

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 16 January 2026

TRIAL CHAMBER V

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

**Public Document
with Confidential Annex A**

Public Redacted Version of "Ngaïssona Defence consolidated request for leave to add D30-P-4848 to its List of Witnesses and for in-Court protective measures for D30-P-4848", ICC-01/14-01/18-2473-Conf, 2 May 2024

Source: Defence of Patrice-Edouard Ngaïssona

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

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☒ Counsel for the Defence

D30

D29

☒ Legal Representatives of the Victims

V44

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☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for Victims

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I. INTRODUCTION

1. The Defence for Mr Patrice-Edouard Ngaïssona ('the Defence') hereby requests leave to add Witness D30-P-4848 to its list of witnesses ('List') pursuant to Articles 64(6)(d) and (f) and 69(3) of the Rome Statute ('Request').
2. Upon thorough consideration, the Defence submits that the proposed testimony of D30-P-4848 bears considerable significance and is likely to contribute substantially to this case. Its addition to the List is essential for Trial Chamber V ('Chamber') to effectively carry out its truth-finding mandate. The Defence intends to present D30-P-4848 as a live witness not earlier than the second half of June but prior to the scheduled summer recess, ensuring that adequate time is provided to the Chamber and participants to meaningfully prepare while preserving the expeditiousness of the proceedings.
3. In line with the 'Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLRV and the Defence)' ('Further Directions'),¹ and to further minimize any impact on the parties and participants pending approval of the Request, the Defence hereby provides, in Annex A, a detailed and comprehensive summary of D30-P-4848's anticipated testimony.
4. Moreover, to expedite the witness's appearance before this Court should the Request be granted, the Defence respectfully requests the Chamber to grant D30-P-4848 in-court protective measures, in the form of (i) face distortion, (ii) voice distortion, and (iii) use of pseudonym ("Sought Measures").
5. The Sought Measures are necessary since there is an objectively justifiable risk to the witness' safety, physical and psychological well-being, as well as his dignity and privacy should his identity become known to the public.

I. PROCEDURAL HISTORY

6. On 29 May 2023, the Chamber issued its Further Directions.²
7. On 11 September 2023, the Prosecution filed the 'Prosecution's Notice of the Close of its Case-in-Chief'.³

¹ ICC-01/14-01/18-1892, para. 21.

² ICC-01/14-01/18-1892.

³ ICC-01/14-01/18-2089.

8. On 17 November 2023, the Defence filed the ‘Defence Submission of its Final List of Witnesses and its List of Evidence’.⁴
9. On 15 December 2023, the Defence filed its ‘Addendum to the Defence Submission of its Final List of Witnesses and List of Evidence’ containing the Defence’s summaries of all the witnesses it intended to have testify fully live in the present proceedings.⁵
10. On the same day, the Defence filed the ‘Ngaïssona Defence request for leave to add items to the List of Evidence’ (‘First Request’), seeking leave to add 14 items to its List.⁶
11. On 11 January 2024, the Chamber issued its ‘Decision on the Ngaïssona Defence Request for Leave to Add Fourteen Items to its List of Evidence’, granting the First Request.⁷
12. On 12 January 2024, the Defence filed the ‘Second Ngaïssona Defence request for leave to add items to the List of Evidence’ (Second Request’), seeking leave to add two items to the List.⁸
13. On 24 January 2024, the Chamber issued its ‘Decision on the Ngaïssona Defence Request for Leave to Add Two Items to its List of Evidence’, granting the Second Request.⁹
14. On 8 April 2024, the Defence filed the ‘Third Ngaïssona Defence request for leave to add items to the List of Evidence’ (Third Request’), seeking leave to add eight items to the List.¹⁰
15. On 16 April 2024, the Chamber issued its ‘Decision on the Ngaïssona Defence Request for Leave to Add Two Items to its List of Evidence’, granting the Third Request.¹¹

II. CONFIDENTIALITY

16. In accordance with Regulation 23bis(1) of the Regulations of the Court (“RoC”), the present Request is filed as “confidential” as it contains confidential and identifying information. A public redacted version will be filed in due course.

