial Directions that ‘[s]ubmitted expert reports must satisfy the

¹⁵ See e.g. Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on the Prosecution’s Applications for Introduction of Prior Recorded Testimony under Rule 68(2)(b) of the Rules, 18 November 2016, ICC-02/04-01/15-596-Conf (public redacted version notified the same day, ICC-02/04-01/15-596-Red) (the ‘Ongwen Rule 68(2) Decision’), para. 9; Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Decision on Prosecution Rule 68(2) and (3) Requests, 11 November 2015, ICC-01/05-01/13-1478-Conf (corrected public redacted version notified on 12 November 2015, ICC-01/05-01/13-1478-Red-Corr) (the ‘Bemba et al. Rule 68 Decision’), paras 28-31; Trial Chamber V(A), *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Decision on Prosecution Request for Admission of Prior Recorded Testimony, 19 August 2015, ICC-01/09-01/11-1938-Conf-Corr (with one confidential annex) (corrected and corrected public redacted version notified on 28 August 2015, ICC-01/09-01/11-1938-Red-Corr2) (the ‘Ruto and Sang Decision on Prior Recorded Testimony’), paras 30-33.

¹⁶ *Bemba et al. Rule 68 Decision*, ICC-01/05-01/13-1478-Red-Corr, para. 32, referring to Trial Chamber II, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Decision on the Prosecutor’s Bar Table Motions, 17 December 2010, ICC-01/04-01/07-2635, para. 49; Trial Chamber II, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Decision on Prosecutor’s request to allow the introduction into evidence of the prior recorded testimony of P-166 and P-219, 3 September 2010, ICC-01/04-01/07-2362 (the ‘Katanga and Ngudjolo Rule 68 Decision’), para. 13.

¹⁷ *Ongwen Rule 68(2) Decision*, ICC-02/04-01/15-596-Red, para. 9; *Bemba et al. Rule 68 Decision*, ICC-01/05-01/13-1478-Red-Corr, para. 32.

procedural prerequisites of Rule 68 of the Rules unless no such objections to the submission are raised'.¹⁸

13. The notion of 'prior recorded testimony' also includes any annex to a witness statement, or document 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.¹⁹
14. Subject to the fulfilment of the requirements of Rule 68(3) of the Rules, the Chamber's determination to allow the introduction of prior recorded testimonies is discretionary and requires a case-by-case assessment. Several factors may guide the Chamber's decision to allow the introduction of such testimony. For example, depending on the relevant circumstances, the Chamber may consider, *inter alia*, whether the evidence relates to issues that are not materially in dispute, whether the evidence is not central to core issues in the case or whether it is corroborative of other evidence.²⁰ The Chamber is mindful that such factors have been explicitly provided for as guiding the Chamber's discretion with regard to the introduction of prior recorded testimonies under Rule 68(2)(b) of the Rules, but not under Rule 68(3) of the Rules. The Chamber considers that this implies that greater discretion is afforded to trial chambers in respect of applying Rule 68(3) of the Rules. This is because Rule 68(3) of the Rules typically carries

¹⁸ Initial Directions, ICC-01/14-01/18-631, para. 67.

¹⁹ *Ongwen* Rule 68(2) Decision, ICC-02/04-01/15-596-Red, para. 10; Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Decision on the Prosecutor's application to introduce prior recorded testimony under Rules 68(2)(b) and 68(3), 9 June 2016, ICC-02/11-01/15-573-Conf (with one annex) (public redacted version notified the same day, ICC-02/11-01/15-573-Red) (the '*Gbagbo and Blé Goudé* Rule 68 Decision'), para. 9; *Ruto and Sang* Decision on Prior Recorded Testimony, ICC-01/09-01/11-1938-Corr-Red2, para. 33; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Decision on Prosecution application under Rule 68(2)(c) of the Rules for admission of prior recorded testimony of P-0022, P-0041 and P-0103, 20 November 2015, ICC-01/04-02/06-1029 (with one annex), paras 23, 35; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Decision on Prosecution application under Rule 68(2)(c) of the Rules for admission of prior recorded testimony of Witness P-0103, 11 March 2016, ICC-01/04-02/06-1205, para. 7.

²⁰ Appeals Chamber, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Judgment on the appeals of Mr Laurent Gbagbo and Mr Charles Blé Goudé against the decision of Trial Chamber I of 9 June 2016 entitled "Decision on the Prosecutor's application to introduce prior recorded testimony under Rules 68(2)(b) and 68(3)", 1 November 2016, ICC-02/11-01/15-744 (the '*Gbagbo and Blé Goudé* Appeals Judgment'), paras 67, 69; Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on Prosecution's Application to Introduce Prior Recorded Testimony and Related Documents Pursuant to Rule 68(3) of the Rules, 5 December 2016, ICC-02/04-01/15-621 (the '*Ongwen* Rule 68(3) Decision'), para. 7.

a lower risk of interference with the fair trial rights of the accused than Rule 68(2)(b) of the Rules,²¹ given that the witness appears before the Chamber and is available for examination, including by the accused. In this regard, the Chamber recalls that the introduction of a prior recorded testimony under Rule 68(3) of the Rules is not ‘intended to replace oral testimony but, rather, complement it’.²²

15. Further, as stated by the Appeals Chamber, expeditiousness is also a factor relevant to the application of Rule 68(3) of the Rules, ‘since its use in principle aims at reducing the amount of time devoted to hearing oral testimony in court’.²³ In this regard, the Chamber recalls that when resorting to Rule 68(3) of the Rules, the calling participant is expected to streamline its questioning considerably.²⁴
16. Lastly, the Chamber highlights that its determination whether a prior recorded testimony can be introduced pursuant to Rule 68(3) of the Rules depends on its consideration of the testimony as a whole. Although the parties may choose to rely on particular extracts of prior recorded testimonies to present their case, it is the prior recorded testimony as a whole that is submitted pursuant to Rule 68(3) of the Rules. No piecemeal approach shall be applied.²⁵

B. Analysis of the prior recorded testimonies and related requests

17. At the outset, the Chamber stresses that its determination on the introduction of the prior recorded testimonies is preliminary in nature and subject to the fulfilment during the hearings of the requirements of Rule 68(3) of the Rules, namely (i) the witness being present before the Chamber, (ii) not objecting to the submission of their prior recorded testimony and (iii) the parties and the Chamber

²¹ *Gbagbo and Blé Goudé* Rule 68 Decision, ICC-02/11-01/15-573-Red, para. 24.

²² *Gbagbo and Blé Goudé* Appeals Judgment, ICC-02/11-01/15-744, para. 79. *See also Ongwen Rule 68(3) Decision*, ICC-02/04-01/15-621, para. 6.

²³ *Gbagbo and Blé Goudé* Appeals Judgment, ICC-02/11-01/15-744, para. 61.

²⁴ Initial Directions, ICC-01/14-01/18-631, para. 35.

