

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **20 January 2026**

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 *THE PROSECUTOR v.*
*ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

**Public Redacted Version of the ‘Yekatom Defence Response to the
“Prosecution’s submission pursuant to regulation 35 to vary the time limit
and request for in-court protective measures for Prosecution Witness P-1577”,
21 January 2021, ICC-01/14-01/18-843-Conf’, 1 February 2021 ICC-01/14-01/18-
863-Conf**

Source: Defence for Mr. Alfred Rombhot Yekatom

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INTRODUCTION

1. Counsel representing Mr. Alfred Rombhot Yekatom (“Defence and “Mr. Yekatom”, respectively) hereby submit this response to the “Prosecution’s submission pursuant to regulation 35 to vary the time limit and request for in-court protective measures for Prosecution Witness P-1577” filed on 21 January 2021 (the “Request”).¹
2. The Defence defers to the Chamber’s discretion regarding the Prosecution’s submission to vary the time limit to submit its Request pursuant to Regulation 35, but opposes the requested in-court protective measures for Witness P-1577.

PROCEDURAL BACKGROUND

3. On 26 August 2020, the Chamber in its “Initial Directions on the Conduct of the Proceedings” instructed the Prosecution to file its application for in-court protective measures by 7 December 2020.²
4. On 10 November 2020, the Prosecution filed the “Prosecution’s List of Witnesses and Evidence”³ containing its intention to call *viva voce* or under Rule 68(3) a total of 96 witnesses.⁴ In that final witnesses list, P-1577’s expected protective measures are identified as “none”.⁵
5. On 18 December 2020, a confidential redacted version of the “Prosecution’s Request for in-court protective measures” was made available to the Defence,⁶ indicating that the Prosecution was seeking implementation of in-court protective measures for a total of 72 witnesses, for which P-1577 was not

¹ [ICC-01/14-01/18-843-Conf.](#)

² [ICC-01/14-01/18-631](#), para. 70.

³ [ICC-01/14-01/18-724](#).

⁴ [ICC-01/14-01/18-724-Conf-AnxA](#).

⁵ [ICC-01/14-01/18-724-Conf-AnxA](#), page 43, Witness n°86.

⁶ [ICC-01/14-01/18-757-Conf-Red.](#)

mentioned.⁷

6. On [REDACTED], [REDACTED] requested that protective measures be established for [REDACTED], including obscuring the identity of P-1577 to the public in the proceedings.⁸
7. On 21 January 2021, the Prosecution filed its submission pursuant to regulation 35 to vary the time limit and request for in-court protective measures for Prosecution Witness P-1577.⁹

SUBMISSIONS

8. In its Request, the Prosecution seeks in-court protective measures consisting of the use of a pseudonym and face distortion for Witness P-1577 ("Requested Measures").¹⁰
9. Granting of protective measures is both an exception to the principle of publicity and should be made on a case-by-case basis.¹¹ Protective measures should remain exceptional and proportionate to the rights of the accused.¹² The Defence opposes the protective measures sought for P-1577 as they do not rely on an objectively justifiable risk for his safety should his identity be disclosed during his testimony. The Request should be rejected as: (i) it aims for protection of [REDACTED] rather than P-1577 himself; (ii) P-1577's prospective return to CAR is not foreseeable in the near future; (iii) it incorrectly purports to claim that P-1577's proposed testimony could present a

⁷ [ICC-01/14-01/18-757-Conf-Anx-Red](#).

⁸ [ICC-01/14-01/18-843-Conf-Anx](#).

⁹ [ICC-01/14-01/18-843-Conf](#).

¹⁰ [ICC-01/14-01/18-843-Conf](#), para. 1.

¹¹ *Prosecutor v. Ruto & Sang*, [Decision on 'Prosecution's First Request for In-Court Protective Measures for Trial Witnesses'](#), ICC-01/09-01/11-902-Red2, 11 September 2013, para. 13; *Prosecutor v. Bemba et al*, [Decision on Prosecution Request for In-Court Protective Measures](#), ICC-01/05-01/13-1306, 28 September 2015, para. 3; *Prosecutor v. Ntaganda*, [Decision on request for in-court protective measures relating to the first Prosecution witness](#), ICC-01/04-02/06-824-Red, 15 September 2015, para. 6; *Prosecutor v. Katanga*, [Order on protective measures for certain witnesses called by the Prosecutor and the Chamber \(Rules 87 and 88 of the Rules of Procedure and Evidence\)](#), ICC-01/04-01/07-1667-Red-tENG, 9 December 2009, para. 9.