⁴ ICC-01/14-01/18-2215 together with ICC-01/14-01/18-2215-Conf-Anx1 and ICC-01/14-01/18-2215-Conf-Anx2.

⁵ ICC-01/14-01/18-2270 together with ICC-01/14-01/18-2270-Conf-Anx1.

⁶ ICC-01/14-01/18-2269 together with ICC-01/14-01/18-2269-Conf-AnxA.

⁷ ICC-01/14-01/18-2292.

⁸ ICC-01/14-01/18-2297 together with ICC-01/14-01/18-2297-Conf-AnxA.

⁹ ICC-01/14-01/18-2324.

¹⁰ ICC-01/14-01/18-2439-Conf.

¹¹ ICC-01/14-01/18-2451-Conf.

III. APPLICABLE LAW

17. The powers enshrined in Articles 64(6)(d) and (f) and 69(3) of the Statute of Rome allow the Chamber to manage the trial, with due regard for the rights and obligations of the parties, and to request all evidence it considers necessary of the determination of the truth.
18. In the *Ongwen* case, Trial Chamber IX recalled that the addition of a witness to the Defence's witness list "can be granted even after the presentation of the evidence has begun 'in exceptional circumstances and with sufficient cause'".¹²
19. Relevant factors when determining whether to allow the addition of a witness, as well as any related statements or documents, to the Defence's list of witnesses and list of evidence, after the deadline, include: (i) the extent to which the requested addition is opposed by the Prosecution, (ii) the time when the addition is sought, (iii) the nature and amount of the material concerned, (iv) the intended purpose for the party's requested reliance on such material as well as its prospective significance in light of the charges brought against the accused and the rest of the available evidence.¹³

IV. SUBMISSIONS

20. The Defence submits that there is good cause to include Witness D30-P-4848 to its List at this stage. The evidence of this potential witness is relevant to the Defence case; the Prosecution will have ample time to prepare for its examination since Witness D30-P-4848 will be called later in the Defence case; and the anticipated evidence, in part, concerns general matters already known by the Prosecution and the other parties and participants. In sum, D30-P-4848's addition to the List will not unduly prejudice the other parties and participants and will assist the Chamber in determining the truth in this case.

a. Reasons for the late addition of Witness D30-P-4848

21. The Defence filed its List on 17 November 2023, in accordance with the Further Directions, emphasizing the prevailing time constraints under which the Defence was operating to meet this deadline, and "reserv[ing] its right to request leave to add items to its list of evidence,

¹² ICC-02/04-01/15-1565, para. 13, referring to ICC-02/04-01/15-1074, para. 27.

¹³ ICC-02/04-01/15-619, para.10.

if the addition of such items is necessary in order to secure an adequate and effective defence for Mr Ngaïssona and to assist the Chamber in its truth-finding function”.¹⁴

22. The considerable time constraints and logistical challenges faced by the Defence in meeting the List’s deadline led it to allocate its limited resources towards concluding investigations that were already well underway, instead of pursuing new potential investigative leads.
23. While the Defence had a first screening with D30-P-4848 on 14 July 2021, during which general introductory topics were addressed, it was only when the Defence responded, on the eve of the summer recess 2023, to the “Prosecution’s Seventh Application for the Submission of Facebook Evidence from the Bar Table” that the specific relevance of D30-P-4848 to the Prosecution’s case slowly started to emerge.¹⁵
24. As further detailed below, the Prosecution, for the first time, drew conclusions about [REDACTED] D30-P-4848’s alleged involvement within the ANTI-BALAKA. This was based on mentions of D30-P-4848’s name in Facebook conversations from accounts attributed to [REDACTED] and Lévy YAKETE. Also, the Prosecution, for the first time, in a footnote to this Seventh Application, attributed the Facebook account [REDACTED] to the witness.¹⁶ This attribution is very relevant as an excerpt of this Facebook account is relied upon in the Trial Brief as evidence - though uncorroborated - to allege that Mr Ngaïssona gave instructions to the ANTI-BALAKA [REDACTED]. It should be noted, however, that the Trial Brief does not make an explicit connection between the alleged user of that account and D30-P-4848, merely referring to this user as “involved in the operations or with knowledge of the events”.¹⁷ Therefore, the Defence had not made this connection until very late into the proceedings when it was on the verge of commencing the Defence case’s presentation.
25. It was during the Defence team’s mission to BANGUI in [REDACTED] 2024 that it ultimately managed to conduct a first official interview with D30-P-4848. This meeting afforded the Defence an opportunity to pose specific questions on points reflecting the latest allegations from the Prosecution, thereby updating its understanding of the case from D30-P-4848’s perspective.

