

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/14-01/18**

Date: **25 July 2019**

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Confidential

**Prosecution's Response to the Joint Defence Motion for Disclosure of
Anonymous Summaries for P-0458 and P-1792 (*ICC-01/14-01/18-254-Conf*)**

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. Trial Chamber II ("Chamber") should reject the Joint Defence Motion for Disclosure of Anonymous Summaries for P-0458 and P-1792 ("Motion")¹ in its entirety. The Motion fails to satisfy the conditions for the variation of time limits pursuant to Regulation 35(2) of the Regulations of the Court ("Regulations"), and advances no other plausible justification for the requested relief. Nor, is the immediate disclosure of the proposed anonymised summaries for the two Witnesses warranted.

II. CONFIDENTIALITY

2. This response is filed as *Confidential* pursuant to regulation 23bis(2) of the Regulations of the Court as it responds to a filing with the same classification.

III. SUBMISSIONS

A. The Motion does not satisfy regulation 35(2)

3. The Motion does not satisfy the conditions for varying the time limit set by the Chamber for Defence to respond to the 5 July 2019 Prosecution' Request for the Non-Disclosure of Witness Identities ("5 July 2019 Request").² *First*, the Motion neither mentions nor establishes "good cause shown."³ *Second*, the time limit set, 29 July 2019,⁴ is manifestly reasonable and sufficient for the Defence to address the limited matters at issue, namely the justifications advanced for the Prosecution's use of anonymised summary evidence pursuant to article 61(5). Other than to say that an extension would make the

¹ ICC-01/14-01/18-254-Conf ("Motion").

² ICC-01/14-01/18-237-Conf-Exp.

³ See regulation 35(2) of the Regulations.

⁴ ICC-01/14-01/18-254-Conf, para. 4.

Defence's opportunity to be heard "meaningful"⁵, the Motion advances no colourable issue justifying the requested extension, albeit limited.

B. The immediate disclosure of P-0458's and P-1792's proposed summaries is not warranted

4. The Motion provides no basis for advancing disclosure regarding the two Witnesses. The Chamber has already set 19 August 2019 as the deadline for the Prosecution's pre-confirmation disclosure. The Motion does not set out any particularly compelling reason why, in this instance, the disclosure deadline should be departed from. Absent this, there is no basis for the Defence request. The Prosecution however, observes that the provision of the summaries at this stage, in advance of the Chamber's decision on the 5 July 2019 Request, would be a matter of courtesy which the Prosecution is always disposed to entertain. However, it is not the appropriate subject of a motion for an order, given the clear and definite pre-confirmation disclosure deadline the Chamber has already set.

C. A public redacted version of the Prosecution's 5 July 2019 Request will be filed in due course

5. Lastly, the Prosecution considers that the Chamber need not "order"⁶ the filing of a public redacted version of its 5 July 2019 Request. Normatively, one would be filed in due course in any event, and there is certainly no pressing public interest in the matter at issue requiring an order at this stage.

⁵ ICC-01/14-01/18-254-Conf, para. 5, 7-8.

⁶ ICC-01/14-01/18-254-Conf, para. 1.

IV. RELIEF SOUGHT

6. For the reasons set out above, the Motion should be rejected.



Fatou Bensouda, Prosecutor

Dated this 25th day of July 2019
At The Hague, The Netherlands