¹² *Ibid*.

misconception of [REDACTED]; (iv) P-1577's various publications and media coverage are at odds with a request to testify anonymously.

A. The Request aims for the protection of [REDACTED] rather than P-1577 himself

10. Contrary to other witnesses for whom protective measures were sought,¹³ it appears that P-1577 did not himself request any such measures. As the Annex to the Prosecution's Request shows, [REDACTED] P-1577's anonymity [REDACTED] would seriously endanger [REDACTED]. Not much is mentioned concerning P-1577's security in the Request, as the Prosecution instead focuses on [REDACTED].
11. The Defence submits that protective measures, as set by the Court's jurisprudence, should only be granted when assessing the existence of personal security concerns and risks faced by the witness. As such, the request "must clearly identify and specifically describe the security concerns and risks faced by the witness", ¹⁴ and the "case-by-case evaluation requires an individualised consideration of risk in each particular case".¹⁵ In the Defence view, the Prosecution justifies the protective measures by arguing that all [REDACTED] would be endangered by the disclosure of P-1577's identity and his association with the Court. However, the risk must be personal, objectively justifiable, and only the personal circumstances of the witness should be taken into account when granting such an exceptional measure. ¹⁶
12. The Prosecution, in its Request and the letter annexed to it, highlights that [REDACTED], in particular P-1577's [REDACTED], are at risk, given the

¹³ [ICC-01/14-01/18-757-Conf-Anx-Red](#), page 8, witness n°50 and page 9, witness n°52.

¹⁴ *Prosecutor v. Al Hassan*, [Public redacted version of 'Third decision on in-court protective measures'](#), ICC-01/12-01/18-1113-Red2, 5 January 2021, paras. 34-35.

¹⁵ *Prosecutor v. Ruto & Sang*, [Decision on 'Prosecution's First Request for In-Court Protective Measures for Trial Witnesses'](#), ICC-01/09-01/11-902-Red3, 11 December 2017, para 14.

¹⁶ *Prosecutor v. Ntaganda*, [Decision on in-court protective measures for Witness D-0243](#), ICC-01/04-02/06-2136, 01 December 2017, para 9; *Prosecutor v. Ruto & Sang*, [Decision on 'Prosecution's First Request for In-Court Protective Measures for Trial Witnesses'](#), ICC-01/09-01/11-902-Red3, 11 December 2017, para. 23.

current situation in CAR.¹⁷ If the Court were to consider the Prosecution's argument regarding [REDACTED], the Defence respectfully submits that no objectively justifiable risk has been substantiated to support a potential [REDACTED]. Every assertion of risk [REDACTED] in the Request is hypothetical. The Prosecution mentions that the "[REDACTED]".¹⁸ On that matter, the Court's jurisprudence mentions that "speculative and hypothetical scenarios" are unsuitable to trigger the application of Rule 87.¹⁹ The Prosecution's allegations are broad in nature, referring to the general situation in CAR and not to the location where [REDACTED].²⁰ Therefore, there is nothing in the submission to the effect that [REDACTED] have a real fear, which can be objectively justified.

B. P-1577's prospective return to CAR is not foreseeable in the near future

13. The Prosecution's Request is based, *inter alia*, on the likelihood of P-1577 to work again, in an undetermined future, in CAR.²¹ According to the Prosecution's Request, P-1577 made [REDACTED] trips to CAR between [REDACTED] and that his [REDACTED].²² It appears that P-1577 does not plan to return to CAR in the foreseeable future. In addition, and according to the Prosecution's Request, the Defence also understands that P-1577 is not currently living or working in CAR nor has he returned to CAR since [REDACTED]. Thus, the lack of any detail of an upcoming trip to CAR does not militate for a concrete, objective and identifiable risk for his personal safety. As set by the Chamber in the *Al Hassan* case "a speculative or remote risk for the witness's safety is not a valid ground for granting protective

¹⁷ [ICC-01/14-01/18-843-Conf](#), para. 14; [ICC-01/14-01/18-843-Conf-Anx](#).

¹⁸ *Ibid*, para. 14.

¹⁹ *Prosecutor v. Gbagbo & Blé Goudé*, [Decision on the Prosecutor's application for protective measures for Witness P-0428](#), ICC-02/11-01/15-1155-Red, para 8.

²⁰ [ICC-01/14-01/18-843-Conf](#), para. 14.

²¹ *Ibid*, para. 13.