¹⁴ ICC-01/14-01/18-2215, para. 3.

¹⁵ ICC-01/14-01/18-1999-Conf (‘Seventh Application’) in response to ICC-01/14-01/18-1874-Conf.

¹⁶ ICC-01/14-01/18-1874-Conf, footnote 147.

¹⁷ Trial Brief, ICC-01-14/01-18-723-Conf, para. [REDACTED].

26. Due to D30-P-4848's engagement in a [REDACTED] and a demanding schedule, the Defence was not able to successfully organize a follow-up call with him until 9 April 2024. As [REDACTED], D30-P-4848 was fully committed to [REDACTED], rendering him unavailable for discussions prior to this date.

27. Finally, the Defence interviewed D30-P-4848 as the concept of securing an alternative to Witness D30-P-4747, who the Defence withdrew as witness on 25 January 2024,¹⁸ was gradually taking shape. As the Chamber is aware, the alleged acts and conduct of Mr Ngaïssona, particularly while in exile in CAMEROON during 2013, are central to the Prosecution's case. His purported role in facilitating the [REDACTED] into the ANTI-BALAKA is alleged to have increased the group's ability to carry on attacks.¹⁹ Consequently, it was of particular importance for the Defence to include in its List someone with direct ties to the exiled [REDACTED] in CAMEROON, or part thereof. This objective was initially fulfilled with the inclusion of D30-P-4747, former [REDACTED] in exile, in both the Provisional and Final Witness Lists. However, the decision to remove Witness D30-P-4747 from the List was not concluded until late January 2024. It was only after this point that substantial discussions concerning the selection of a replacement witness were therefore conducted and the relevance of D30-P-4848's anticipated testimony for this purpose was definitively established.

b. The anticipated evidence is relevant to the case and will assist the Chamber in its truth-finding function

28. The Defence submits that much of the evidence proposed by D30-P-4848 is not duplicative of the evidence provided by other witnesses, brings to light previously unknown facts which have a significant bearing on the case and would be of relevance in determining the questions at issue in this case.

29. Witness D30-P-4848 was a former [REDACTED]. D30-P-4848 would provide information, *inter alia*, on:

- his relationship with [REDACTED];
- his former [REDACTED];

¹⁸ Email from the Defence to the Trial Chamber, dated 25 January 2024 at 4:50pm.

¹⁹ Trial Brief, paras 253, 257, 281.

- his route to exile which began by first crossing the OUBANGUI river, alone, to flee to the DRC, before taking, [REDACTED] to DOUALA, where he lived until his return to BANGUI in 2014;
- the vast difference between the SELEKA's invasion and a conventional coup, [REDACTED];
- the reasons why the city of DOUALA was a natural choice for his exile;
- the vast reach of the SELEKA intelligence services extending beyond the CAR territory, including in CAMEROON, and instilling fear in the CAR exiled population;
- Mr Ngaïssona, whom D30-P-4848 [REDACTED] saw twice in CAMEROON;
- D30-P-4848's activities during his exile, spending most of his time at home, following news on social media and television, keeping informed of the situation back home, and sharing these updates on platforms like Facebook;
- the broader effort among exiled Central Africans to provide mutual support through the sharing of information and resources, despite the diverse origins of the information or their personal unfamiliarity with the sources, in the hope of protecting the safety of their families and communities having remained in CAR, and prevent the atrocities committed by the SELEKA forces;
- the Cameroonian authorities' initiative, upon the SELEKA government's request, to gather and keep a census of the FACA in exile, with the objective of repatriating them to CAR; and why calls to go home at a meeting at the *Préfecture* in DOUALA were turned down;
- political gatherings not being permitted in CAMEROON;
- the editor-in-chief of the internet media *Centrafrique Presse*, Mr Prosper NDOUMA [REDACTED];
- D30-P-4848 will challenge certain pieces of information contained in *Centrafrique Presse*, [REDACTED];
- his lack of a role within the ANTI-BALAKA or with any form of destabilization of the SELEKA regime from BERTOUA, where he never set foot, or from elsewhere;
- his lack of contact with François BOZIZE at any point in 2013 and his lack of knowledge regarding François BOZIZE's whereabouts and activities during that period;
- his relationship and contacts with [REDACTED] during his exile;
- rumors circulating about [REDACTED] being an intelligence agent for the SELEKA;

