



Original: **English**

No.: **ICC-01/14-01/18**
Date: **23 December 2025**

TRIAL CHAMBER V

Before: Judge Beti Hohler , Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

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

Public

Public redacted version of “Prosecution’s submission pursuant to regulation 35 to vary the time limit and request for in-Court protective measures for Prosecution Witness CAR-OTP-P-1990”, 8 May 2023, ICC-01/14-01/18-1860-Conf-Red

Source: Office of the Prosecutor

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I. INTRODUCTION

1. Pursuant to regulation 35(2) of the Regulations of the Court,¹ articles 64(2) and 68(1) of the Rome Statute, and rule 87 of the Rules of Procedure and Evidence,² the Office of the Prosecutor (“Prosecution”) seeks a variation of the time limit of Trial Chamber V’s (“Chamber”) 26 August 2020 Initial Direction on the Conduct of Proceedings (“Initial Directions”),³ to submit a request for in-Court protective measures for Witness P-1990 in the form of voice and facial distortion and the use of a pseudonym (“Requested Measures”).

2. In its First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules (“Decision”),⁴ the Chamber found it more appropriate to *proprio motu* introduce P-1990’s prior recorded testimony pursuant to Rule 68(3) of the Rules than under Rule 68(2)(b) as requested by the Prosecution.⁵ As the Decision was issued on 6 April 2023,⁶ a request for in-Court protective measures could not have reasonably been anticipated before the initial deadline of 7 December 2020 as envisioned in the Initial Directions.

3. The Requested Measures are substantiated by good cause, as P-1990 has had serious security issues [REDACTED]. These issues are compounded by the poor overall security situation in the Central African Republic (“CAR”) and P-1990’s residence in [REDACTED], an area where ex Anti-Balaka and their supporters hold power and influence.

¹ (“RoC”).

² (“Rules”).

³ ICC-01/14-01/18-631, paras. 68-70.

⁴ ICC-01/14-01/18-1833-Conf-Corr, paras. 320-328.

⁵ ICC-01/14-01/18-794-Red.

⁶ The original version is dated 6 April 2023, while the corrected version is dated 17 April 2023.

4. Granting the Requested Measures will ensure that P-1990 is able to give his evidence fully without fear for his own security, and without jeopardising that of his family.

5. The Requested Measures are the least restrictive means to appropriately balance the right to a public trial against the mandate to protect witnesses appearing before the Court, and to prevent a disproportionate risk of harm on account of those who assist it.⁷ As such, the measures would not unfairly prejudice the Accused.

II. CONFIDENTIALITY

6. Pursuant to regulation 23*bis* of the RoC, this Request is filed as “Confidential, *EX PARTE*, only available to the Prosecution and the VWU”, as it bears on confidential witness security issues and indicates P-1990’s family’s current residence. A confidential redacted version will be filed shortly.

III. SUBMISSIONS

A. A variation of the time limit for the Request is necessary and justified

7. Under regulation 35(2) of the Regulations, a Chamber may extend a time limit after it has elapsed, if the participant seeking the extension can demonstrate that they were unable to file the application within the time limit for reasons outside their control.

8. These requirements are satisfied. As detailed above, a request for in-Court protective measures could not have been envisioned before the deadline of 7 December 2020 as set out in the Initial Directions. In view of the Chamber’s ruling that P-1990’s prior recorded testimony should be introduced pursuant to Rule 68(3) of the Rules,⁸ the Prosecution has examined P-1990’s in-Court security requirements and

⁷ See e.g., ICC-01/05-01/13-1481-Red-Corr, para. 18.

⁸ ICC-01/14-01/18-1833-Conf, paras. 320-328.

believes that protective measures are necessary to ensure he can safely provide his full evidence to the Court.

9. Granting a variance to seek the Requested Measures given these specific circumstances would in no way derail the proceedings or unduly prejudice the Accused.

