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TRIAL CHAMBER VI

Before: Judge Miatta Maria Samba, Presiding Judge
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godínez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

**Public
with Confidential Annex A**

Public Redacted Version of “Prosecution’s seventh request to introduce prior recorded testimony pursuant to rule 68(3), in relation to P-0291, P-0349, P-0884, P-2232, P-2251, and P-2328”, ICC-01/14-01/21-376-Conf, date 27 June 2022

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The Office of the Prosecutor

Mr Karim A.A. Khan QC

Mr Mame Mandiaye Niang

Counsel for Defence

Ms Jennifer Naouri

Mr Dov Jacobs

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

**The Office of Public Counsel
for Victims**

Ms Sarah Pellet

Tars Van Litsenborgh

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation
and Reparations Section**

Other

I. INTRODUCTION

1. The Prosecution hereby requests that Trial Chamber VI (“Chamber”) introduce into evidence the statements, transcripts and associated material (“Prior Recorded Testimonies”) of six witnesses—P-0291, P-0349, P-0884, P-2232, P-2251, and P-2328 (“Six Witnesses”)—pursuant to rule 68(3) of the Rules of Procedure and Evidence (“Request”).¹

2. The Prior Recorded Testimonies are reliable, probative, and relevant to the charges. The Prosecution principally relies on the evidence of the Six Witnesses as proof of the chapeau elements of articles 7 and 8 of the Rome Statute (“Statute”), with focus on the organisation and activities of the two parties to the non-international armed conflict in the Central African Republic (“CAR”) in and around 2013, namely, the Seleka coalition and the pro-BOZIZE forces which are later known as the Anti-Balaka (“Anti-Balaka”).²

3. Granting the Request will enhance the expeditiousness of the proceedings by reducing the estimated length of the Six Witnesses’ direct examination from 50 hours to no more than 8 hours, thus saving at least 42 hours of court time. Moreover, introducing the Prior Recorded Testimonies of the Six Witnesses is not prejudicial to or inconsistent with the rights of the Accused as the witnesses will be fully available for cross-examination and any further questioning by the Chamber.

¹ Annex A (A1 to A6) lists the prior recorded testimonies of P-0291, P-0349, P-0884, P-2232, P-2251, and P-2328, which comprise their prior statements which includes witness statements, interview transcripts and hearing transcripts in the case of *Yekatom and Ngaissona* (at I), and associated material (at II). Where items are necessary to understand a particular witness’s prior recorded testimony, but the Prosecution does not seek to introduce those items into evidence, those items are also referenced (at III). These materials are all hyperlinked. See Directions on the conduct of the proceedings, ICC-01/14-01/21-251, para. 38(i)-(ii).

² Prosecution’s Trial Brief, ICC-01/14-01/21-359-Conf, 13 June 2022 (“TB”), paras. 3-4, 14-43.

4. Should the Chamber grant the Request, the Prosecution further requests leave to conduct a streamlined supplementary examination to clarify certain points and elaborate on specific issues highly relevant to this case.

II. CONFIDENTIALITY

5. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the Request and its Annex are filed as confidential because they contain information that may identify Prosecution witnesses and refer to confidential items of evidence. A public redacted version will be filed as soon as practicable.

III. APPLICABLE LAW

6. The Prosecution relies on its previous submissions on the legal framework for introduction of prior recorded testimony pursuant to rule 68(3), as set out in its first application under rule 68(3).³

7. Additionally, the Prosecution adds that the Defence's recent argument on the notion of corroboration is inapposite. Specifically, the Defence asserts that the corroboration requires that two independent sources provide the same fact,⁴ and further seemingly alleges that the two sources must state identical fact in every detail.⁵ However, the Appeals Chamber has already clarified this issue and held that corroboration does not require that the evidence is identical in all aspects or describes

³ Prosecution's first request to introduce prior recorded testimony pursuant to rule 68(3), ICC-01/04-01/21-322-Conf, 20 May 2022 ("First Rule 68(3) Application"), paras. 5-12.

⁴ Réponse de la Défense à la « Prosecution first request to introduce prior recorded testimony pursuant to Rule 68(2)(b) » (ICC-01/14-01/21-289-Conf) déposée le 29 avril 2022, ICC-01/14-01/21-349-Red, 16 June 2022 ("Defence Response to First Rule 68(2)(b) Application"), para. 33.

⁵ See e.g., Defence Response to First Rule 68(2)(b) Application, para. 34 (alleging that para. 85 of P-1524's statement does not corroborate P-1825's evidence, because allegedly there is nothing in P-1825's statement clearly stating that [REDACTED], despite that core part of P-1524's evidence is fully consistent with P-1825's evidence, including that [REDACTED]). All these points are consistent with P-1825's evidence (see **P-1825**: CAR-OTP-2079-0315 at 0317-0321, 0323, paras. 11, 16, 26-34, 43). Furthermore, the Defence is factually incorrect in making such argument because P-1825 clearly states that [REDACTED] (see **P-1825**: CAR-OTP-2079-0315 at 0318-0319, paras. 21, 24).

the same fact in the same way.⁶ Rather, the sources are deemed corroborative when “one *prima facie* credible testimony is compatible with the other *prima facie* credible testimony regarding the same fact or a sequence of linked facts.”⁷ Other Chambers in past cases have also generally followed this approach.⁸ Similarly, corroboration can be established based on non-witness documents such as reports produced under the auspices of the United Nations, reports of NGOs and media sources,⁹ contrary to the Defence’s argument that unverifiable anonymous hearsay cannot constitute corroboration.¹⁰

IV. SUBMISSIONS

A. The Prior Recorded Testimonies should be conditionally introduced into evidence pursuant to rule 68(3)

8. The Prior Recorded Testimonies should be conditionally introduced into evidence pursuant to rule 68(3), subject to the fulfilment of the further conditions of rule 68(3) of the Rules. They are relevant, probative, reliable, and corroborative of other evidence.

(i) The Prior Recorded Testimony is Relevant and Probative

9. All the Prior Recorded Testimonies are relevant and probative. They relate to the chapeau elements of articles 7 and 8 of the Statute, in relation to which the Prosecution bears the burden of proof. Specifically, each of the Six Witnesses has direct knowledge about the organisation and activities of the parties to the non-international armed conflict in the CAR, thus providing evidence of the continuation of the armed conflict

⁶ See e.g., *Ntaganda*, ICC-01/04-02/06-2666-Red, para. 672.

⁷ See e.g., *Gatete*, ICTR-00-61-A, para. 125.

⁸ See e.g., *Ongwen*, ICC-02/04-01/15-1762-Red, paras. 466, 664; *Bemba*, ICC-01/05-01/08-424, para. 116-124.

⁹ See e.g., *Bemba*, ICC-01/05-01/08-424, para. 116-124; *Bemba*, ICC-01/05-01/08-3343, paras. 269-270.

¹⁰ Defence Response to First Rule 68(2)(b) Application, para. 33.

throughout the relevant period.¹¹ The evidence of P-0291, P-0349 and P-2328 additionally covers information relevant to the chapeau elements of crimes against humanity, including crimes committed by the Seleka in the course of 2013 as well as the Seleka's knowledge of these crimes and the Anti-Balaka's regrouping activities in 2013.