- his return to BANGUI a few weeks after DJOTODIA's resignation [REDACTED];
- the conflict that arose in BOY RABE between the FACAs and ANDJILO's group which led to the exclusion of ANDJILO from the neighborhood; and
- the attack of Mr Ngaïssona's residence in February 2014.

30. More specifically, D30-P-4848's proposed evidence will be critical in challenging the reliability of certain information that has been disseminated concerning Mr Ngaïssona and him. This includes information in various forms, such as press articles, intelligence briefings, or Facebook conversations, which may have been distorted or plainly false. The allegations in question relate to key aspects of the charges, often uncorroborated, such as (i) alleged meetings with BOZIZE's so-called inner circle [REDACTED] in CAMEROON, (ii) the alleged identification of the FACA involved in destabilizing the SELEKA regime and (iii) Mr Ngaïssona's alleged contribution in structuring and giving instructions to the ANTI-BALAKA prior to the 5 December attack.

31. D30-P-4848's proposed evidence will further refute the submissions made by the Prosecution in its Seventh Application. D30-P-4848 will clarify that by 2013, he was [REDACTED], that he was not involved with the ANTI-BALAKA group or François BOZIZE's alleged inner circle [REDACTED], and had no access to reliable information regarding the alleged group's organization, attacks, and operations.²⁰ For instance, D30-P-4848's proposed evidence will contradict the Prosecution's conclusion that a Facebook conversation with Levy YAKETE dated [REDACTED] 2013 "shows, inter alia, YAKETE's involvement in the ANTI-BALAKA prior to the 5 December 2013 attacks on BANGUI and BOSSANGO, [REDACTED]."²¹ Similarly, Witness D30-P-4848 is expected to dispute any association with an alleged mission, that allegedly took place [REDACTED], following supposed instructions from François BOZIZE to the ANTI-BALAKA in [REDACTED] 2013.²² D30-P-4848 is also expected to deny that [REDACTED], to the best of his knowledge, were ANTI-BALAKA leaders or members of BOZIZE's alleged inner circle, or otherwise linked to them.²³

²⁰ ICC-01/14-01/18-1874-Conf, para. 35.

²¹ Annex 1 to ICC-01/14-01/18-1874-Conf, page 177, referring to CAR-OTP-2101-7703, at 7707.

²² ICC-01/14-01/18-1874-Conf, para. 37 and footnote 144. *See also* Annex 1 to ICC-01/14-01/18-1874-Conf, page 334, referring to CAR-OTP-2103-4757, at 4765-4767. The Prosecution alleges it shows "NGAISSONA's involvement in the ANTI-BALAKA prior to 5 December 2013 attacks on BANGUI and BOSSANGO, in particular regarding [REDACTED]".

²³ *See* Annex 1 to ICC-01/14-01/18-1874-Conf, item #448 suggesting that [REDACTED] is part of the ANTI-BALAKA. *See also* ICC-01/14-01/18-1874-Conf, para. 35.