²⁵ *See Ongwen Rule 68(2) Decision*, ICC-02/04-01/15-596-Red, para. 13; Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Prosecution’s requests to introduce prior recorded testimonies under Rule 68(3) of the Rules, 5 August 2020, ICC-01/12-01/18-987-Conf (public redacted version notified on 21 October 2020, ICC-01/12-01/18-987-Red), paras 13, 15. *See further* Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Order on the procedure relating to the submission of evidence, 31 May 2011, ICC-01/05-01/08-1470, para. 11.

having an opportunity to examine the witness. Accordingly, the Chamber will make its final determination when each witness will appear before it.²⁶

1. *P-1962*

i. Submissions

18. The Prosecution seeks to introduce the prior recorded testimony of witness P-1962, comprising two statements and several associated documents (including a map, two videos, [REDACTED] and other documents).²⁷ It submits that the introduction of P-1962's prior recorded testimony would help streamline the proceedings and reduce the time for its examination of the witness from six to three hours.²⁸ According to the Prosecution, P-1962's prior recorded testimony is corroborated by 17 other witnesses who will testify at trial, four witnesses whose testimonies the Prosecution seeks to introduce under Rule 68(2)(b) of the Rules and documentary evidence.²⁹ To reduce the overall volume of written material, the Prosecution further identifies portions of P-1962's prior recorded testimony and associated documents on which it does not intend to rely and which it does not seek to introduce.³⁰
19. The CLRV support the Prosecution's request, highlighting that it promotes the rights of victims to expeditious proceedings.³¹
20. The Yekatom Defence opposes the request.³² It submits that the introduction of P-1962's prior recorded testimony would infringe on the rights of Mr Yekatom and on the fairness of the proceedings as the witness is too important, his

²⁶ See also Initial Directions, ICC-01/14-01/18-631, para. 58.

²⁷ Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Red, paras 1, 21; Annex A to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Conf-AnxA.

²⁸ Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Red, paras 3, 24, 26.

²⁹ Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Conf, paras 17-20.

³⁰ Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Red, paras 4, 6, 21-22; Annex A to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Conf-AnxA.

³¹ CLRV Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-779-Conf, paras 2-3, 17, 19.

³² Yekatom Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-776-Red, paras 1, 43.

statements relate to core issues in the case that are materially in dispute and the statements are not corroborative of other evidence intended to be presented.³³

21. The Ngaïssona Defence joins and supports the submissions made by the Yekatom Defence.³⁴ It adds that the importance of P-1962's prior recorded testimony to the charges against Mr Ngaïssona further weighs against its introduction under Rule 68(3) of the Rules.³⁵ Should the Chamber nonetheless grant the Prosecution's request, the Ngaïssona Defence requests that it be provided with sufficient time to examine the witness – time which should not be subtracted from the maximum of 200 hours that it has been allocated – and that the prior recorded testimony be introduced in its entirety.³⁶

ii. The Chamber's determination

22. In his statements,³⁷ P-1962 discusses (i) [REDACTED] the alleged Anti-Balaka attack on Boda, in early February 2014 (the 'Boda Attack'); (ii) [REDACTED]; (iii) crimes allegedly committed by the Anti-Balaka in or around Boda; (iv); [REDACTED] (v) [REDACTED]; (vi) the alleged displacement by the Anti-Balaka of the Muslim population along the PK9 – Mbaïki axis; (vii) the areas and checkpoints under Mr Yekatom's control; and (viii) [REDACTED].
23. The Chamber finds that it is not necessary for P-1962's testimony to be presented orally in its entirety. First, P-1962's statements relate largely to the alleged Boda Attack and its aftermath. Contrary to the Yekatom Defence's submissions,³⁸ this attack and the alleged Anti-Balaka crimes committed in or around Boda do not form part of the charges, but rather support the contextual elements of the charged

³³ Yekatom Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-776-Conf, paras 2, 24, 27-32, 34-36.

³⁴ Ngaïssona Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-782-Red, paras 1, 14.

³⁵ Ngaïssona Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-782-Conf, paras 1, 4-5, 7-8.

³⁶ Ngaïssona Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-782-Red, paras 1, 10, 12-13, 15.

³⁷ CAR-OTP-2068-0037 and CAR-OTP-2071-0003.

³⁸ Yekatom Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-776-Red, para. 24.

crimes.³⁹ Second, to the extent that P-1962's statements relate to certain charged crimes, such as the alleged forcible transfer, deportation and displacement of the Muslim population along the PK9 – Mbaiki axis, the Chamber notes that the information provided by P-1962 is limited and that other witnesses are expected to offer full in-court testimony on the same issues.⁴⁰ Third, the Chamber notes that the introduction of P-1962's prior recorded testimony would cut the time for the Prosecution's examination of the witness by half,⁴¹ thereby promoting the expeditiousness of the proceedings.

24. As regards the Defence's submissions that P-1962's statements relate to core issues in the case that are materially in dispute,⁴² the Chamber recalls that the Defence will have the opportunity to examine the witness on these issues in court. The Chamber emphasises that the Defence will be granted a reasonable amount of time for its questioning of the witness, to be determined as appropriate and on a case-by-case basis, and will not be constrained by the amount of time used by the Prosecution.⁴³ The Chamber does not consider it necessary to further address the Ngaïssona Defence's request⁴⁴ in this regard.
25. Noting that the Prosecution seeks to exclude certain paragraphs from P-1962's statements⁴⁵ and mindful of the Ngaïssona Defence's request in this regard for the prior recorded testimony be introduced in its entirety,⁴⁶ the Chamber recalls

³⁹ See Pre-Trial Chamber II, Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona, 11 December 2019, ICC-01/14-01/18-403-Conf-Corr (corrected and corrected public redacted version notified on 14 May 2020, ICC-01/14-01/18-403-Red-Corr), para. 64; see also Prosecution's Trial Brief, 9 November 2020, ICC-01/14-01/18-723-Conf (notified on 10 November 2020), para. 153.

⁴⁰ For example, P-2233: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 33, entry 52; transcript of interview, CAR-OTP-2118-5956-R01, at 5968-5970; P-2475: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 35, entry 57; witness statement, CAR-OTP-2110-0556-R04, at 0578, para. 149; P-1839: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, pp. 15-16, entry 4; transcript of interview, CAR-OTP-2072-0946-R03, at 0958.

⁴¹ See Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Red, paras 24, 26.

⁴² Yekatom Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-776-Conf, paras 27-32; Ngaïssona Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-782-Conf, paras 3-5.

⁴³ See also *Ongwen* Rule 68(3) Decision, ICC-02/04-01/15-621, para. 32.

⁴⁴ Ngaïssona Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-782-Conf, paras 1, 10, 15.

⁴⁵ Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Red, para. 4; Annex A to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Conf-AnxA, p. 2.

⁴⁶ Ngaïssona Defence Response to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-782-Red, paras 1, 12-13, 15.

that, as stated above, it is the prior recorded testimony as a whole that is submitted pursuant to Rule 68(3) of the Rules.⁴⁷

26. Regarding the associated documents, the Chamber notes that the witness used and explained in his statements not only the annexes that the Prosecution seeks to introduce,⁴⁸ but also all remaining annexes attached to the two statements. Noting that all annexes thus form an integral part of the witness's statements, and in light of the above findings,⁴⁹ the Chamber considers it appropriate that all annexes to P-1962's statements be introduced. Further, the Chamber notes that the Prosecution has not provided the electronic registration numbers (hereinafter 'ERNs') for certain annexes, or in other cases has provided incorrect ERNs. It therefore instructs the Prosecution to provide the ERNs for Annexes A and D to the first statement and Annex D to the second statement and the correct ERN for Annex B to the second statement.
27. In light of the above, the Chamber considers that the introduction of P-1962's prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.
28. Accordingly, the Chamber grants the Prosecution's request to introduce the prior recorded testimony of P-1962⁵⁰ and associated documents⁵¹ under Rule 68(3) of the Rules.