10. Key aspects of each witness's evidence are further highlighted below.

a. P-0291

11. P-0291 was [REDACTED] in 2013.¹² P-0291 provides information about: (i) the background and history of Francois BOZIZE's government and his associates including Steve YAMBETE, Olivier KOUDEMON, NGAIKOSSET and Patrice-Edouard NGAISSONA;¹³ (ii) the formation of the Seleka coalition and their advance on Bangui, including [REDACTED] the ceasefire agreement in the town of Libreville prior to their subsequent takeover of Bangui;¹⁴ (iii) the governing of the CAR by the Seleka between March 2013 and January 2014;¹⁵ (iv) the structure of the two parties to the armed conflict, namely, the Seleka government¹⁶ and the Anti-Balaka;¹⁷ (v) [REDACTED] the Seleka's National Security Council meetings during which information about the Anti-Balaka was discussed;¹⁸ and (v) the organisation of the Anti-Balaka and its clashes with the Seleka in 2013.¹⁹ P-0291 also describes crimes

¹¹ See TB, para. 3; Decision on the confirmation of charges against Mahamat Said Abdel Kani, ICC-01/14-01/21-218-Red, 9 December 2021, (Operative part), para. 2.

¹² **P-0291**, CAR-OTP-2034-0104 at 0111, 0114, 0117, paras. 33, 56-57, 76; ICC-01/14-01/18-T-051-CONF-ENG ET, p. 10, ln. 23 – p. 12, ln. 3.

¹³ **P-0291**, CAR-OTP-2034-0104 at 0108-0113, paras. 11-49; **Annex 2**, CAR-OTP-2024-0062; ICC-01/14-01/18-T-051-CONF-ENG ET, p. 12, ln. 24 – p. 13, ln. 15. See also TB, paras. 18, 31, 39, 47.

¹⁴ **P-0291**, CAR-OTP-2034-0104 at 0113-0116, paras. 50-70; ICC-01/14-01/18-T-051-CONF-ENG ET, p. 9, ln. 25 – p. 10, ln. 5, p. 16, ln. 6 – p. 18, ln. 6. See also TB, para. 5.

¹⁵ **P-0291**, CAR-OTP-2034-0104 at 0116, paras. 71, 75; ICC-01/14-01/18-T-053-ENG CT2, p. 6, lns. 18-25. See also TB, paras. 14-16.

¹⁶ **P-0291**, CAR-OTP-2034-0104 at 0120-0121, paras. 100-110.

¹⁷ **P-0291**, CAR-OTP-2034-0104 at 0122-0123, paras. 116-123; ICC-01/14-01/18-T-051-CONF-ENG ET, p. 21, ln. 4 – p. 24, ln. 17, p. 52, lns. 4-8. See also TB, paras. 17-18.

¹⁸ **P-0291**, ICC-01/14-01/18-T-051-CONF-ENG ET, p. 39, ln. 4 – p. 42, ln. 19.

¹⁹ **P-0291**, ICC-01/14-01/18-T-051-CONF-ENG ET, p. 32, ln. 10 – p. 43, ln. 5, p. 54, ln. 16 – p. 55, ln. 23.

committed by the Seleka in 2013,²⁰ which is relevant for the chapeau elements of crimes against humanity under article 7 of the Statute.

12. P-0291's prior recorded testimony consists of his statement, transcripts of his oral testimony in the case of *Yekatom and Ngaissona*, and associated material.²¹ The associated material includes annexes to his statement and relevant items discussed during his oral testimony in the *Yekatom and Ngaissona* case.

b. P-0349

13. P-0349 was a [REDACTED] in 2013. He first joined the Seleka in [REDACTED].²² After entering Bangui, P-0349 [REDACTED] returned as [REDACTED] in August 2013, the position of which P-0349 occupied until the end of the Seleka regime.²³ [REDACTED], P-0349's evidence is relevant to the origin, structure and activities of the Seleka government in 2013.

14. Of particular note, P-0349 provides information about: (i) the creation of the Seleka coalition;²⁴ (ii) Seleka commanders already part of the coalition before their takeover of Bangui, including Michel DJOTODIA, Nouradine ADAM, Moussa DHAFFANE, ARDA, ALKHATIM, Moussa ASSIMEH and Abdelkarim MOUSSA;²⁵ (iii) the Seleka's coordinated attack on and occupation of Bangui in March 2013,

²⁰ **P-0291**, CAR-OTP-2034-0104 at 0117-0119, paras. 79, 89-90, 93-94, 97-99; ICC-01/14-01/18-T-051-CONF-ENG ET, p. 18, ln. 10 – p. 21, ln. 3, p. 32, lns. 4-9, p. 39, ln. 4 – p. 40, ln. 22, p. 70, ln. 17 – p. 71, ln. 23; ICC-01/14-01/18-T-052-ENG ET, p. 4, ln. 23 – p. 7, ln. 20, p. 9, lns. 4-7.

²¹ See Annex A1 for the complete list.

²² **P-0349**, CAR-OTP-2075-0812 at 0819-0820, paras. 37-38.

²³ **P-0349**, CAR-OTP-2075-0812 at 0816, 0821-0822, paras. 16, 49.

²⁴ **P-0349**, CAR-OTP-2075-0812 at 0816-0818, paras. 19-28. See also TB, para. 14.

²⁵ **P-0349**, CAR-OTP-2075-0812 at 0816-0818, paras. 19-28. See also TB, e.g., paras. 14-15, 23 (fn. 71), 25, 90.

[REDACTED];²⁶ (iv) the Seleka's operations in Boy Rabe;²⁷ and (v) the CEDAD.²⁸
[REDACTED]²⁹ [REDACTED].³⁰

15. P-0349's prior recorded testimony includes his statement and associated material.³¹ The latter consists of items shown to and commented on by him in the statement.

c. P-0884

16. P-0884 is [REDACTED]. He [REDACTED],³² [REDACTED] fled to Yaounde in Cameroon where he spent about [REDACTED].³³ He then returned to Bangui³⁴ and was involved in the Anti-Balaka activities [REDACTED].³⁵ P-0884 was present in Bangui during the Anti-Balaka's coordinated attack on Bangui on 5 December 2013.

17. [REDACTED], P-0884's evidence discusses: (i) the organisation of COCORA by Levy YAKETE during BOZIZE's era;³⁶ (ii) the creation and the advancement of the Seleka to Bangui, including the conclusion of the ceasefire agreement, which led to the collapse of BOZIZE's government;³⁷ (iii) the Anti-Balaka commanders present in

²⁶ **P-0349**, CAR-OTP-2075-0812 at 0820, paras. 38-41.

²⁷ **P-0349**, CAR-OTP-2075-0812 at 0828, paras. 81-86.

²⁸ **P-0349**, CAR-OTP-2075-0812 at 0823-0824, paras. 58-62.

²⁹ **P-0349**, CAR-OTP-2075-0812 at 0822-0823, para. 54.

³⁰ **P-0349**, CAR-OTP-2075-0812 at 0823, paras. 56-57.

³¹ See Annex A2 for the complete list.

³² **P-0884**, CAR-OTP-2072-1356 at 1359-1362, 1370-1376, 1388, lns. 82-116, 170-181, 482-693, 1100-1109; CAR-OTP-2072-1440 at 1443, lns. 80-104; ICC-01/14-01/18-T-054-CONF-ENG ET, p.12, lns. 10-21.

³³ **P-0884**, CAR-OTP-2072-1356 at 1376-1377, 1381-1383, lns. 694-733, 872-914; CAR-OTP-2072-1654 at 1664, lns. 317-344; ICC-01/14-01/18-T-054-CONF-ENG ET, p. 52, ln. 16 – p. 53, ln. 10, p. 56, lns. 2-19.

³⁴ **P-0884**, CAR-OTP-2072-1356 at 1392-1393, lns. 1221-1269; ICC-01/14-01/18-T-055-CONF-ENG ET, p. 9, ln. 21 – p. 10, ln. 10.