32. D30-P-4848's testimony will highlight the Prosecution's mischaracterization of numerous Facebook communications by demonstrating, *inter alia*, that these conversations did not offer detailed insight into the ANTI-BALAKA's strategy for regaining power,²⁴ but were instead unverified rumors from unidentified sources, circulated in a collective effort to protect the welfare of the CAR community and stop the SELEKA crimes. The absence of D30-P-4848's involvement with the ANTI-BALAKA casts serious doubt on the veracity of similar claims being circulated about other individuals, such as Mr Ngaïssona. His testimony will confirm that it would be detrimental to Mr Ngaïssona's fundamental right under article 67 of the Statute if the Chamber were to rely on Facebook conversations for the truth of their content when they have not been independently authenticated and contextualized.
33. D30-P-4848's testimony also provides a rare opportunity to shed some light on the source of D30-P-4848's knowledge regarding alleged instructions purportedly issued by Mr Ngaïssona [REDACTED] before the 5 December attack.²⁵ There is no tangible evidence to date regarding these instructions. The Prosecution's reliance on this Facebook excerpt within the Trial Brief to implicate Mr Ngaïssona brings forward its significance.
34. Furthermore, information indicating that FACA meetings took place in CAMEROON, as sanctioned by the SELEKA authorities, may offer a new perspective on why some witnesses, such as P-1719²⁶ and P-0974,²⁷ reported the organization of meetings involving FACA members.
35. As amply demonstrated above, the addition of D30-P-4848 to the Defence's List is in the interest of justice and warranted.

c. Absence of prejudice

36. The Defence submits that the addition of this witness to the Defence List is not prejudicial to the fairness and expeditiousness of the proceedings.
37. *First*, since the Prosecution's narrative in this case centers on the conduct of individuals associated with the so-called "CAMEROON group" in the year 2013, particularly the supposed [REDACTED] into the ANTI-BALAKA, resulting in a fighting force capable of

²⁴ ICC-01/14-01/18-1874-Conf, para. 36.

²⁵ Trial Brief, para. [REDACTED].

²⁶ P-1719, T-0141-ENG ET, page 35, lines 9-12 and pages 36-37.

²⁷ P-0974, CAR-OTP-2058-0165-R01, para. 27.

launching attacks, the Prosecution is already perfectly aware of any relevant evidence pertaining to these issues and has previously had ample opportunities to prepare for it in the course of the trial. Also, as described above, due to the similarities between the profiles of D30-P-4848 and D30-P-4747, the Prosecution has been generally forewarned of the category of topics expected to be covered.

38. In addition, the Defence intends to engage with the witness on the review of certain materials during his testimony. These materials have been (i) collected, assessed and disclosed by the Prosecution, (ii) included in its List of Evidence, and, for the most part, (iii) extensively debated in the Prosecution's applications for the submission of Facebook-related evidence from the Bar Table,²⁸ therefore no undue prejudice is placed against the Prosecution.²⁹
39. Furthermore, since the Prosecution has hinged its case extensively on Facebook communications, the Defence initially intended to call an expert witness, namely D30-P-4885, to discuss, *inter alia*, the reliability of the contents of such communications.³⁰ However, upon further consideration, and as apparent from the latest witness anticipated order,³¹ the Defence has finally opted not to call D30-P-4885 and instead intends to explore the reliability of Facebook communications through, *inter alia*, the testimony of D30-P-4848, but from a different angle. While D30-P-4848 is a fact-witness and not an expert, he is expected to offer a pragmatic insight into the factual aspects of some of the questions that would have been addressed with D30-P-4885. Therefore, the transition should not require significant adjustment on the part of the Prosecution in terms of preparation.
40. *Second*, the addition of D30-P-4848 should not be a cause for concern regarding extended trial duration. The examination-in-chief of this additional witness is projected to require a maximum of six hours. As just mentioned, the Defence will no longer call Witness D30-P-4885, as was previously scheduled within the June hearing sessions. Consequently, the incorporation of a new witness will maintain the balance of the current estimated court time, ensuring that the revised schedule remains consistent with the most recent time estimations. Furthermore, and more generally, the overall consumption of court time by the Defence will not exceed the original projection submitted in its List last 17 November. It should be acknowledged that the cumulative court time needed by the Defence remains substantially

²⁸ ICC-01/14-01/18-1874-Conf, ICC-01/14-01/18-1956-Conf and ICC-01/14-01/18-2062-Conf.

²⁹ ICC-02/04-01/15-1559-Red, para. 23.

³⁰ ICC-01/14-01/18-2215-Conf-Anx1-Corr, page 3.