2. *P-0925*

i. Submissions

29. The Prosecution seeks to introduce the prior recorded testimony of expert witness P-0925, comprising one report and two associated documents (the Prosecution's

⁴⁷ See paragraph 16 above.

⁴⁸ See Annex A to the Rule 68(3) Request for P-1962, ICC-01/14-01/18-750-Conf-Anx A.

⁴⁹ See paragraph 13 above.

⁵⁰ CAR-OTP-2068-0037; CAR-OTP-2104-0656 (French translation); CAR-OTP-2071-0003; CAR-OTP-2107-6808 (French translation).

⁵¹ Annex A to CAR-OTP-2068-0037; CAR-OTP-2068-0072; CAR-OTP-2068-0073; Annex D to CAR-OTP-2068-0037; CAR-OTP-2068-0075; CAR-OTP-2068-0077; CAR-OTP-2068-0079; CAR-OTP-2068-0080; CAR-OTP-2068-0082; CAR-OTP-2068-0083; CAR-OTP-2066-5312; CAR-OTP-2060-0795; CAR-OTP-2071-0021; Annex B to CAR-OTP-2071-0003; CAR-OTP-2071-0093; Annex D to CAR-OTP-2071-0003.

letter of instruction and the *curriculum vitae* [the ‘CV’] of this witness).⁵² It submits that P-0925 is a qualified expert in cross-cultural trauma psychiatry and conflict-related trauma, and that his report falls squarely within his area of expertise, is relevant and reliable, and has significant probative value.⁵³ The Prosecution adds that the introduction of P-0925’s prior recorded testimony would reduce the time for its examination of the witness from four to one and a half hours.⁵⁴

30. The CLRV support the Prosecution’s request, highlighting that it promotes the rights of victims to expeditious proceedings.⁵⁵
31. The Ngaïssona Defence defers to the Yekatom Defence’s position regarding the introduction of P-0925’s prior recorded testimony,⁵⁶ who defers to the Chamber’s discretion.⁵⁷ At the same time, the Yekatom Defence requests the Chamber to defer its decision until an eventual sentencing phase, if any, as P-0925’s prior recorded testimony would have no value in determining the guilt or innocence of the accused.⁵⁸

ii. The Chamber’s determination

32. In his report,⁵⁹ P-0925 discusses the ‘mental health outcomes of trauma’ as a result of rape, using children under the age of 15 years to actively participate in hostilities, displacement, deportation and forcible transfer of population in the Central African Republic (the ‘CAR’).

⁵² Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, para. 1; Annex A to Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf-AnxA, p. 2.

⁵³ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 5, 7-15.

⁵⁴ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 39-40.

⁵⁵ CLRV Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-860-Conf, paras 2, 18.

⁵⁶ Ngaïssona Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-859-Red, paras 2, 10.

⁵⁷ Yekatom Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-864-Red, paras 2, 7.

⁵⁸ Yekatom Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-864-Red, paras 2, 7-12, 27.

⁵⁹ CAR-OTP-2127-6805.

33. At the outset, the Chamber notes the Yekatom Defence's request to defer its decision regarding the introduction of P-0925's prior recorded testimony until an eventual sentencing phase, if any.⁶⁰ Having considered the content of the report, the Chamber sees no reason to do so and rejects the request accordingly.
34. The Chamber finds that it is not necessary for P-0925's testimony to be presented orally in its entirety as (i) the testimony does not go to core issues in the case; (ii) the Defence does not oppose its introduction under Rule 68(3) of the Rules; and (iii) its introduction would cut the time for the Prosecution's examination of the witness by more than half,⁶¹ thereby promoting the expeditiousness of the proceedings.
35. In light of the above, the Chamber considers that the introduction of P-0925's prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.
36. Accordingly, the Chamber grants the Prosecution's request to introduce the prior recorded testimony of P-0925⁶² and associated documents⁶³ under Rule 68(3) of the Rules.

3. *P-2193*

i. Submissions

37. The Prosecution seeks to introduce the prior recorded testimony of expert witness P-2193, comprising a report with two annexes and 54 associated documents (including satellite images, the Prosecution's letters of instruction, the witness's CV and a map).⁶⁴ The Prosecution submits that P-2193 is an expert in geospatial and satellite imagery analysis, working for the United Nations (the 'UN') Operational Satellite Applications Programme.⁶⁵ It adds that his report falls

⁶⁰ Yekatom Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-864-Red, paras 2, 27.

⁶¹ See Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 39-40.

⁶² CAR-OTP-2127-6805.

⁶³ CAR-OTP-2122-8997; CAR-OTP-2122-9975.

⁶⁴ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, para. 1; Annex A to Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf-AnxA, pp. 2-8.

⁶⁵ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf, paras 5, 16, 18.

squarely within his area of expertise, is relevant and reliable, and has significant probative value.⁶⁶ The Prosecution submits that the introduction of P-2193's prior recorded testimony would reduce the time for its examination of the witness from four to one and a half hours.⁶⁷

38. The Prosecution further requests the Chamber to issue an order giving effect to certain conditions and limitations imposed on P-2193's testimony by the UN Office of Legal Affairs, in light of his status as a UN official. The Prosecution submits that the UN consents to P-2193's testimony subject to the following conditions: (i) the examination of P-2193 is to be limited to the information contained in his report; (ii) P-2193 is not authorised to give answers which would endanger the safety or security of any person, prejudice the security or proper conduct of any operation or activity of the UN or of its specialised agencies or related organisations or of its implementing partners or executing agencies, violate an obligation of confidentiality owed by the UN to a third party, violate or interfere with the privacy of a third person, undermine or compromise the free and independent decision-making processes of the UN, or endanger the security of any member state of the UN; and (iii) the witness is not authorised to provide copies of confidential documents of the UN or disclose their contents.⁶⁸
39. The CLRV support the Prosecution's request to introduce the prior recorded testimony of P-2193, highlighting that it promotes the rights of victims to expeditious proceedings.⁶⁹
40. Both Defence teams defer to the Chamber's discretion with regard to the introduction of P-2193's prior recorded testimony, as well as on the subject of the conditions imposed by the UN.⁷⁰ With regard to the latter, the Ngaïssona Defence requests the Chamber to (i) preserve its judicial discretion to authorise, on a case-

⁶⁶ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 17, 21-24.

⁶⁷ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 39-40.

⁶⁸ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf, paras 3, 43, 46; Annex B to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf-AnxB, pp. 3-4.

⁶⁹ CLRV Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-860-Conf, paras 2, 18.

⁷⁰ Ngaïssona Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-859-Conf, paras 2-3, 10, 15; Yekatom Defence Response to the Second Rule 68(3) Request, ICC-01/14-01/18-864-Conf, paras 2, 15-16.

by-case basis, whether the witness can decline to answer a question, in order to ensure that Mr Ngaïssona's right to examine the witness is not infringed by the UN-imposed conditions; and (ii) assign lower probative value to the witness's testimonial evidence in the event that he declines to answer a question.⁷¹

ii. The Chamber's determination

41. In his report,⁷² P-2193 discusses satellite imagery taken between mid-2013 and the end of 2014 at several locations in the CAR: Bangui and surroundings, Bossangoa, Berberati, Boda, Carnot and Yaloké. The witness assesses the state of structures at certain points in time in these locations, possible signs of graves, signs of checkpoints or barricades and gatherings of people.
42. The Chamber finds that it is not necessary for P-2193's testimony to be presented orally in its entirety considering that the introduction of his prior recorded testimony would cut the time for the Prosecution's examination of the witness by more than half,⁷³ promoting the expeditiousness of the proceedings and streamlining the presentation of evidence, and noting that the Defence does not oppose it.
43. In light of the above, the Chamber considers that the introduction of P-2193's prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.
44. Accordingly, the Chamber grants the Prosecution's request to introduce P-2193's prior recorded testimony⁷⁴ and associated documents⁷⁵ under Rule 68(3) of the Rules.