³⁵ **P-0884**, CAR-OTP-2072-1516 at 1524-1525, lns. 251-316; CAR-OTP-2072-1616 at 1645, lns. 1005-1011; CAR-OTP-2072-1913 at 1939-1940, 1943, lns. 911-950, 1038-1061; CAR-OTP-2080-1678 at 1681-1692, 1710-1711, lns. 76-474, 1111-1134; ICC-01/14-01/18-T-056-CONF-ENG CT, p. 6, ln. 19 – p. 7, ln. 10.

³⁶ **P-0884**, ICC-01/14-01/18-T-054-CONF-ENG ET, p. 33, ln. 19 – p. 36, ln. 22.

³⁷ **P-0884**, CAR-OTP-2072-1356 at 1372-1373, lns. 536-599; CAR-OTP-2072-1541 at 1546-1547, 1574-1575, lns. 169-184, 1120-1166; ICC-01/14-01/18-T-054-CONF-ENG ET, p. 21, ln. 22 – p. 26, ln. 24, p. 32, ln. 7 – p. 33, ln. 4.

Cameroon in 2013, [REDACTED];³⁸ (iv) the escape of Maxime MOKOM and YEKATOM to the DRC;³⁹ (v) the Anti-Balaka's gathering in the village of Gobere starting from around June 2013, with the presence of Danboy DEDANE, which was coordinated by Maxime MOKOM;⁴⁰ (vi) the sending of ammunition to the Anti-Balaka by Maxim MOKOM, NGAISSONA and Bernard MOKOM;⁴¹ (vii) the Anti-Balaka's attacks on Bossangoa, Bouca, Bossembele and other areas;⁴² (viii) the involvement of and coordination by NGAISSONA and Bernard MOKOM from Cameroon, Maxime MOKOM and YEKATOM from the DRC, and NGREMANGOU from Bangui in relation to the preparation of the Anti-Balaka's 5 December 2013 attack;⁴³ (ix) the Anti-Balaka's 5 December 2013 attack;⁴⁴ and (x) the Anti-Balaka's objective to remove DJOTODIA from power.⁴⁵ His evidence also briefly covers the Seleka's targeting of civilians because they were perceived as BOZIZE supporters,⁴⁶ which is also relevant to the chapeau elements of article 7 of the Statute.

³⁸ **P-0884**, CAR-OTP-2072-1356 at 1377-1378-1381, 1387-1389, lns. 735-871, 1053-1126; CAR-OTP-2072-1440 at 1465-1466, lns. 861-894; CAR-OTP-2072-1616 at 1639-1644, 1647, lns. 782-967, 1087-1096; CAR-OTP-2072-1654 at 1659-1661, lns. 142-242; CAR-OTP-2072-1773 at 1791-1796, lns. 615-782; CAR-OTP-2080-1678 at 1699, lns. 725-733; ICC-01/14-01/18-T-054-CONF-ENG ET, p. 53, ln. 13 – p. 54, ln. 10, p. 56, ln. 2 – p. 68, ln. 7; ICC-01/14-01/18-T-055-CONF-ENG ET, p. 4, ln. 3 – p. 9, ln. 22.

³⁹ **P-0884**, CAR-OTP-2072-1479 at 1514, lns. 1271-1288; CAR-OTP-2072-1516 at 1521, lns. 147-167; ICC-01/14-01/18-T-054-CONF-ENG ET, p. 27, ln. 19; ICC-01/14-01/18-T-054-CONF-ENG ET, p. 53, lns. 14-24.

⁴⁰ **P-0884**, CAR-OTP-2072-1849 at 1850-1870, lns. 18-719; CAR-OTP-2080-1678 at 1681-1687, lns. 76-315; ICC-01/14-01/18-T-055-CONF-ENG ET, p. 21, ln. 10 – p. 34, ln. 8, p. 38, ln. 8 – p. 40, ln. 8, p. 69, lns. 5-11. *See also* **P-0884**, CAR-OTP-2072-1541 at 1559-1562, lns. 613-704.

⁴¹ **P-0884**, CAR-OTP-2072-1715 at 1725-1730, lns. 340-531; ICC-01/14-01/18-T-055-CONF-ENG ET, p. 69, ln. 15 – p. 70, ln. 20.

⁴² **P-0884**, ICC-01/14-01/18-T-055-CONF-ENG ET, p. 40, ln. 9 – p. 41, ln. 2.

⁴³ **P-0884**, CAR-OTP-2072-1541 at 1558-1559, lns. 555-; CAR-OTP-2072-1715 at 1727, lns. 395-409; CAR-OTP-2072-1516 at 1524-1525, lns. 251-316; CAR-OTP-2072-1616 at 1645, lns. 1005-1011; CAR-OTP-2072-1881 at 1894-1895, lns. 457-484; CAR-OTP-2072-1913 at 1939-1940, 1943, lns. 911-950, 1038-1061; CAR-OTP-2080-1678 at 1681-1692, 1710-1711, lns. 76-474, 1111-1134; ICC-01/14-01/18-T-055-CONF-ENG ET, p. 21, ln. 10 – p. 22, ln. 16, p. 45, ln. 21 – p. 50, ln. 8, p. 71, ln. 9 – p. 78, ln. 11; ICC-01/14-01/18-T-056-CONF-ENG CT, p. 3, ln. 11 – p. 10, ln. 3, p. 41, ln. 6 – p. 45, ln. 2. *See also* **P-0884**, CAR-OTP-2072-1440 at 1461-1463, lns. 723-796; ICC-01/14-01/18-T-057-CONF-ENG ET, p. 21, lns. 9-20.

⁴⁴ **P-0884**, CAR-OTP-2072-1541 at 1569-1570, lns. 952-975; CAR-OTP-2072-1616 at 1621-1628, lns. 146-416; CAR-OTP-2072-1814 at 1839-1841, lns. 877-948; CAR-OTP-2072-1849 at 1871-1873, lns. 746-827; ICC-01/14-01/18-T-056-CONF-ENG CT, p. 10, ln. 4 – p. 13, ln. 20.

⁴⁵ **P-0884**, CAR-OTP-2072-1541 at 1576, lns. 1179-1188; CAR-OTP-2080-1678 at 1681-1684, lns. 76-212.

⁴⁶ **P-0884**, CAR-OTP-2072-1913 at 1946-1947, lns. 1171-1188; ICC-01/14-01/18-T-054-CONF-ENG ET, p. 26, ln. 24 – p. 27, ln. 6, p. 40, lns. 14-25.

18. P-0884's prior recorded testimony consists of his interview transcripts, transcripts of his oral testimony in the case of *Yekatom and Ngaissona*, and associated material.⁴⁷ The associated material includes annexes to his interviews and other relevant documents discussed during his oral testimony in the case of *Yekatom and Ngaissona*.

d. P-2232

19. P-2232 is [REDACTED] throughout 2013. He [REDACTED] who fled to [REDACTED] when the Seleka conquered Bangui on 24 March 2013.⁴⁸ [REDACTED], he observed [REDACTED].⁴⁹

20. Importantly, P-2232's evidence discusses: (i) the organisation of youth groups called COCORA and COAC by pro-BOZIZE individuals named Levy YAKETE, Steve YAMBETE and NGAISSONA with the aim to stop the Seleka's advancement to Bangui;⁵⁰ (ii) the Seleka's takeover of Bangui on 24 March 2013 and the exile of Francois BOZIZE and his close associates to Cameroon;⁵¹ (iii) the escape of [REDACTED] pro-BOZIZE forces to the DRC, including Maxime MOKOM⁵² and later YEKATOM [REDACTED];⁵³ (iv) the commencement of the Anti-Balaka activities

⁴⁷ See Annex A3 for the complete list.