³¹ See email titled "Ngaïssona Defence anticipated witness order (1 May 2024) sent by the Defence to the Chamber on 1 May 2024, at 14:25.

below the total time initially estimated for the presentation of its evidence. In the Defence's notice of intent to present evidence pursuant to the Chamber's "Further Directions on the Conduct of the Proceedings",³² the Defence had initially planned for a presentation of evidence spanning approximately 120 hours, inclusive of testimonies from 30 witnesses. If the Chamber grants this Request and allows D30-P-4848 to testify, the Defence predicts it will present its case in less than 70 hours, *i.e.* well below the previously established 120-hour framework. The Defence, therefore, submits that this adjustment should be viewed as a strategic refinement aimed at enhancing the efficiency of the presentation of evidence without compromising on judicial economy.

41. *Third*, the scope of new material pertaining to D30-P-4848's anticipated testimony shall be confined to the summary that is currently appended to the Request. This summary provides a cogent overview of the key elements of the anticipated evidence and will enable the Chamber and participants to meaningfully prepare for his testimony.
42. *Fourth*, the presentation of evidence by both Defence teams is not anticipated to conclude for the next upcoming months, hence providing some flexibility regarding the scheduling of this witness with minimal disruption to the Prosecution's preparation efforts. It is the Defence's intention to schedule the testimony of Witness D30-P-4848 as late as practicable within the Defence case, subject to D30-P-4848's availability. The latter has already indicated his ability to testify during the second half of June or early July 2024. Should the witness' testimony proceed during that period, it will afford the Prosecution ample opportunity to prepare for its examination.

In-Court Protective measures are required

43. In order to expedite D30-P-4848's appearance before the Court were the Chamber to grant the Request, the Defence respectfully requests that the Chamber simultaneously consider the Defence's request to grant the Sought Measures while deliberating on the Request.
44. The Defence submits that there exists an objectively justifiable risk to the safety of D30-4848 if his identity is disclosed to the public. First, D30-P-4848 resides in CAR. As such, he is put at significant risk by the general security situation which prevails in CAR³³. Second, D30-P-4848 is a [REDACTED] in CAR. He is a [REDACTED]. Moreover, he has been [REDACTED]. As such, he is a very prominent [REDACTED]

³² ICC-01/14-01/18-2055-Conf, para. 4.

³³ See Fifteenth Periodic Report of the Registry on the Political and Security Situation in the Central African Republic, ICC-01/14-01/18-2380-Conf.

within his community and beyond. He therefore fears that the current government could retaliate against him by testifying for the Defence of Mr Ngaïssona, who is considered an opponent to the TOUADERA government and publicly portrayed by the current CAR government as being associated with BOZIZE. [REDACTED]. More importantly, some of the individuals he is set to testify on, such as [REDACTED], have ties with the CAR government and could try to harm him or his family because of his cooperation with the Defence.

45. In the current context and the harassment faced by real or perceived political opponents, a public testimony would objectively threaten the witness and his family's security and wellbeing. The witness fears to be associated with the Defence and the Court in general and will not expose himself to the risk of testifying without the protection of the Sought Measures.
46. Given the contents of his expected testimony, and the fact that he is a [REDACTED] in CAR, the Sought Measures are necessary for Witness D30-P-4848, and their absence would create an objectively justifiable risk to his legitimate interests, protected under Article 68 of the Statute. They are proportionate to the accused's rights, since they are the least restrictive option possible, given the existing risk to the witness. Moreover, the publicity of the proceedings would not be greatly impacted, as the Defence will do its best to mitigate the measures by conducting its examination-in-chief as much as possible in open session, when circumstances allow it.
47. In conclusion, the application of in-court protective measures is appropriate to protect the witness's legitimate interests under Article 68 of the Statute.

V. RELIEF SOUGHT

48. For the reasons presented above, the Defence respectfully requests the Chamber to:
 - **GRANT** the present request for leave to add D30-P-4848 to its witness list; AND, should the Request be granted;
 - **GRANT** the request for in-Court protective measures for Witness D30-P-4848, in the form of (i) face distortion, (ii) voice distortion, and (iii) use of pseudonym.

Respectfully submitted,



G. J. Alexander Knoop
on behalf of
Patrice-Edouard Ngaïssona

Dated this 16 January 2026

At The Hague, the Netherlands