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No.: ICC-01/14-01/18
Date: 16 February 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 *PROSECUTOR v. ALFRED YEKATOM AND
PATRICE-EDOUARD NGAÏSSONA***

Public

Public redacted version of "Prosecution's Response to the Defence "Request for delayed disclosure and protective measures for CAR-D29-P-6010, CAR-D29-P-6012, CAR-D29-P-6014, CAR-D29-P-6017, CAR-D29-P-6025, CAR-D29-P-6019 and CAR-D29-P-6027""

(ICC-01/14-01/18-2161), 2 November 2023, ICC-01/14-01/18-2187-Conf-Exp

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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Counsel for Patrice-Edouard Ngaïssona

[REDACTED]

[REDACTED]

[REDACTED]

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

Registrar

[REDACTED]

Counsel Support Section

Victims and Witnesses Unit

[REDACTED]

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) defers in part to the discretion of Trial Chamber V (“Chamber”) in the disposition of the Yekatom Defence’s “Request for delayed disclosure and protective measures for CAR-D29-P-6010, CAR-D29-P-6012, CAR-D29-P-6014, CAR-D29-P-6017, CAR-D29-P-6025, CAR-D29-P-6019 and CAR-D29-P-6027” (“Request”).¹

2. The Prosecution defers to the Chamber’s discretion in respect of the Defence’s general request for protective measures for witnesses CAR-D29-P-6010, CAR-D29-P-6012, CAR-D29-P-6014, CAR-D29-P-6017, CAR-D29-P-6025, CAR-D29-P-6019, and CAR-D29-P-6027 (“Seven Defence witnesses”). However, the Chamber should reject the Defence’s request for the delayed disclosure of their identities to the Common Legal Representative of the Victims (“CLR”) and the Victim Participation and Reparation Section (“VPRS”) as unnecessary and based on speculation. If anything, the Chamber should first consider less restrictive measures.

II. CONFIDENTIALITY

3. Pursuant to regulation 23bis(2) of the Regulations of the Court (“RoC”), this Response is filed as “Confidential *Ex Parte*”, as it responds to a filing of the same classification. A confidential redacted version will be submitted concurrently.

III. SUBMISSIONS

4. As noted, the Prosecution defers to the Chamber’s discretion in deciding on the request for protective measures in the form of the use of a pseudonym and the non-disclosure of the identities of the Seven Defence witnesses to a third party, pending determination on their status as rule 68(2), rule 68(3), or as live witnesses (“Request

¹ ICC-01/14-01/18-2161-Conf-Exp.

for Protective Measures”).² The Prosecution opposes the delayed disclosure of the identity of Seven Defence witnesses to the CLRV and to VPRS until 15 days prior to their respective testimony, if any (“Request for Delayed Disclosure”).³

5. The Request for Delayed Disclosure is motivated by a concern about the risks potentially arising from disseminating the identities of the Seven Defence witnesses to [REDACTED], and/or to the public.⁴ However, these ostensible risks do not objectively arise from the disclosure of their identities to the CLRV or to VPRS. Rather, the Request appears to rest on unjustifiable presumption that the Participants may mishandle this sensitive information.

6. While [REDACTED],⁵ [REDACTED],⁶ neither are, nor have been, staff members of OPCV or VPRS. As such, [REDACTED] are not entitled to the same level of access as the Parties and Participants to confidential information. The Defence’s blanket Request for Delayed Disclosure of the Seven Defence witnesses’ identities to CLRV or to VPRS to avoid that [REDACTED] might learn of them in circumstances where neither would have access to such information, is unnecessary.

7. As the Request acknowledges,⁷ the CLRV (as legal representatives) and VPRS (which falls under a neutral organ of the Court), have confidentiality obligations. Legal representatives are required, pursuant to article 8(1) of the Code of Conduct to “respect and actively exercise all care to ensure respect for professional secrecy and the confidentiality of information in accordance with the Statute, the Rules of Procedure and Evidence and the Regulations of the Court.” VPRS, in turn, is bound by regulation 1.2 of the Staff Regulations, which requires that “staff members shall not, unless specifically authorized, at any time, directly or indirectly, use, disclose,

² ICC-01/14-01/18-2161-Conf-Red, paras. 1, 45, and 61.