B. Protective measures for P-1990 are necessary to mitigate the risks arising from his testimony

10. The Requested Measures are necessary to mitigate the risks arising from P-1990's anticipated trial testimony.

11. P-1990 is a Christian and was a director at the Yamwara School during the relevant period. He is expected to testify, inter alia, about the 5 December attack on BANGUI; the targeting of Muslims by the Anti-Balaka; the Anti-Balaka base at the Yamwara School and associated checkpoints; killings and burials at the Yamwara School and the subsequent exhumations by *Initiatives et recherche des actions concrètes de développement* ("IRAD") and the *Fondation suisse de déminage* ("FSD"), for which he was present. The witness also explains that Yamwara was originally a mixed religion school but became a Christian school after the conflict.⁹

12. The Prosecution understands that [REDACTED].

13. The Prosecution has been informed by the witness that [REDACTED].

14. P-1990 maintains that [REDACTED].¹⁰

15. The Prosecution understands from P-1990 that he [REDACTED].

⁹ Statement of CAR-OTP-P-1990, CAR-OTP-2124-0247.

¹⁰ See e.g. CAR-OTP-2092-3257 at 3258; CAR-OTP-2030-0232 at 0237; T-111, p. 11, l. 18-20.

16. The CPC encompasses, *inter alia*, Anti-Balaka belonging to both the MOKOM and the NGAISSONA wings and is actively engaged in violence throughout CAR. Despite having failed to oust the President during the BANGUI offensive on 13 January 2021, the CPC remains an operational group with significant power.¹¹

17. Testifying publicly will expose P-1990, a somewhat public figure in his capacity as a school director, to an increased risk of retribution by Anti-Balaka or CPC members or sympathisers. [REDACTED]. As recently held by Trial Chamber VI in the Said Abdel Kani case, “the fact that [REDACTED] must be taken into consideration.”¹²

18. Given the continuing complex, fragile and volatile nature of the security situation in CAR,¹³ coupled with the unlikelihood of this improving over the short to medium term,¹⁴ domestic authorities have minimal capacity to protect witnesses in this case, as this would necessitate the deployment of a substantial portion of their limited resources to stabilise the country. In addition to this *objective* risk, P-1990 has also expressed a *subjective* fear of further retaliation, [REDACTED], should he testify publicly. In-Court protective measures are therefore necessary to ensure the witness’s cooperation and security.

C. The Requested Measures are strictly proportionate to the risk and do not unfairly prejudice the Accused

19. The Requested Measures are necessary and proportionately mitigate the risks arising from P-1990’s prospective testimony. Given that P-1990’s role means he is well-known in BANGUI, the use of a pseudonym, voice and facial distortion are the

¹¹ ICC-01/14-01/18-825-Conf-Anx [REDACTED]; see also RFI, “Centrafrique: de quoi la coalition de groupes armés est-elle le nom?”, 20 December 2020, <https://www.rfi.fr/fr/afrique/20201220-centrafrique-de-quoi-la-coalition-de-groupes-arm%C3%A9s-est-elle-le-nom> [Last accessed: 08/05/2023].

¹² Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, Decision on the Prosecution Second Request for In-Court Protective Measures, 20 April 2023, ICC-01/14-01/21-605-Conf para. 27.

¹³ ICC-01/14-01/18-1772-Conf-Anx, para. 33.

¹⁴ ICC-01/14-01/18-1772-Conf, para. 7.

minimum necessary to ensure the adequate and proportional protection of his and his family's safety and security.

20. The impact of the Requested Measures on the publicity of the proceedings is mitigated and justified. *First*, as noted, they are needed to ensure that P-1990 is able to provide unfettered evidence. *Second*, they do not impede the Accused's opportunity and ability to fully examine the witness and to test his evidence. *Third*, much of P-1990's testimony will be given in public in any event, with the Chamber duly moderating the use of Private Sessions within the sound exercise of its discretion, as it has done effectively and fairly with other protected witnesses.

21. Finally, in respect of the right to publicity,¹⁵ the Prosecution notes that the Requested Measures would remain in effect to the extent necessary to protect the witness. However, should the risks abate, the possibility of releasing lesser redacted material into the public domain may be appropriate in the future, thus accommodating and balancing the respective interests of articles 64(2), 68(1), and 67(1).

¹⁵ See article 67(1) (qualifying the right as an "entitle[ment] to a public hearing, *having regard to the provisions of this Statute...*") (emphasis added); see also article 68(2).

IV. RELIEF SOUGHT

22. For the above reasons, the Prosecution seeks the Chamber's leave to extend the time limit to submit the present request. The Prosecution further seeks the in-Court protective measures of pseudonym, voice and face distortion for Witness P-1990.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 23rd day of December 2025
At The Hague, The Netherlands