⁷¹ Ngaïssona Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-859-Conf, paras 16-17. *See also* Yekatom Defence Response to the Second Rule 68(3) Request, ICC-01/14-01/18-864-Conf, para. 16.

⁷² CAR-OTP-2127-6617.

⁷³ *See* Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 39-40.

⁷⁴ CAR-OTP-2127-6617; CAR-OTP-2127-6626; CAR-OTP-2127-6634.

⁷⁵ CAR-OTP-2127-6633; CAR-OTP-2127-6645; CAR-OTP-2127-6646; CAR-OTP-2127-6647; CAR-OTP-2127-6648; CAR-OTP-2127-6649; CAR-OTP-2127-6650; CAR-OTP-2127-6651; CAR-OTP-2127-6652; CAR-OTP-2127-6653; CAR-OTP-2127-6654; CAR-OTP-2127-6655; CAR-OTP-2127-6656; CAR-OTP-2127-6657; CAR-OTP-2127-6658; CAR-OTP-2127-6659; CAR-OTP-2127-6662; CAR-OTP-2127-6663; CAR-OTP-2127-6664; CAR-OTP-2127-6667; CAR-OTP-2127-6668; CAR-

45. In relation to the Prosecution's request to issue an order giving effect to the conditions imposed by the UN on P-2193's testimony, the Chamber notes Article 64(6)(c) of the Statute, entitling the Chamber to provide for the protection of confidential information, and Articles 15(3) and 16 of the Negotiated Relationship Agreement between the International Criminal Court and the United Nations (the 'Relationship Agreement'),⁷⁶ which provide for the protection of confidential information and the safety and security of UN personnel, operations and activities.
46. Having considered the conditions and any potential impact on the proceedings, the Chamber decides that the testimony of P-2193 shall proceed under the conditions sought by the UN, subject to the following.⁷⁷ Considering Article 64(2) of the Statute, the Chamber will rule on a case-by-case basis whenever the witness indicates that a question may lead to an answer which could infringe one or more of the conditions set by the UN.⁷⁸
47. As to the Ngaïssona Defence's request to assign lower probative value to the witness's testimony if he declines to answer a question, the Chamber recalls that it will assess the probative value of the testimony as part of its holistic assessment when deliberating its judgment pursuant to Article 74(2) of the Statute.⁷⁹

OTP-2127-6669; CAR-OTP-2127-6670; CAR-OTP-2127-6671; CAR-OTP-2127-6672; CAR-OTP-2127-6673; CAR-OTP-2127-6676; CAR-OTP-2127-6677; CAR-OTP-2127-6678; CAR-OTP-2127-6679; CAR-OTP-2127-6680; CAR-OTP-2127-6681; CAR-OTP-2127-6682; CAR-OTP-2127-6683; CAR-OTP-2127-6684; CAR-OTP-2127-6685; CAR-OTP-2127-6686; CAR-OTP-2127-6687; CAR-OTP-2127-6688; CAR-OTP-2127-6689; CAR-OTP-2127-6690; CAR-OTP-2127-6691; CAR-OTP-2127-6692; CAR-OTP-2127-6693; CAR-OTP-2122-8984; CAR-OTP-2122-8986; CAR-OTP-2127-3932; CAR-OTP-2130-0304; CAR-OTP-2118-9830; CAR-OTP-2118-9829; CAR-OTP-2001-5351; CAR-OTP-2001-5350; CAR-OTP-2079-0671; CAR-OTP-2118-9140.

⁷⁶ Relationship Agreement, 22 July 2004, ICC-ASP/3/Res.1.

⁷⁷ See also Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Blé Goudé*, Decision on the Prosecution request for an order giving effect to conditions of testimony for United Nations staff, 23 October 2015, ICC-02/11-01/15-313-Conf (the '*Gbagbo and Blé Goudé* Decision on Conditions to Testimony of UN Staff'), para. 14.

⁷⁸ See also Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Decision on the Prosecution request for an order giving effect to conditions to testimony of United Nations staff, 6 October 2015, ICC-01/04-02/06-888-Conf (the '*Ntaganda* Decision on Conditions to Testimony of UN Staff'), para. 16.

⁷⁹ Initial Directions, ICC-01/14-01/18-631, para. 53.

4. P-2926

i. Submissions

48. The Prosecution seeks to introduce the prior recorded testimony of expert witness P-2926, comprising one report and three associated documents (the Prosecution's letter of instruction, the witness's CV and a list of publications and media contributions made by the witness, related to the situation in the CAR).⁸⁰ The Prosecution submits that P-2926 is an expert in political science and conflict analysis, with an expertise in Sub-Saharan Africa.⁸¹ It adds that his report, which contains an analysis of the political and security situation in the CAR in 2013 and 2014, falls within his area of expertise, is particularly relevant to the contextual elements of the charged crimes, has significant probative value and is reliable.⁸² It further adds that the introduction of P-2926's prior recorded testimony would reduce the time for its examination of the witness from four to one and a half hours.⁸³
49. The CLRV support the Prosecution's request, highlighting that it promotes the rights of victims to expeditious proceedings.⁸⁴
50. Both Defence teams defer to the Chamber's discretion with regard to the introduction of P-2926's prior recorded testimony under Rule 68(3) of the Rules.⁸⁵ At the same time, the Ngaïssona Defence submits that its position on the mode of testimony is without prejudice to any potential challenge to the scope of P-2926's anticipated testimony.⁸⁶

⁸⁰ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, para. 1; Annex A to Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf-AnxA, p. 8.

⁸¹ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf, paras 5, 25-28.

⁸² Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 26, 29-31.

⁸³ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 39-40.

⁸⁴ CLRV Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-860-Conf, paras 2, 18.

⁸⁵ Ngaïssona Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-859-Red, paras 2, 12; Yekatom Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-864-Red, paras 2, 18. Previously, the Defence opposed the witness testifying before the Court and requested the Chamber to exclude the witness and his report from the proceedings. The request was rejected; see Decision on the Yekatom Defence Request to Exclude Expert Witness P-2926, 11 February 2021, ICC-01/14-01/18-881.

⁸⁶ Ngaïssona Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-859-Red, paras 12-13.