⁴⁸ **P-2232**, CAR-OTP-2090-0561 at 0564, 0566, paras. 16-19, 36-37; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 6, ln. 15 – p. 7, ln. 21, p. 26, lns. 7-15; ICC-01/14-01/18-T-078-CONF-ENG ET, p. 5, lns. 14-17.

⁴⁹ **P-2232**, CAR-OTP-2090-0561 at 0568-0577, paras. 51-97, 102; CAR-OTP-2100-2569 at 2572-2580, 2593, paras. 13-48, 54-55, 60, 138-139; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 26, ln. 22 – p. 30, ln. 8, p. 33, ln. 6 – p. 47, ln. 3, p. 50, ln. 4 – p. 75, ln. 3; ICC-01/14-01/18-T-076-CONF-ENG ET, p. 3, ln. 9 – p. 52, ln. 15; ICC-01/14-01/18-T-077-CONF-ENG, p. 3, ln. 1 – p. 8, ln. 14. See also TB, para. 37.

⁵⁰ **P-2232**, CAR-OTP-2090-0561 at 0564, para. 24; CAR-OTP-2100-2569 at 2571-2572, 2599, paras. 7-10, 143-144; **Annex C**, CAR-OTP-2100-2667; **Annex D**, CAR-OTP-2100-2668; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 11, ln. 1 – p. 19, ln. 20; ICC-01/14-01/18-T-078-CONF-ENG ET, p. 13, ln. 24 – p. 14, ln. 20. See also TB, paras. 17-18, 39, 155, 222, 322.

⁵¹ **P-2232**, CAR-OTP-2090-0561 at 0565-0567, 0576, paras. 27-35, 39-40, 98; CAR-OTP-2100-2569 at 2572, paras. 13-14; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 22, ln. 13 – p. 24, ln. 10, p. 28, lns. 20-25, p. 36, lns. 20-23, p. 56, lns. 11-15. See also TB, para. 47.

⁵² **P-2232**, CAR-OTP-2090-0561 at 0566, paras. 36-37; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 23, lns. 14-17, p. 26, ln. 7 – p. 27, ln. 20, p. 39, lns. 2-5. See also TB, para. 31.

⁵³ **P-2232**, CAR-OTP-2100-2569 at 2577-2578, 2596, paras. 41-45, 140; **Annex A**, CAR-OTP-2100-2602 at 2607 and CAR-OTP-2093-1564 [REDACTED]; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 33, lns. 6-15, p. 34, ln. 16 – p. 36, ln. 14, p. 37, lns. 7- p. 40, ln. 7; ICC-01/14-01/18-T-076-CONF-ENG ET, p. 22, ln. 20 – p. 24, ln. 5, p. 40, ln. 10, p. 43, lns. 14-17, p. 45, lns. 20-24. See also TB, paras. 31, 38.

[REDACTED];⁵⁴ (v) [REDACTED];⁵⁵ (vi) the coordination of the Anti-Balaka activities [REDACTED], including the attacks on Bossangoa and the surrounding areas [REDACTED];⁵⁶ (vii) the coordination of the Anti-Balaka activities in Cameroon [REDACTED];⁵⁷ (viii) the coordination of the Anti-Balaka activities in Bangui [REDACTED];⁵⁸ (ix) provision of weapons and ammunition to the Anti-Balaka group [REDACTED];⁵⁹ (x) provision of food, medicine and money to buy weapons and ammunition to the Anti-Balaka [REDACTED];⁶⁰ (xi) the Anti-Balaka's 5 December 2013 attack, [REDACTED];⁶¹ (xii) the Anti-Balaka's objective to bring back BOZIZE to power;⁶² and (xiii) [REDACTED].⁶³ P-2232's evidence also includes information about the Anti-Balaka's attempt to disrupt DJOTODIA's swearing in ceremony by launching

⁵⁴ **P-2232**, CAR-OTP-2090-0561 at 0568-0569, paras. 51-58; CAR-OTP-2100-2569 at 2573, paras. 16-17; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 33, ln. 6 – p. 34, ln. 4, p. 55, lns. 18-19, p. 56, ln. 16 – p. 57, ln. 16.

⁵⁵ **P-2232**, CAR-OTP-2090-0561 at 0569-0570, paras. 59-60; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 41, lns. 4-5, p. 42, lns. 17-20, p. 50, lns. 7-15. *See also* TB, para. 37.

⁵⁶ **P-2232**, CAR-OTP-2090-0561 at 0569-0570, 0574-0576, paras. 55, 59-60, 87-90, 92-93; CAR-OTP-2100-2569 at 2579-2580, 2583, 2592-2593, paras. 54-55, 75-77, 136-140; **Annex A**, CAR-OTP-2100-2602 [REDACTED]; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 41, lns. 4-5, p. 42, lns. 17-20, p. 44, ln. 25 – p. 46, ln. 21, p. 52, lns. 2-6, p. 53, ln. 2 – p. 54, ln. 23; ICC-01/14-01/18-T-076-CONF-ENG ET, p. 3, ln. 9 – p. 4, ln. 18, p. 22, ln. 20 – p. 24, ln. 5, p. 30, lns. 21-25, p. 45, lns. 20-24, p. 46, ln. 11 – p. 47, ln. 5; ICC-01/14-01/18-T-077-CONF-ENG ET, p. 8, lns. 1-12; ICC-01/14-01/18-T-078-CONF-ENG ET, p. 22, ln. 24 – p. 27, ln. 24. *See also* TB, paras. 18, 37, 41, 48.

⁵⁷ **P-2232**, CAR-OTP-2100-2569 at 2572-2573, 2579, 2583, 2596, paras. 13-17, 20, 55, 75-77, 140; **Annex A**, CAR-OTP-2100-2602 [REDACTED]; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 36, lns. 16-23, p. 51, ln. 25 – p. 52, ln. 2 p. 56, ln. 16 – p. 57, ln. 21; ICC-01/14-01/18-T-076-CONF-ENG ET, p. 8, ln. 17 – p. 11, ln. 9, p. 18, ln. 12 – p. 20, ln. 11, p. 22, ln. 20 – p. 24, ln. 5, p. 42, lns. 17-23, p. 45, lns. 20-24; ICC-01/14-01/18-T-077-CONF-ENG ET, p. 4, lns. 10-17, p. 8, lns. 1-10; ICC-01/14-01/18-T-078-CONF-ENG ET, p. 38, ln. 2 – p. 42, ln. 6. *See also* TB, paras. 18, 47.

⁵⁸ **P-2232**, CAR-OTP-2100-2569 at 2573, 2583, 2595, paras. 19, 75-77, 140; **Annex A**, CAR-OTP-2100-2602 at 2605 and CAR-OTP-2093-1562 [REDACTED]; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 72, ln. 19 – p. 73, ln. 3; ICC-01/14-01/18-T-076-CONF-ENG ET, p. 21, lns. 8-11, p. 22, ln. 20 – p. 24, ln. 5, p. 35, lns. 18-20, p. 42, ln. 24 – p. 43, ln. 7, p. 44, ln. 23 – p. 45, ln. 2, p. 45, lns. 20-24; ICC-01/14-01/18-T-077-CONF-ENG ET, p. 57, lns. 9-13; ICC-01/14-01/18-T-078-CONF-ENG ET, p. 30, lns. 5-14. *See also* TB, para. 39.

⁵⁹ **P-2232**, CAR-OTP-2090-0561 at 0570-0571, paras. 61-62, 66, 70-71; CAR-OTP-2100-2569 at 2573, para. 18; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 51, lns. 3-9, p. 67, ln. 22 – p. 69, ln. 14; ICC-01/14-01/18-T-076-CONF-ENG ET, p. 5, ln. 10 – p. 7, ln. 2; ICC-01/14-01/18-T-077-CONF-ENG ET, p. 21, lns. 12-16. *See also* TB, para. 42.