²² *Ibid*, para. 11.

measures”.²³ The Prosecution’s argument is merely speculative and it should not be considered in the assessment on the propriety of granting protective measures.²⁴

C. The Request incorrectly purports to claim that P-1577’s proposed testimony could present a misconception of [REDACTED]

14. In its Request, the Prosecution also argues that obscuring the identity of P-1577 to the public would prevent a misconception of [REDACTED] that would jeopardize [REDACTED].²⁵ On that point, the Defence contends that this argument is unfounded, particularly in light of [REDACTED] public interventions. The Defence recalls that [REDACTED] desire to see Anti-Balaka leaders and Mr. Yekatom, tried before the ICC.²⁶ On the other hand, [REDACTED],²⁷ thus denoting the absence of any bias in favour of the Anti-Balaka and also its interest in seeing international justice being served.²⁸ As such, the Prosecution has failed to substantiate the reality of the increased risk [REDACTED] if P-1577 were to testify without protective measures, when [REDACTED].
15. Moreover, the Defence notes that P-1577 and [REDACTED] have already put in place safeguards to avoid any retaliation [REDACTED]. In his first interview, in [REDACTED] 2018, P-1577 declared that he will refrain from revealing certain information. He stated that he would not “[REDACTED]”.²⁹ He also mentioned that he would not “[REDACTED]”³⁰ and that he would not

²³ *Prosecutor v. Al Hassan*, [Public redacted version of ‘Third decision on in-court protective measures’](#), ICC-01/12-01/18-1113-Red2, 5 January 2021, para. 35.

²⁴ *Prosecutor v. Gbagbo & Blé Goudé*, [Decision on the Prosecutor’s application for protective measures for Witness P-0428](#), ICC-02/11-01/15-1155-Red, 20 April 2018, para. 8; *Prosecutor v. Al Hassan*, [Public redacted version of ‘Third decision on in-court protective measures’](#), ICC-01/12-01/18-1113-Red2, 5 January 2021, paras 34-35.

²⁵ [ICC-01/14-01/18-843-Conf](#), para. 14.

²⁶ [REDACTED]

²⁷ [REDACTED]

²⁸ [REDACTED]

²⁹ [CAR-OTP-2081-0769-R01](#), para.5.

³⁰ *Ibid.*

“[REDACTED]”.³¹ Therefore, it is clear that, with the assistance of his supervisor and legal support of [REDACTED], P-1577 already took the necessary precautions to protect his [REDACTED] safety by excluding specific sensitive matters. This renders the request for protective measures all the less substantiated and warranted.

16. In its Request, the Prosecution submitted that Witness P-1577's cooperation with the Prosecution could affect his security,³² which the Defence refutes. P-1577's cooperation with the International Criminal Court (the “ICC”), and more generally [REDACTED], is a matter of public knowledge. In this respect, it is worth noting that P-1577 [REDACTED],³³ [REDACTED].³⁴ Thus, it is public knowledge that [REDACTED].

D. P-1577's various publications and media coverage are at odds with a request to testify anonymously

17. In addition, P-1577's [REDACTED].³⁵ Furthermore, [REDACTED].³⁶ [REDACTED], P-1577 also declared publicly that “[REDACTED]”³⁷ By explicitly mentioning [REDACTED], P-1577 [REDACTED].
18. The Prosecution's request for protective measures is at odds given [REDACTED].³⁸ The publicity [REDACTED] militates against the requested protective measures.
19. In light of the above, the Defence respectfully submits that, in the absence of any objectively justifiable risk for P-1577's safety and in order to ensure the trial record is as public as possible, the Witness's identity should be known to the public.

³¹ *Ibid.*

³² [ICC-01/14-01/18-843-Conf](#), para. 13.

³³ [REDACTED]

³⁴ [REDACTED]

³⁵ [REDACTED]

³⁶ [REDACTED]

³⁷ *Ibid.*

³⁸ [CAR-OTP-2081-0840](#).

CONFIDENTIALITY

20. The present response is filed on a confidential basis corresponding to the classification of the Prosecution's Request. A public redacted version will be filed shortly.

RELIEF SOUGHT

21. In light of the above, the Defence respectfully requests the Chamber to:
- REJECT** the implementation of in-court protective measures for Witness P-1577.

RESPECTFULLY SUBMITTED ON THIS 20TH DAY OF JANUARY 2026³⁹



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³⁹ The assistance of Legal Interns, Ms. Audrey Gagne Breton of Canada and Camille Gillain of France in the preparation of this motion is gratefully acknowledged.