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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 *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public

**Request to Suspend, or in the Alternative Extend, the Page Limit of the
Prosecution's Prospective Bar Table Applications**

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) requests Trial Chamber V (“Chamber”) to suspend the applicable page limit regarding its upcoming bar table motions, or in the alternative, to extend the relevant limit to 30 pages, pursuant to regulation 37(2) of the Regulations of the Court (“RoC”).

2. The requested suspension (or in the alternative extension) is warranted and necessary to enable the Prosecution to comprehensively set out the relevance, probative value, and other information, regarding large numbers of items of evidence in a meaningful and coherent manner that benefits the Chamber, Parties, and Participants, without having to artificially break down the applications purely based on the number of pages.¹ Granting the request will also avoid unnecessarily overburdening the Chamber, Parties and Participants with multiple applications.

II. SUBMISSIONS

3. In accordance with articles 64(9)(a), 69(3) and 69(4), rule 63(2) of the Rules of Procedure and Evidence (“Rules”), and the procedure established in the Chamber’s Initial Directions on the Conduct of Proceedings,² the Prosecution intends to submit a series of bar table motions regarding certain classes or categories of documents *i.e.*, emails, social media, Call Data Records; and regarding certain themes integral to the narrative of the case, such as sexual and gender based violence, child soldiers, and the origins of the Anti-Balaka.

4. Each bar table motion will involve a large number of items of evidence, and will detail the relevance, probative value, and the absence of any potential prejudice.³ They

¹ The nature of these applications constitute exceptional circumstances within the meaning of regulation 37(2) of the RoC.

² ICC-01/14-01/18-631, para. 61.

³ As directed: *see* ICC-01/14-01/18-631, para. 61-62.

will also set out the context of the submitted items within the broader framework of the case, their proof of the legal and factual propositions set out in the Prosecution's Trial Brief, including the roles of the Accused and other Anti-Balaka leaders, and other relevant information that would assist the Chamber in its assessment of the evidence concerned, and of the fulfilment of the conditions of their formal submission.

5. The annexes to the prospective bar table motions will detail for each item: (i) the evidence registration number ("ERN"); (ii) the type; (iii) the source identity; (iv) the date; (v) the title; (vi) a short description of the item (and/or relevant portions therein); (vii) the relevance and probative value; (viii) the relevant excerpts (in case of lengthy documents or audio/video material); (ix) the disclosure date; (x) if the item is submitted; and/or (xi) an indication of the Defence's objections, if any.

6. Inevitably, the annexes to the motions will include 'argumentative' information⁴ relative, *inter alia*, to the content of numerous documents and their relevance, reliability, authenticity, and/or weight.⁵ As a result, a suspension (or in the alternative extension) of the applicable page limit for the substantive filings, independently of their argumenative annexes is necessary and justified.

7. As noted, granting the Request will avoid overburdening the Chamber, Parties, and Participants with multiple bar table motions, as well as related applications to extend page limits, as may yet be necessary. Thus, it would promote the interests of judicial economy and advance the expeditious conduct of the proceedings.

⁴ Regulation 36(2)(b) of the RoC: "*The following shall not be counted in calculating the page limits: (...) Any appendix containing (...) non-argumentative material. An appendix shall not contain submissions*", see also ICC-01/05-01/13-1886, paras. 13-15.

⁵ ICC-01/14-01/18-631, para. 62.

8. Lastly, the Prosecution understands that the requested suspension (or in the alternative extension) will likely implicate an enlarged response time by the Defence. As such, the Prosecution accedes to any reasonable requests to this effect.

III. RELIEF SOUGHT

9. For the above reasons, the Prosecution requests the suspension of the applicable page limit for its prospective bar table motions, or in the alternative, extend the relevant limit to 30 pages, pursuant to regulation 37(2).

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a dot.

Karim A. A. Khan QC, Prosecutor

Dated this 23rd day of December 2021
At The Hague, The Netherlands