51. In its subsequent Motion on the Scope of P-2926's Testimony, the Ngaïssona Defence requests the Chamber to (i) restrict P-2926's anticipated testimony to the context of the conflict; (ii) preclude P-2926 from giving his opinion on the alleged role of Mr Ngaïssona in the conflict; and (iii) prevent the admission of a series of paragraphs from the report prepared by P-2926.⁸⁷ The Ngaïssona Defence argues, in essence, that P-2926's report (i) usurps the Chamber's role as the trier of fact by entering into findings on Mr Ngaïssona's alleged responsibility; (ii) lacks neutrality and impartiality, which limits its probative value; (iii) exceeds P-2926's field of expertise; and (iv) lacks a clear methodology.⁸⁸
52. The Yekatom Defence 'adopts in full' the Ngaïssona Defence's submissions and relief sought and requests, in addition and/or in the alternative, that two references to Mr Yekatom made in the report be excluded from the evidentiary record, as being unsupported and unsubstantiated.⁸⁹
53. The Prosecution advances that the Motion on the Scope of P-2926's Testimony should be rejected.⁹⁰ It submits, first, that P-2926 is an 'overview / background expert' and his report does not pronounce upon the ultimate issue of the guilt or innocence of the accused and does not usurp the Chamber's role as the trier of fact.⁹¹ Second, any objections to the witness's neutrality, impartiality and methodology can be raised during his testimony and go to the weight of the evidence, which is to be assessed by the Chamber at the end of the trial.⁹²

ii. The Chamber's determination

54. In his report,⁹³ P-2926 discusses the political and security situation in the CAR from 2011 to the end of 2014 and covers, *inter alia* (i) the emergence and constitution of the Seleka in 2012; (ii) the creation of the *Comité d'organisation*

⁸⁷ Motion on the Scope of P-2926's Testimony, ICC-01/14-01/18-897-Red, pp. 17-18.

⁸⁸ Motion on the Scope of P-2926's Testimony, ICC-01/14-01/18-897-Red, paras 1, 3, 24, 30, 37-43.

⁸⁹ Yekatom Defence Response to the Motion on the Scope of P-2926's Testimony, ICC-01/14-01/18-903-Conf, paras 2,3, 5-7, 11, 14.

⁹⁰ Prosecution Response to the Motion on the Scope of P-2926's Testimony, ICC-01/14-01/18-904-Conf, paras 1, 14.

⁹¹ Prosecution Response to the Motion on the Scope of P-2926's Testimony, ICC-01/14-01/18-904-Conf, paras 1, 4-5, 9.

⁹² Prosecution Response to the Motion on the Scope of P-2926's Testimony, ICC-01/14-01/18-904-Conf, paras 1, 10-11, 13.

⁹³ CAR-OTP-2127-4289.

des actions citoyenne and the *Coalition citoyenne d'opposition aux rebellions armées*; (iii) the March 2013 *coup d'état* and Seleka's time in power; (iv) the formation of the Anti-Balaka; (v) the emergence of the *Front pour le retour à l'ordre constitutionnel en Centrafrique*; (vi) the political and security situation in 2014; and (vii) the degree of cohesion within the Seleka and the Anti-Balaka throughout 2013 and 2014.

55. Turning, first, to the Motion on the Scope of P-2926's Testimony, the Chamber recalls its previous finding that the subject matter of P-2926's anticipated testimony and his report seem to fall within the witness's area of expertise and do not take over the functions of the Chamber. Moreover, the Chamber recalls that it did not consider the expert's testimony and report to be so clearly irrelevant as to preclude the Prosecution from presenting this evidence.⁹⁴ The Chamber sees no reason to reconsider this decision. As stated above, in his report, the witness discusses the circumstances surrounding the March 2013 Seleka *coup d'état* and the emergence and evolution of the Seleka and the Anti-Balaka. This information pertains to the political background in the CAR before and throughout the time relevant to the charges and does not usurp the role of the Chamber as the trier of fact regarding the accused's alleged responsibility. Further, to the extent that the Ngaïssona Defence challenges the qualifications of the witness, the Chamber additionally notes that, pursuant to the Initial Directions, such challenges should have been made no later than 30 days before the anticipated testimony of the expert witness.⁹⁵ Considering that P-2926 is scheduled to testify during the first evidentiary block,⁹⁶ to be held from 15 to 31 March 2021,⁹⁷ the Chamber finds that the Motion on the Scope of P-2926's Testimony was filed out of time.

⁹⁴ Decision on the Yekatom Defence Request to Exclude Expert Witness P-2926, ICC-01/14-01/18-881, paras 10-11.

⁹⁵ Initial Directions, ICC-01/14-01/18-631, para. 66.

⁹⁶ See Annex B to the Prosecution's List of Witnesses and Evidence, ICC-01/14-01/18-724-Conf-AnxB, p. 2, entry 4; email from the Prosecution, 15 February 2021, at 18:07; email from the Prosecution, 1 March 2021, at 15:23; email from the Prosecution 4 March 2021, at 20:01.

⁹⁷ Order Setting the Commencement Date of the Prosecution's Presentation of Evidence, 13 January 2021, ICC-01/14-01/18-817.

56. Regarding the Defence's arguments on the neutrality, impartiality and methodology of the report,⁹⁸ the Chamber recalls that it will assess the probative value of the prior recorded testimony as part of its holistic assessment when deliberating its judgment pursuant to Article 74(2) of the Statute.⁹⁹ Finally, the Chamber does not consider it necessary to regulate the questioning of witnesses in the abstract and recalls the Initial Directions in this regard.¹⁰⁰ In light of the above, the Chamber rejects the Motion on the Scope of P-2926's Testimony.
57. Turning to the Prosecution's request under Rule 68(3) of the Rules, the Chamber finds that it is not necessary for P-2926's testimony to be presented orally in its entirety. First, the Chamber notes that P-2926's report provides background information on the political and security situation in the CAR, between 2011 and 2014, and is relevant to the contextual elements of the crimes charged. To the extent that the report touches upon the role of the accused, the Chamber notes that this information is part of the overview of the political situation provided by the witness and recalls that the Defence will have the opportunity to examine him on these issues in court. Second, the Chamber observes that the Defence does not oppose the introduction of P-2926's prior recorded testimony under Rule 68(3) of the Rules as such. Third, its introduction would cut the time for the Prosecution's examination of the witness by more than half,¹⁰¹ thereby promoting the expeditiousness of the proceedings.
58. In light of the above, the Chamber considers that the introduction of P-2926's prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.

⁹⁸ Motion on the Scope of P-2926's Testimony, ICC-01/14-01/18-897-Red, paras 30-43; Yekatom Defence Response to the Motion on the Scope of P-2926's Testimony, ICC-01/14-01/18-903-Conf, paras 5-12.

⁹⁹ Initial Directions, ICC-01/14-01/18-631, para. 53.

¹⁰⁰ Initial Directions, ICC-01/14-01/18-631, para. 4.

¹⁰¹ See Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 39-40.

59. Accordingly, the Chamber grants the Prosecution's request to introduce P-2926's prior recorded testimony¹⁰² and associated documents¹⁰³ under Rule 68(3) of the Rules.

5. P-2927

i. Submissions

60. The Prosecution seeks to introduce the prior recorded testimony of expert witness P-2927, comprising two reports and four associated documents (two letters of instruction from the Prosecution and two CVs).¹⁰⁴ The Prosecution submits that P-2927 is an expert in anthropology and African history and culture, and that her reports fall squarely within her area of expertise, are relevant and reliable, and have significant probative value.¹⁰⁵ It adds that the introduction of P-2193's prior recorded testimony would reduce the time for its examination of the witness from four to one and a half hours.¹⁰⁶
61. The CLRV support the Prosecution's request, highlighting that it promotes the rights of victims to expeditious proceedings.¹⁰⁷
62. The Ngaïssona Defence defers to the Yekatom Defence's position regarding the introduction of P-2927's prior recorded testimony,¹⁰⁸ who opposes the Prosecution's request and challenges the probative value and relevance of P-2927's reports.¹⁰⁹ The Yekatom Defence submits that neither report would be of assistance to the Chamber as one is centred on the history of 'child soldiers in CAR' and the other is mostly comprised of testimonies of anonymous sources, which have no specific link to the present case and go beyond the scope of

¹⁰² CAR-OTP-2127-4289.