⁶⁰ **P-2232**, CAR-OTP-2090-0561 at 0570-0572, paras. 63-73; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 64, lns. 3-9, p. 66, ln. 1 – p. 67, ln. 16, p. 69, lns. 23-25.

⁶¹ **P-2232**, CAR-OTP-2090-0561 at 0572-0574, paras. 74-75, 78-81, 86; CAR-OTP-2100-2569 at 2575-2576, 2578, paras. 32-38, 45; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 70, ln. 10 – p. 71, ln. 9; ICC-01/14-01/18-T-076-CONF-ENG ET, p. 21, ln. 12 – p. 22, ln. 19, p. 25, ln. 13 – p. 43, ln. 17; ICC-01/14-01/18-T-077-CONF-ENG ET, p. 8, lns. 1-12, p. 21, lns. 12-16; ICC-01/14-01/18-T-078-CONF-ENG ET, p. 5, ln. 20 – p. 6, ln. 1, p. 22, ln. 24 – p. 27, ln. 24. *See also* TB, paras. 41, 48-49.

⁶² **P-2232**, CAR-OTP-2090-0561 at 0579-0580, paras. 136-138, 144; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 60, lns. 11-22, p. 69, ln. 25 – p. 70, ln. 3; ICC-01/14-01/18-T-076-CONF-ENG ET, p. 55, lns. 5-7, p. 66, lns. 6-12. *See also* TB, para. 18.

⁶³ **P-2232**, CAR-OTP-2100-2569 at 2592-2597, paras. 136-140; **Annex A**, CAR-OTP-2100-2602.

multiple mortars,⁶⁴ on which a major operation of the Seleka regime on the neighbourhood of Boy Rabe followed, and thus is also relevant to the chapeau elements of crimes against humanity.

21. P-2232's prior recorded testimony consists of his two statements, transcripts of his in-court testimony in the *Yekatom and Ngaissona* case, and associated material.⁶⁵ The latter includes annexes to his statement.

e. P-2251

22. P-2251 is an Anti-Balaka insider who joined the Anti-Balaka in Gobere [REDACTED] took part in clashes with the Seleka in Bossangoa and its surrounding areas before 5 December 2013. He also [REDACTED] in the Anti-Balaka's 5 December 2013 attack in Bangui.

23. Specifically, P-2251's evidence covers: (i) the existence of the Anti-Balaka group in Gobere by [REDACTED];⁶⁶ (ii) the activities and chiefs of the Anti-Balaka group in Gobere, including DEDANE;⁶⁷ (iii) the Anti-Balaka's attack on the Seleka in Bossangoa⁶⁸ and the surrounding areas [REDACTED],⁶⁹ [REDACTED]⁷⁰ [REDACTED],⁷¹ in accordance with the plan and instructions given by their chiefs;⁷² (iv) the Seleka's attack on the Anti-Balaka in [REDACTED];⁷³ (v) the preparation for

⁶⁴ **P-2232**, CAR-OTP-2090-0561 at 0568, paras. 48-50; ICC-01/14-01/18-T-075-CONF-ENG ET, p. 30, ln. 15 – p. 33, ln. 5; ICC-01/14-01/18-T-079-CONF-ENG ET, p. 11, ln. 22 – p. 12, ln. 12. *See also* TB, para. 46.

⁶⁵ *See* Annex A4 for the complete list.

⁶⁶ **P-2251**, CAR-OTP-2093-0045 at 0048-0051, paras. 16-18, 22, 30-33, 39; ICC-01/14-01/18-T-043-CONF-ENG CT, p. 12, ln. 18 – p. 13, ln. 2. *See also* TB, para. 37.

⁶⁷ **P-2251**, CAR-OTP-2093-0045 at 0050-0051, 0076-0078, paras. 32-39, 205-206, 208-213; ICC-01/14-01/18-T-043-CONF-ENG CT, p. 17, ln. 6 – p. 19, ln. 3. *See also* TB, paras. 37, 48.

⁶⁸ **P-2251**, CAR-OTP-2093-0045 at 0052-0053, paras. 44-52; ICC-01/14-01/18-T-043-CONF-ENG CT, p. 25, ln. 5 – p. 26, ln. 3. *See also* TB, para. 48.

⁶⁹ **P-2251**, CAR-OTP-2093-0045 at 0053-0054, paras. 53-57. *See also* TB, para. 48.

⁷⁰ **P-2251**, CAR-OTP-2093-0045 at 0054, paras. 58-59. *See also* TB, para. 48.

⁷¹ **P-2251**, CAR-OTP-2093-0045 at 0055-0056, paras. 60-70; ICC-01/14-01/18-T-043-CONF-ENG CT, p. 26, lns. 4-19. *See also* TB, para. 48.

⁷² **P-2251**, CAR-OTP-2093-0045 at 0052, para. 43; ICC-01/14-01/18-T-043-CONF-ENG CT, p. 14, lns. 9-20. *See also* TB, para. 48.

⁷³ **P-2251**, CAR-OTP-2093-0045 at 0057, para. 78.

the Anti-Balaka's 5 December 2013 attack;⁷⁴ and (vi) [REDACTED] the Anti-Balaka's 5 December 2013 attack in Bangui.⁷⁵

24. P-2251's prior recorded testimony includes his statement, transcripts of his oral testimony in the *Yekatom and Ngaissona* case, and associated material.⁷⁶ The associated material consists of annexes to his statements and relevant material shown to P-2232 during his interview and in-court testimony in the *Yekatom and Ngaissona* case.

f. P-2328

25. P-2328 is [REDACTED]. In [REDACTED], he officially became [REDACTED] and held this position until DJOTODIA's departure from Bangui.⁷⁷ [REDACTED].⁷⁸

26. Of particular note, P-2328 provides information about: (i) the background and history of conflicts in the CAR;⁷⁹ (ii) COCORA established by Steve YAMBETE and other auto-defence groups in the CAR formed during the BOZIZE regime, which later formed the Anti-Balaka;⁸⁰ (iii) the exile of BOZIZE and his associates from the CAR - bringing, stashing (including near the borders with Cameroon and Congo, respectively) and distributing weapons on their way, [REDACTED];⁸¹ (iv) the

⁷⁴ **P-2251**, CAR-OTP-2093-0045 at 0058-0059, paras. 86-89.

⁷⁵ **P-2251**, CAR-OTP-2093-0045 at 0059-0060, paras. 90-100; **Annex B**, CAR-OTP-2093-0084; ICC-01/14-01/18-T-043-CONF-ENG CT, p. 29, ln. 17 – p. 31, ln. 19, p. 36, ln. 18 – p. 37, ln. 14. *See also* TB, paras. 41, 48-49.

⁷⁶ *See* Annex A5 for the complete list.

⁷⁷ **P-2328**, CAR-OTP-2099-0165 at 0167, 0218, paras. 12-13, 276; **Annex 1**, CAR-OTP-2099-0232; ICC-01/14-01/18-T-046-CONF-ENG CT, p. 9, lns. 3 – p. 10, ln. 5, p. 70, ln. 23 – p. 73, ln. 20; ICC-01/14-01/18-T-049-CONF-ENG CT, p. 44, lns. 13-16.

⁷⁸ **P-2328**, CAR-OTP-2099-0165 at 0180, 0218, paras. 79, 276; ICC-01/14-01/18-T-047-CONF-ENG CT, p. 5, ln. 3 – p. 7, ln. 12.

⁷⁹ **P-2328**, CAR-OTP-2099-0165 at 0168-0172, paras. 14-38; ICC-01/14-01/18-T-046-CONF-ENG CT, p. 18, ln. 13 – p. 55, ln. 21, p. 63, ln. 22 – p. 68, ln. 5.

⁸⁰ **P-2328**, CAR-OTP-2099-0165 at 0172-0173, paras. 39-43; ICC-01/14-01/18-T-046-CONF-ENG CT, p. 48, lns. 22 – p. 49, ln. 4, p. 55, ln. 22 – p. 63, ln. 21. *See also* TB, para. 17.

⁸¹ **P-2328**, CAR-OTP-2099-0165 at 0173-0174, 0179, paras. 44-50, 71-74; ICC-01/14-01/18-T-046-CONF-ENG CT, p. 73, ln. 21 – p. 76, ln. 22, p. 78, ln. 19 – p. 86, ln. 3; ICC-01/14-01/18-T-047-CONF-ENG CT, p. 13, lns. 8-25, p. 24, lns. 8-16. *See also* TB, paras. 18, 42.

formation and structure of the Seleka, [REDACTED];⁸² (v) the organisation of the Anti-Balaka by BOZIZE and his associates from Cameroon which P-2328 estimates as militarily operational by June or July 2013;⁸³ (vi) the structure of the Anti-Balaka in Bangui [REDACTED];⁸⁴ and (vii) the Anti-Balaka's 5 December 2013 attack, [REDACTED].⁸⁵

27. P-2328's prior recorded testimony includes his statement, transcripts of his oral testimony in the *Yekatom and Ngaissona* case, and associated material.⁸⁶ The latter consists of an annex to his statement and documents shown to him and discussed during his in-court testimony in the *Yekatom and Ngaissona* case.

(ii) Granting the Request Would Advance the Expeditionousness of the Proceedings

28. The Prosecution estimates that a full direct examination for the Six Witnesses would require at least 50 hours of court time. If the Request is granted, the Prosecution would seek only 1 hour per witness for P-0884, P-2251 and P-2232 whose evidence is centred on the formation and activities of the Anti-Balaka. While all of these three witnesses have already testified in the *Yekatom and Ngaissona* case, the Prosecution nevertheless believes that a maximum of 1 hour of direct examination per witness will be beneficial and promote the establishment of the truth to clarify certain aspects of their evidence that is of particular interest to this case only. The Prosecution would also seek 1 hour for P-0349, who will not testify in the *Yekatom and Ngaissona* case.

⁸² **P-2328**, CAR-OTP-2099-0165 at 0180, 0215-0220, paras. 79, 258-288; ICC-01/14-01/18-T-046-CONF-ENG CT, p. 30, lns. 2-6, p. 31, lns. 4-9, p. 34, ln. 13 – p. 37, ln. 19, p. 50, ln. 15 – p. 55, ln. 3. *See also* TB, para. 22.

⁸³ **P-2328**, CAR-OTP-2099-0165 at 0175, paras. 51-57; ICC-01/14-01/18-T-046-CONF-ENG CT, p. 77, ln. 15 – p. 78, ln. 16, p. 86, ln. 15 – p. 89, ln. 24; ICC-01/14-01/18-T-047-CONF-ENG CT, p. 3, ln. 10 – p. 5, ln. 2, p. 13, lns. 8-25, p. 42, lns. 12-15, p. 59, ln. 24 – p. 61, ln. 15. *See also* TB, para. 47.

⁸⁴ **P-2328**, CAR-OTP-2099-0165 at 0176-0177, 0185, paras. 58-61, 98; ICC-01/14-01/18-T-047-CONF-ENG CT, p. 56, lns. 13-17. *See also* TB, para. 39.

⁸⁵ **P-2328**, CAR-OTP-2099-0165 at 0181-0182, paras. 87-91; ICC-01/14-01/18-T-047-CONF-ENG CT, p. 56, ln. 13 – p. 59 ln. 23, p. 63, ln. 22 – p. 64, ln. 7. *See also* TB, paras. 41, 48-49.

⁸⁶ *See* Annex A6 for the complete list.

29. For the remaining two witnesses, P-0291 and P-2328, the Prosecution would exceptionally seek 2 hours per witness in order to elicit information principally about the formation, structure and activities of the Seleka in or around 2013, which have not been explored fully during the in-court testimony of P-0291 and P-2328 in the *Yekatom and Ngaissona* case and which would involve showing several official CAR documents and other items.

30. Thus, if the Request is granted for all Six Witnesses, the Prosecution estimates saving at least 42 hours of court time.

(iii) *The Prior Recorded Testimonies Bear Sufficient Indicia of Reliability for Introduction into Evidence*

31. The Prior Recorded Testimonies have sufficient indicia of reliability for introduction into evidence. All prior recorded testimonies given to the Prosecution by the Six Witnesses have been taken in accordance with the procedure established under the Statute and the Rules. Notably, five witnesses whose statements have been taken pursuant to rule 111 have signed their statements, attesting that their testimony was read back to them, was given voluntarily, and that their contents were true to the best of their recollection of the events.⁸⁷ Where an interpreter was used, the witnesses confirmed that they read over the statement with the interpreter and confirmed its accuracy.⁸⁸ The interpreter also signed the statement, where applicable, certifying that each witness heard and understood the translation.⁸⁹ P-0884's evidence has been audio-recorded under rule 112 in the form of questions and answers. His interview

⁸⁷ **P-0291**, CAR-OTP-2024-0036 at 0058; **P-0349**, CAR-OTP-2074-0041 at 0060; **P-2232**, CAR-OTP-2090-0561 at 0600; **P-2232**, CAR-OTP-2100-2569 at 2600; **P-2251**, CAR-OTP-2093-0045 at 0081-0082; **P-2328**, CAR-OTP-2090-0165 at 0224.

⁸⁸ **P-2232**, CAR-OTP-2090-0561 at 0600; **P-2232**, CAR-OTP-2100-2569 at 2600; **P-2251**, CAR-OTP-2093-0045 at 0081-0082.

⁸⁹ **P-2232**, CAR-OTP-2090-0561 at 0600; **P-2232**, CAR-OTP-2100-2569 at 2601; **P-2251**, CAR-OTP-2093-0045 at 0082.

was conducted on a voluntary basis⁹⁰ in the language that he speaks and fully understands⁹¹ in the presence of his counsel.⁹² He was further explained to distinguish between what he had experienced and what he had learned or heard from others.⁹³

32. Additionally, in relation to five witnesses who have testified in the case of *Yekatom and Ngaissona*,⁹⁴ all of them have confirmed the accuracy of their statements and interview transcripts in front of Trial Chamber V under oath,⁹⁵ after making limited corrections if needed.⁹⁶ Notably, Trial Chamber V has accepted the submission of the statements of P-0291 and P-2251 pursuant to rule 68(3) of the Rules, the introduction of which had been requested by the Prosecution in the *Yekatom and Ngaissona* case.⁹⁷

33. The transcripts of in-court testimonies in the *Yekatom and Ngaissona* case for the same five witnesses, which the Prosecution also seeks to introduce into evidence through this Request, equally bear sufficient indicia of reliability. Their testimonies were made under oath before Trial Chamber V,⁹⁸ and the witnesses were examined by Parties and Participants. Specifically, their evidence was scrutinised by two separate

⁹⁰ **P-0884**, CAR-OTP-2072-1335 at 1339-1340, ln. 124-160; CAR-OTP-2072-1440 at 1442, lns. 40-63; CAR-OTP-2072-1913 at 1951, lns. 1337-1344; CAR-OTP-2080-1548 at 1551, lns. 85-99; CAR-OTP-2080-1678 at 1723, lns. 1553-1557.