¹⁰³ CAR-OTP-2122-8978; CAR-OTP-2127-4327; CAR-OTP-2122-9529.

¹⁰⁴ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, para. 1; Annex A to Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf-AnxA, pp. 8-9.

¹⁰⁵ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Conf, paras 5, 33, 36-38.

¹⁰⁶ Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 39-40.

¹⁰⁷ CLRV Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-860-Conf, paras 2, 18.

¹⁰⁸ Ngaïssona Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-859-Red, paras 2, 10.

¹⁰⁹ Yekatom Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-864-Red, paras 2, 19, 27.

admissible expertise before the Court.¹¹⁰ Should the Chamber nonetheless consider that P-2927's testimony may be of assistance, the Yekatom Defence requests that the Chamber defer its decision under Rule 68(3) of the Rules until an eventual sentencing phase, if any.¹¹¹

ii. The Chamber's determination

63. In her reports,¹¹² P-2927 provides a historical analysis of the enrolment and use of children in armed groups and armed forces in the CAR, including children under the age of 15 years, and the effects that recruitment in the Anti-Balaka, in 2013 and 2014, had on children under the age of 15.
64. Turning, first, to the Yekatom Defence's challenge to the relevance and probative value of P-2927's reports, the Chamber recalls that it is possible to call an expert on issues that do not go specifically to the facts *sub judice*, but to necessary contextual information.¹¹³ Considering the content of the reports, the Chamber finds that they are not so clearly irrelevant as to preclude the Prosecution from presenting this evidence. As to their probative value, the Chamber recalls that it will make this assess as part of its holistic assessment when deliberating its judgment pursuant to Article 74(2) of the Statute.¹¹⁴ Further, the Chamber sees no reason to defer its determination on the introduction of P-2927's prior recorded testimony under Rule 68(3) of the Rules to a potential sentencing stage. Accordingly, the Chamber rejects the Yekatom Defence's request in its entirety.

¹¹⁰ Yekatom Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-864-Red, paras 20-24.

¹¹¹ Yekatom Defence Response to the Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-864-Red, paras 2, 25, 27.

¹¹² CAR-OTP-2122-9082; CAR-OTP-2122-9155.

¹¹³ See Decision on the Yekatom Defence Request to Exclude Expert Witness P-2926, ICC-01/14-01/18-881, para. 9; Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Decision on the Prosecution Request to Exclude Defence Witness D22-0004, 24 February 2016, ICC-01/05-01/13-1653, para. 11, n. 21 referring to Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Decision on Defence preliminary challenges to Prosecution's expert witnesses, 9 February 2016, ICC-01/04-02/06-1159; Trial Chamber V(a), *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Decision on Sang Defence Application to exclude Expert Report of Mr Hervé Maupéu, 7 August 2013, ICC-01/09-01/11-844; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on "Prosecution's Motion to Exclude Defence Political-Military Strategy Expert", 21 August 2012, ICC-01/05-01/08-2273.

¹¹⁴ Initial Directions, ICC-01/14-01/18-631, para. 53.

65. Turning to the Prosecution's request under Rule 68(3) of the Rules, the Chamber finds that it is not necessary for P-2927's testimony to be presented orally in its entirety as the report provides only background information and its introduction would cut the time for the Prosecution's examination of the witness by more than half,¹¹⁵ thereby promoting the expeditiousness of the proceedings.
66. In light of the above, the Chamber considers that the introduction of P-2927's prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.
67. Accordingly, the Chamber grants the Prosecution's request to introduce P-2927's prior recorded testimony¹¹⁶ and associated documents¹¹⁷ under Rule 68(3) of the Rules.

6. *P-1577*

i. Submissions

68. The Prosecution seeks to introduce the prior recorded testimony of witness P-1577, comprising two statements and associated documents ([REDACTED] satellite images and metadata files).¹¹⁸ It submits that the introduction of P-1577's prior recorded testimony would help streamline the proceedings and reduce the time for its examination of the witness from eight to five hours.¹¹⁹ According to the Prosecution, P-1577's prior recorded testimony is corroborated by 22 other witnesses.¹²⁰ The Prosecution adds that although each exhibit referenced in P-1577's statements is discussed and may be helpful to contextualise and facilitate their understanding, it only seeks to introduce certain associated documents which it has narrowly assessed as being indispensable.¹²¹

¹¹⁵ See Rule 68(3) Request for Expert Witnesses, ICC-01/14-01/18-834-Red, paras 39-40.

¹¹⁶ CAR-OTP-2122-9082; CAR-OTP-2122-9155.

¹¹⁷ CAR-OTP-2122-8992; CAR-OTP-2122-8995; CAR-OTP-2122-9908; CAR-OTP-2122-9897.

¹¹⁸ Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf, paras 1, 14; Annex A to the Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf-AnxA.

¹¹⁹ Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf, paras 16-19.

¹²⁰ Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf, para. 13.

¹²¹ Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf, para. 15.

69. The CLRV did not respond to the Prosecution's request.¹²²
70. The Yekatom Defence defers to the Ngaissona Defence's position regarding the introduction of P-1577's prior recorded testimony,¹²³ who defers to the Chamber's discretion.¹²⁴

ii. The Chamber's determination

71. In his statements,¹²⁵ P-1577 – [REDACTED] – discusses [REDACTED] various locations in the CAR, including Bangui, Bossangoa, Boali, Yaloké and Bossemptélé [REDACTED].
72. The Chamber finds that it is not necessary for P-1577's testimony to be presented orally in its entirety as (i) the prior recorded testimony is relevant to the contextual elements of the crimes charged; (ii) the Defence does not oppose its introduction under Rule 68(3) of the Rules; and (iii) its introduction would cut the time for the Prosecution's examination of the witness by almost half,¹²⁶ thereby promoting the expeditiousness of the proceedings.
73. Regarding the associated documents, the Chamber notes that the witness used and explained in his statements not only the exhibits that the Prosecution seeks to introduce,¹²⁷ but also other documents. Noting that all documents used or explained by the witness in his statements form an integral part of the testimony itself,¹²⁸ the Chamber considers it appropriate that all documents used or explained by P-1577 be introduced. The Chamber instructs the Prosecution to file anew its list of associated documents to the statements of P-1577, currently provided as Annex A to the request concerning P-1577,¹²⁹ encompassing all associated documents to the witness' statements (the 'Updated List of Associated

¹²² See email from the CLRV, 2 February 2021, at 12:41, informing the Chamber that they support the Prosecution's request for the same reasons as provided in their previous submissions, but that they will not file a response.

¹²³ Email from the Yekatom Defence, 9 February 2021, at 14:33.

¹²⁴ Email from the Ngaissona Defence, 10 February 2021, at 10:55.

¹²⁵ CAR-OTP-2081-0769; CAR-OTP-2088-0717.

¹²⁶ Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf, paras 16-19.

¹²⁷ See Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf, para. 15; Annex A to Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf-AnxA.

¹²⁸ See paragraph 13 above.

¹²⁹ Annex A to Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf-AnxA

Documents to P-1577's Prior Recorded Testimony'). The Chamber further notes that the documents that P-1577 discusses [REDACTED] are identified in his statements by their file name, rather than their ERN.¹³⁰ The Chamber considers that the participants, as well as the Chamber, would be assisted by the Prosecution linking the file names provided by the witness in his statements to their corresponding ERNs. To this end, the Chamber instructs the Prosecution to include in the Updated List of Associated Documents to P-1577's Prior Recorded Testimony, alongside the information already provided,¹³¹ also the file name of each document as referred to in the statements.