⁹¹ **P-0884**, CAR-OTP-2072-1335 at 1338, lns. 83-95.

⁹² **P-0884**, CAR-OTP-2072-1335 at 1337, 1344-1345, lns. 36-37, 46-48, 311-335; CAR-OTP-2080-1548 at 1550, lns. 43-45.

⁹³ **P-0884**, CAR-OTP-2072-1335 at 1374, lns. 623-628.

⁹⁴ P-0291, P-0884, P-2232, P-2251, P-2328.

⁹⁵ **P-0291**, ICC-01/14-01/18-T-051-CONF-ENG ET, p. 8, ln. 2 – p. 9, ln. 23; **P-0884**, ICC-01/14-01/18-T-054-CONF-ENG ET, p. 19, ln. 23 – p. 20, ln. 11; **P-2232**, ICC-01/14-01/18-T-075-CONF-ENG ET, p. 4, ln. 21 – p. 5, ln. 16; **P-2251**, ICC-01/14-01/18-T-043-CONF-ENG CT, p. 7, ln. 25 – p. 12, ln. 16; **P-2328**, ICC-01/14-01/18-T-046-CONF-ENG CT, p. 17, ln. 8 – p. 18, ln. 12.

⁹⁶ **P-0291**, ICC-01/14-01/18-T-051-CONF-ENG ET, p. 8, lns. 2-21; **P-2232**, ICC-01/14-01/18-T-075-CONF-ENG ET, p. 5, lns. 4-10; CAR-OTP-2134-1693; **P-2251**, ICC-01/14-01/18-T-043-CONF-ENG CT, p. 7, ln. 25 – p. 12, ln. 6.

⁹⁷ See **P-0291**, ICC-01/14-01/18-T-051-CONF-ENG ET, p. 7, ln. 11 – p. 9, ln. 23; **P-2251**, ICC-01/14-01/18-T-043-CONF-ENG CT, p. 7, ln. 25 – p. 12, ln. 16.

⁹⁸ **P-0291**, ICC-01/14-01/18-T-051-CONF-ENG ET, p. 6, lns. 17-24; **P-0884**, ICC-01/14-01/18-T-054-CONF-ENG ET, p. 5, lns. 13; **P-2232**, ICC-01/14-01/18-T-075-CONF-ENG ET, p. 3, lns. 13-22; **P-2251**, ICC-01/14-01/18-T-043-CONF-ENG CT, p. 4, lns. 12-24; **P-2328**, ICC-01/14-01/18-T-046-CONF-ENG CT, p. 5, ln. 24 – p. 6, ln. 7.

Defence teams during their cross-examinations, including on the issues and events in the period around 2013,⁹⁹ covering matters pertinent also to the present case.

34. The evidence of the Six Witnesses is further corroborative to and cumulative of other evidence. The Six Witnesses corroborate each other on many aspects.¹⁰⁰ Their evidence is further corroborated by other Prosecution witnesses and evidence, including: (a) P-0966, P-0975, P-1339 and P-2269 on the issues of the formation, structure and activities of the Anti-Balaka in 2013, [REDACTED]; (b) P-0349, P-0481, P-0510, P-1004, P-1167, P-1263, P-1420, P-2105 and P-2563 on the Seleka's formation and advancement to Bangui; and (c) P-1004, P-0662, P-0664, P-1167, P-1420, P-2105 and P-2240 on the CEDAD. The events discussed by the Six Witnesses are also corroborated by other documentary evidence, including the conclusion of the ceasefire agreement,¹⁰¹ the Anti-Balaka's clashes with the Seleka in Bossangoa and the

⁹⁹ **P-0291**, ICC-01/14-01/18-T-051-CONF-ENG ET, p. 69, ln. 12 – p. 77, ln. 9; ICC-01/14-01/18-T-052-ENG ET, p. 3, ln. 10 – p. 56, ln. 5; ICC-01/14-01/18-T-053-ENG, p. 3, ln. 23 – p. 30, ln. 7; **P-0884**, ICC-01/14-01/18-T-057-CONF-ENG ET, p. 3, ln. 7 – p. 96, ln. 6; ICC-01/14-01/18-T-058-CONF-ENG ET, p. 3, ln. 4 – p. 85, ln. 19; **P-2232**, ICC-01/14-01/18-T-078-CONF-ENG CT, p. 3, ln. 6 – p. 85, ln. 23; ICC-01/14-01/18-T-079-CONF-ENG ET, p. 3, ln. 11 – p. 35, ln. 20; **P-2251**, ICC-01/14-01/18-T-044-CONF-ENG CT, p. 3, ln. 13 – p. 54, ln. 24; **P-2328**, ICC-01/14-01/18-T-048-CONF-ENG CT, p. 16, ln. 18 – p. 101, ln. 11; ICC-01/14-01/18-T-049-CONF-ENG CT, p. 3, ln. 4 – p. 96, ln. 11; ICC-01/14-01/18-T-050-CONF-ENG CT, p. 3, ln. 1 – p. 49, ln. 2.

¹⁰⁰ See e.g., For COCORA: P-2232 (para. 20) and P-2328 (para. 26); For the formation and structure of the Seleka: P-0291 (para. 11), P-0349 (para. 14) and P-2328 (para. 26); For the Seleka's takeover of Bangui in March 2013: P-0291 (para. 11), P-0349 (para. 14), P-2232 (para. 20) and P-2328 (para. 26); For the Seleka's National Security Council meetings: P-0291 (para. 11) and P-2328 (para. 26); For provision of ammunition to the Anti-Balaka activities [REDACTED]: P-0884 (para. 17) and P-2232 (para. 20); For the escape of [REDACTED] to the DRC: P-0884 (para. 17) and P-2232 (para. 20); For the Anti-Balaka in Govere with DEDANE as a chief: P-0884 (para. 17), P-2232 (para. 20) and P-2251 (para. 23); For the Anti-Balaka's attack on Bossangoa: P-0884 (para. 17), P-2232 (para. 20) and P-2251 (para. 23); For the organisation of the Anti-Balaka from Cameroon by BOZIZE and his associates: P-2232 (para. 20) and P-2328 (para. 26); For NGREMANGOU being an Anti-Balaka commander in Bangui: P-0884 (para. 17) and P-2328 (para. 26); For Anti-Balaka's 5 December 2013 attack: P-0884 (para. 17), P-2232 (para. 20), P-2251 (para. 23) and P-2328 (para. 26); For the Anti-Balaka's objective to regain the power in the CAR: P-2232 (para. 20) and P-0884 (para. 17).

¹⁰¹ See e.g., **Libreville Agreement**: CAR-OTP-2054-1346.

surrounding areas,¹⁰² the origin and structure of the Seleka,¹⁰³ the formation of the Anti-Balaka in Gobere,¹⁰⁴ the activities of the Anti-Balaka in Zongo;¹⁰⁵ the activities of the Anti-Balaka in Cameroon including with the involvement of Olivier KOUDEMON;¹⁰⁶ NGREMANGOU's coordination with Anti-Balaka figures in 2013;¹⁰⁷ the Seleka's National Security Council meetings;¹⁰⁸ and the Anti-Balaka's 5 December 2013 attack.¹⁰⁹

35. The Six Witnesses generally distinguish between information about which they have direct knowledge and information that they acquired from other sources. Their evidence is also internally consistent.