74. In light of the above, the Chamber considers that the introduction of P-1577's prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.
75. Accordingly, the Chamber grants the Prosecution's request to introduce P-1577's prior recorded testimony¹³² and associated documents¹³³ under Rule 68(3) of the Rules.

7. *P-0287*

i. Submissions

76. The Prosecution seeks to introduce the prior recorded testimony of witness P-0287, comprising one witness statement and four associated documents (a UN Security Council Resolution and three UN reports).¹³⁴ It submits that the introduction of P-0287's prior recorded testimony would help streamline the proceedings and reduce the time for its examination of the witness from at least seven to four hours.¹³⁵ According to the Prosecution, P-0287's prior recorded

¹³⁰ *E.g.* [REDACTED] referred to in statement CAR-OTP-2081-0769, at 0778.

¹³¹ Description of document, page and/or paragraph where the document is referred to in the statement and corresponding ERN and metadata; Annex A to Rule 68(3) Request for P-1577, ICC-01/14-01/18-871-Conf-AnxA.

¹³² CAR-OTP-2081-0769; CAR-OTP-2088-0717.

¹³³ As indicated in paragraph 73 above.

¹³⁴ Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Red, paras 1, 25; Annex A to the Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Conf-AnxA.

¹³⁵ Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Red, paras 17-19.

testimony is corroborated by 26 other witnesses and by documentary evidence.¹³⁶

To reduce the overall volume of written material, the Prosecution further identifies portions of P-0287's statement on which it does not intend to rely.¹³⁷

77. The Prosecution also requests the Chamber to issue an order giving effect to certain conditions imposed by the UN Office of Legal Affairs on P-0287's testimony, in light of his status as former member of the UN Panel of Experts on the CAR and current member of the UN Panel of Experts on Mali.¹³⁸
78. The Prosecution submits that the UN consents to P-0287 giving testimony subject to a representative of the UN Secretary General being permitted to attend the hearing(s) at which the witness will testify. The representative should be permitted, with the consent of the Chamber, to consult with and be consulted by the witness in the course of his testimony and make submissions to the Chamber that the witness not be required to answer a question or to supply certain information if doing so would endanger the safety or security of any person, prejudice the security or proper conduct of any operation or activity of the UN, or of its specialised agencies or related organisations, or of its implementing partners or executing agencies, violate an obligation of confidentiality owed by the UN to a third party, violate or interfere with the privacy of a third person, undermine or compromise the free and independent decision-making processes of the UN, or endanger the security of any member state of the UN.¹³⁹
79. The CLRV did not respond to the Prosecution's request.¹⁴⁰
80. Both Defence teams defer to the Chamber's discretion with regard to the introduction of P-0287's prior recorded testimony, as well as on the subject of the

¹³⁶ Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Red, para. 13.

¹³⁷ Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Red, para. 5; Annex A to the Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Conf-AnxA, p. 2.

¹³⁸ Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Conf, para. 2; Annex C to the Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Conf-AnxC, p. 2.

¹³⁹ Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Conf, paras 21-22; Annex C to the Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Conf-AnxC, pp. 3-4.

¹⁴⁰ See email from the CLRV, 11 February 2021, at 17:55, informing the Chamber that they will not file a response.

conditions imposed by the UN.¹⁴¹ Should the Chamber grant the Prosecution's request under Rule 68(3) of the Rules, the Ngaïssona Defence submits that it should not be limited in the time allocated to examine the witness.¹⁴² It also requests the Chamber, on the subject of the UN-imposed conditions, to (i) preserve its judicial discretion to authorise, on a case-by-case basis, whether the intervention of the representative of the UN Secretary General is appropriate and whether P-0287 may be authorised not to answer specific questions; (ii) order certain minimum guarantees to ensure that Mr Ngaïssona's right to examine the witness is not infringed; and (iii) assign lower probative value to P-0287's testimonial evidence, in the event that the witness declines to answer a question.¹⁴³

ii. The Chamber's determination

81. In his statement,¹⁴⁴ P-0287's discusses a series of interviews that he conducted between March 2014 and June 2015 with various alleged leaders and members of the Anti-Balaka, including Mr Ngaïssona. He provides information *inter alia* on (i) the Anti-Balaka leadership and alleged role of Mr Ngaïssona; (ii) the composition and evolution of the Anti-Balaka; and (iii) a mission he undertook to Bossangoa in April-May 2014.
82. The Chamber finds that it is not necessary for P-0287's testimony to be presented orally in its entirety. First, the witness provides information which relates, primarily, to the contextual elements of the crimes charged. To the extent that the prior recorded testimony relates to the role of Mr Ngaïssona, the Chamber notes that the information provided by P-0287 is limited and that other witnesses are expected to offer full in-court testimony on the same issues.¹⁴⁵ Second, the

¹⁴¹ Email from the Yekatom Defence, 11 February 2021, at 16:57; Ngaïssona Defence Response to the Rules 68(3) Request for P-0287, ICC-01/14-01/18-888-Conf, paras 2, 10.

¹⁴² Ngaïssona Defence Response to the Rules 68(3) Request for P-0287, ICC-01/14-01/18-888-Red, paras 8, 13.

¹⁴³ Ngaïssona Defence Response to the Rules 68(3) Request for P-0287, ICC-01/14-01/18-888-Conf, paras 11-12, 13(b).

¹⁴⁴ CAR-OTP-2115-0239.

¹⁴⁵ For example, P-2625: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 47, entry 90; P-1719: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 23, entry 23; P-1847: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 52, entry 80; P-2232: Final Witness List, ICC-01/14-01/18-

Chamber also notes that the Defence does not oppose the introduction of P-0287's prior recorded testimony. Third, the Chamber observes that its introduction would cut the time for the Prosecution's examination of the witness by almost half,¹⁴⁶ thereby promoting the expeditiousness of the proceedings.

83. Noting the Prosecution's submission that it has sought to narrowly identify the portions of P-0287's statement on which it intends to rely,¹⁴⁷ the Chamber recalls that it is the prior recorded testimony as a whole that is submitted pursuant to Rule 68(3) of the Rules.¹⁴⁸
84. In light of the above, the Chamber considers that the introduction of P-0287's prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused.
85. Accordingly, the Chamber grants the Prosecution's request to introduce the prior recorded testimony of P-0287¹⁴⁹ and associated documents¹⁵⁰ under Rule 68(3) of the Rules.
86. Regarding the Ngaïssona Defence's request as to the time allocated to examine the witness,¹⁵¹ the Chamber emphasises that the Defence will be granted a reasonable amount of time for its questioning of the witness, to be determined as appropriate and on a case-by-case basis.¹⁵²
87. In relation to the Prosecution's request to issue an order giving effect to the conditions imposed by the UN on P-0287's testimony, the Chamber recalls Article 64(6)(c) of the Statute and Articles 15(3) and 16 of the Relationship Agreement.¹⁵³ Article 16(2) of the Relationship Agreement, in particular, envisages that the UN Secretary General shall be authorised to appoint a

724-Conf-AnxA, pp. 26-27, entry 31; P-0884: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 27, entry 32; P-2269: Final Witness List, ICC-01/14-01/18-724-Conf-AnxA, p. 17, entry 7.

¹⁴⁶ Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Red, paras 17-19.

¹⁴⁷ Rule 68(3) Request for P-0287, ICC-01/14-01/18-877-Red, para. 5.