(iv) Introduction of the Prior Recorded Testimonies is not Prejudicial To or Inconsistent with the Rights of the Accused

36. The introduction of the Prior Recorded Testimonies into evidence is not prejudicial to or inconsistent with the rights of the Accused. Most significantly, per jurisprudence of the Court,¹¹⁰ the Defence's rights to cross-examine the Six Witnesses,

¹⁰² See e.g., **CAR document:** CAR-OTP-2100-1790 at 1791; **B2 document on 9 September 2013:** CAR-OTP-2075-0985; **Report Panel of Experts:** CAR-OTP-2001-0835 at 0875, para. 1; **UN Mapping Project Report:** CAR-OTP-2055-1987 at 2242; **UN SG Report:** CAR-OTP-2001-0329 at 0338, para. 45; **IPIS Report:** CAR-OTP-2001-5739 at 5788. See also Prosecution's First Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)", ICC-01/14-01/21-279-Red ("1st BTM"), para. 14; Prosecution's Second Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)", ICC-01/14-01/21-285-Red ("Second BTM"), para. 10; Prosecution's Third Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)", ICC-01/14-01/21-286-Red ("Third BTM"), paras. 11-12.

¹⁰³ See e.g., **FIDH Report:** CAR-OTP-2001-2890 at 2897-2899; **FIDH Report:** CAR-OTP-2001-2769 at 2833-2836; **IPIS report:** CAR-OTP-2001-5739 at 5751-5753; **UN Mapping Project Report:** CAR-OTP-2055-1987 at 2087; **HRW Report:** CAR-OTP-2001-1870 at 1907-1911.

¹⁰⁴ See e.g., **Video interview of an Anti-Balaka member:** CAR-OTP-2081-1769 and its transcript at CAR-OTP-2122-2313 at 2316-2318, lns. 68-115. See also Third BTM, para. 11

¹⁰⁵ See Third BTM, para. 14; Prosecution's Fourth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9), ICC-01/14-01/21-312-Red ("Fourth BTM"), paras. 17-24.

¹⁰⁶ See Third BTM, para. 9.

¹⁰⁷ See Fourth BTM, paras. 17-24.

¹⁰⁸ See e.g., **Presidential Decree 13.185:** CAR-OTP-2005-0380; **National Security Council Meeting document:** CAR-OTP-2101-3086 at 3091-3092; **National Security Council Meeting document:** CAR-OTP-2034-3627 at 3632-3633. See also First BTM, para. 16; Second BTM, para. 11; Third BTM, para. 14.

¹⁰⁹ See e.g., **UN SG Report:** CAR-OTP-2001-0409 at 0409, para. 3; **OHCHR Report:** CAR-OTP-2001-0391 at 0394, para. 12; **IPIS Report:** CAR-OTP-2001-5739 at 5788; **FIDH Report:** CAR-OTP-2001-2769 at 2799-2802.

¹¹⁰ See the sources cited in First Rule 68(3) Application, para. 7, fns. 7-10.

including addressing any issues of credibility or probative value and any matters of an exculpatory nature, remain unchanged. The risk of prejudice is especially low in relation to these Six Witnesses where the evidence is almost entirely focused on background information that goes to the chapeau elements of the war crimes and crimes against humanity charges.¹¹¹

37. Additionally, the Defence will have plenty of time to prepare and conduct its cross-examination. The Defence has had most of the Prior Recorded Testimony in its possession since before the confirmation hearing.¹¹² The Prosecution has also highlighted the Witness's evidence in the Pre-Confirmation Brief dated 30 August 2021¹¹³ and in the Trial Brief dated 13 June 2022.¹¹⁴ Furthermore, it is unlikely that the Six Witnesses will testify still in 2022.¹¹⁵

(v) Factors Identified by other Trial Chambers are in Favour of the Introduction of the Prior Recorded Testimony of the Six Witnesses via Rule 68(3)

38. The factors identified by other Trial Chambers are in favour of the introduction of the Prior Recorded Testimony of the Six Witnesses through rule 68(3). *First*, the evidence of the Six Witnesses does not relate to issues that are likely to be materially in dispute.¹¹⁶ *Second*, the evidence of the Six Witnesses does not relate to the central or

¹¹¹ See *supra*, paras. 9-27.

¹¹² See *e.g.*, Pre-Confirmation INCRIM package 002 14 April 2021; Pre-Confirmation INCRIM package 003 23 April 2021; Pre-Confirmation INCRIM package 023 15 June 2021; Pre-Confirmation INCRIM package 024 21 June 2021; Pre-Confirmation INCRIM package 036 12 July 2021; Decision on the Prosecution Request for Authorisation to Disclose Certain Transcripts in the case of The Prosecutor v. Mahamat Said Abdel Kani, ICC-01/14-01/18-1129, 5 October 2021. For the disclosure of P-2232's hearing transcripts in the *Yekatom and Ngaissona* case, see Decision on the Second Prosecution Request for Authorisation to Disclose Certain Transcripts in the case of *The Prosecutor v. Mahamat Said Abdel Kani* concerning witnesses P-0287, P-0801, P-0808, P-0876, P-0889, P-0992, P-0966, P-0975, P-1339, P-1521, P-1719, P-2232, P-2269, and P-2843, ICC-01/14-01/18-1448, 7 June 2022. For the disclosure of Associated Items of hearing transcripts of the oral testimony in *Yekatom and Ngaissona* case, see Decision on the Third Prosecution Request for Authorisation to Disclose Certain Materials in the Case of The Prosecutor v. Mahamat Said Abdel Kani concerning Witnesses P-0291, P-0884, P-0966, P-0975, P-1339, P-2232, P-2251, P-2269, and P-2328, ICC-01/14-01/18-1465, 17 June 2022.

¹¹³ Pre-Confirmation Brief, ICC-01/14-01/21-155-Conf, 30 August 2021.

¹¹⁴ TB.

¹¹⁵ See Annex B of Prosecution's List of Witnesses, Proposed Order of Appearance, and Summaries of Anticipated Testimony, ICC-01/14-01/21-354-Conf-AnxB, 10 June 2022.

¹¹⁶ See *supra*, paras. 9-27.

core issues in the case, but rather is focused on the background of the conflict and the contextual elements.¹¹⁷ *Third*, their evidence is corroborative of other evidence.¹¹⁸ *Fourth*, the introduction of the evidence pursuant to rule 68(3) expedites the proceedings as it allows the Chamber to save up to 42 hours of direct examination time by the Prosecution.¹¹⁹

39. Furthermore, five witnesses have already testified in the *Yekatom and Ngaissona* case, covering issues pertinent to the present case.¹²⁰ It would be contrary to judicial economy and well-being of the witnesses to be requested to testify about the same facts multiple times before the Court. This is particularly true for the present case, in which the trial will likely take place in alternation with other ongoing cases from the same situation.¹²¹

D. The Prosecution should be allowed to conduct a focused supplementary examination of the Six Witnesses

40. If the Request is granted, the Prosecution requests permission to conduct a limited supplementary examination, as detailed above.¹²² The Prosecution will endeavour to keep the examination as focused and efficient as possible and use less time wherever possible.

E. RELIEF SOUGHT

41. For the above reasons, the Prosecution requests that the Chamber:

¹¹⁷ See *supra*, paras. 9-27.

¹¹⁸ See *supra*, para.34.

¹¹⁹ See *supra*, paras. 3, 30-30.

¹²⁰ See *supra*, paras. 33.

¹²¹ Decision Setting the Commencement Date of the Trial and Related Deadlines, ICC-01/14-01/21-243, 21 February 2022, para. 21.

¹²² See *supra*, paras. 28-30.

- (a) Introduce into evidence the Prior Recorded Testimonies, as set out in Annex A to this filing, subject to the fulfilment of the further conditions of rule 68(3); and
- (b) Grant leave for the Prosecution to conduct a limited supplementary examination of P-0349, P-0884, P-2232, and P-2251 of no more than 1 hour, and of P-2328 and P-0291 of no more than 2 hours.

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 5th day of July 2022
At The Hague, The Netherland