¹⁴⁸ See paragraph 16 above.

¹⁴⁹ CAR-OTP-2115-0239.

¹⁵⁰ CAR-OTP-2001-0275; CAR-OTP-2001-0835; CAR-OTP-2001-5386; CAR-OTP-2023-0032.

¹⁵¹ Ngaïssona Defence Response to the Rules 68(3) Request for P-0287, ICC-01/14-01/18-888-Red, paras 8, 13.

¹⁵² See also *Ongwen* Rule 68(3) Decision, ICC-02/04-01/15-621, para. 32.

¹⁵³ Relationship Agreement, 22 July 2004, ICC-ASP/3/Res.1.

representative of the UN to assist any UN official who appears as a witness before the Court.

88. Having considered the conditions and any potential impact on the proceedings, the Chamber grants the Prosecution's request and decides that the testimony of P-0287 shall proceed under the conditions sought by the UN, subject to the following. Considering Article 64(2) of the Statute, the Chamber will rule on a case-by-case basis on the nature and circumstances of the assistance to be provided by the UN representative.¹⁵⁴ Any intervention of the UN representative on whether the witness should not answer a question or should not provide certain information will be subject to the authorisation of the Chamber. If necessary and appropriate, the Chamber will hear the matter in the absence of the witness.¹⁵⁵
89. Finally, regarding the Ngaïssona Defence's request to assign lower probative value to the witness's testimony if he declines to answer a question, the Chamber recalls that it will assess the probative value of the testimony as part of its holistic assessment when deliberating its judgment pursuant to Article 74(2) of the Statute.¹⁵⁶

¹⁵⁴ See also *Ntaganda* Decision on Conditions to Testimony of UN Staff, ICC-01/04-02/06-888-Conf, para. 16.

¹⁵⁵ See also *Ntaganda* Decision on Conditions to Testimony of UN Staff, ICC-01/04-02/06-888-Conf, paras 15-16; *Gbagbo and Blé Goudé* Decision on Conditions to Testimony of UN Staff, ICC-02/11-01/15-313-Conf, para. 14.

¹⁵⁶ Initial Directions, ICC-01/14-01/18-631, para. 53.

FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES that, subject to the fulfilment of the legal requirements of Rule 68(3) of the Rules, the prior recorded testimonies of the following witnesses are introduced into evidence:

- **Witness P-1962** (CAR-OTP-2068-0037; CAR-OTP-2104-0656; CAR-OTP-2071-0003; CAR-OTP-2107-6808), together with its associated documents (Annex A to CAR-OTP-2068-0037; CAR-OTP-2068-0072; CAR-OTP-2068-0073; Annex D to CAR-OTP-2068-0037; CAR-OTP-2068-0075; CAR-OTP-2068-0077; CAR-OTP-2068-0079; CAR-OTP-2068-0080; CAR-OTP-2068-0082; CAR-OTP-2068-0083; CAR-OTP-2066-5312; CAR-OTP-2060-0795; CAR-OTP-2071-0021; Annex B to CAR-OTP-2071-0003; CAR-OTP-2071-0093; Annex D to CAR-OTP-2071-0003);
- **Witness P-0925** (CAR-OTP-2127-6805), together with its associated documents (CAR-OTP-2122-8997; CAR-OTP-2122-9975);
- **Witness P-2193** (CAR-OTP-2127-6617; CAR-OTP-2127-6626; CAR-OTP-2127-6634), together with its associated documents (CAR-OTP-2127-6633; CAR-OTP-2127-6645; CAR-OTP-2127-6646; CAR-OTP-2127-6647; CAR-OTP-2127-6648; CAR-OTP-2127-6649; CAR-OTP-2127-6650; CAR-OTP-2127-6651; CAR-OTP-2127-6652; CAR-OTP-2127-6653; CAR-OTP-2127-6654; CAR-OTP-2127-6655; CAR-OTP-2127-6656; CAR-OTP-2127-6657; CAR-OTP-2127-6658; CAR-OTP-2127-6659; CAR-OTP-2127-6662; CAR-OTP-2127-6663; CAR-OTP-2127-6664; CAR-OTP-2127-6667; CAR-OTP-2127-6668; CAR-OTP-2127-6669; CAR-OTP-2127-6670; CAR-OTP-2127-6671; CAR-OTP-2127-6672; CAR-OTP-2127-6673; CAR-OTP-2127-6676; CAR-OTP-2127-6677; CAR-OTP-2127-6678; CAR-OTP-2127-6679; CAR-OTP-2127-6680; CAR-OTP-2127-6681; CAR-OTP-2127-6682; CAR-OTP-2127-6683; CAR-OTP-2127-6684; CAR-OTP-2127-6685; CAR-OTP-2127-6686; CAR-OTP-2127-6687; CAR-OTP-2127-6688; CAR-OTP-2127-6689; CAR-OTP-2127-6690; CAR-OTP-2127-6691; CAR-OTP-2127-6692; CAR-OTP-2127-6693; CAR-OTP-2122-8984; CAR-OTP-2122-8986; CAR-OTP-2127-3932; CAR-OTP-2130-0304; CAR-OTP-2118-9830; CAR-OTP-2118-9829; CAR-OTP-2001-5351; CAR-OTP-2001-5350; CAR-OTP-2079-0671; CAR-OTP-2118-9140);

- **Witness P-2926** (CAR-OTP-2127-4289), together with its associated documents (CAR-OTP-2122-8978; CAR-OTP-2127-4327; CAR-OTP-2122-9529);
- **Witness P-2927** (CAR-OTP-2122-9082; CAR-OTP-2122-9155), together with its associated documents (CAR-OTP-2122-8992; CAR-OTP-2122-8995; CAR-OTP-2122-9908; CAR-OTP-2122-9897);
- **Witness P-1577** (CAR-OTP-2081-0769; CAR-OTP-2088-0717), together with its associated documents, as instructed in paragraph 73 of this decision; and
- **Witness P-0287** (CAR-OTP-2115-0239), together with its associated documents (CAR-OTP-2001-0275; CAR-OTP-2001-0835; CAR-OTP-2001-5386; CAR-OTP-2023-0032);

INSTRUCTS the Prosecution to provide the (correct) ERNs for Annexes A and D to CAR-OTP-2068-0037 and Annexes B and D to CAR-OTP-2071-0003, related to witness P-1962, as instructed in paragraph 26 above, within four weeks of the issuance of the present decision;

INSTRUCTS the Prosecution to provide an Updated List of Associated Documents to P-1577's Prior Recorded Testimony, as instructed in paragraph 73 above, within four weeks of the issuance of the present decision;

DECIDES that the testimony of expert witnesses P-2193 and P-0287 shall proceed under the conditions sought by the UN, as set out in paragraphs 46 and 88 of the present decision;

REJECTS the Motion on the Scope of P-2926's Testimony; and

ORDERS the Prosecution, the Yekatom Defence and the CLRV to file public redacted versions of their respective following documents, within one week of notification of the present decision: ICC-01/14-01/18-779-Conf, ICC-01/14-01/18-860-Conf, ICC-01/14-01/18-871-Conf, ICC-01/14-01/18-903-Conf and ICC-01/14-01/18-904-Conf.

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



Judge Bertram Schmitt

Presiding Judge



Judge Péter Kovács



Judge Chang-ho Chung

Dated 1 April 2021

At The Hague, The Netherlands