³ ICC-01/14-01/18-2161-Conf-Red, paras. 1, 13, and 61.

⁴ ICC-01/14-01/18-2161-Conf-Exp, para. 13.

⁵ See CAR-OTP-00001381.

⁶ See CAR-OTP-2135-4188.

⁷ ICC-01/14-01/18-2161-Conf-Red, para. 29.

furnish, or make accessible to any third party confidential information of the Court of which they have become aware during the course of their employment.” Furthermore, there has been no suggestion of impropriety, misconduct, or non-compliance with the above-mentioned confidentiality obligations on the part of the CLRV or VPRS in the proceedings to date.

8. The Request fails to substantiate *how* disclosure of the identities of the Seven Defence witnesses to VPRS or the CLRV, who are held to high standards of integrity, confidentiality, and ethics, would reasonably lead to the disclosure of such information to [REDACTED], [REDACTED], and/or to the public. The Defence’s position that “the general confidential obligations of both the CLRVs and VPRS are not sufficient safeguards to ensure the safety and physical integrity of the Seven Witnesses”⁸ is conclusory. Moreover it is untenable, particularly without any indication of a prior breach of confidentiality or any likelihood of a prospective one. Rather, the lack of substantiation in the Request is further emphasised by the Defence’s own assertion that “to establish whether the CLRVs and VPRS fulfilled all of their respective duties and professional obligations is not within [the scope of the present delayed disclosure request].”⁹ Importantly, it is equally unclear *how* any of the “interference incidents” referenced by the Defence¹⁰ implicate the CLRV or VPRS members in any way. The Request is based on pure speculation.

9. The CLRV and VPRS are entitled to disclosure in order to meaningfully exercise their right to participation and to present the views and concerns of victims in accordance with article 68(3). The exercise of this statutory function should not be hampered by delayed disclosure based on unsubstantiated assertions, particularly when less restrictive measures are clearly available. For instance, the Chamber may simply provide a specific instruction restricting the CLRV and VPRS from

⁸ ICC-01/14-01/18-2161-Conf-Exp, para. 37.

⁹ ICC-01/14-01/18-2161-Conf-Red, para. 32.

¹⁰ ICC-01/14-01/18-2161-Conf-Exp, paras. 22-25.

disseminating the identities of the Seven Defence witnesses to either [REDACTED]. This would serve as a sufficient safeguard, to the extent the Chamber may consider one necessary at all.

10. In addition, the Prosecution also notes that the expected testimony of most of the Seven Defence Witnesses relates to collateral issues. Four¹¹ of the Seven Defence Witnesses are expected to provide evidence to impeach the credibility of P-2620, who is *not* a witness in these proceedings. The Prosecution withdrew P-2620 from its List of Witnesses on its own initiative.¹² Her narrative is not evidence in the case. Therefore, her credibility is also not at issue. Two additional Defence witnesses¹³ are expected to testify about the credibility of victims CAR-V45-P-0001 and CAR-V45-P-0002. Although these victims' testimonies form part of the record, they are not Prosecution witnesses, and the impact of their evidence concerning Count 29 is overall limited.

11. Furthermore, as previously stated,¹⁴ Count 29 is also predicated on the testimony of witnesses regarding their direct observations of, and interactions with, under age children in Yekatom's Anti-Balaka Group unconnected to those who participated in the *Enfants Sans Frontières* (ESF) demobilisation programme. As such, the Chamber should take into account that the Seven Defence witnesses' expected evidence is only of limited materiality to matters in controversy in the case — a significant factor in assessing risk and thereby the necessity and propriety of the protective measures sought as a whole.

¹¹ CAR-D29-P-6010, CAR-D29-P-6017, CAR-D29-P-6019, and CAR-D29-P-6012.

¹² P-2620 was withdrawn on 10 March 2023, *see* ICC-01/14-01/18-1791-Conf.

¹³ CAR-D29-P-6025 and CAR-D29-P-6027.

¹⁴ ICC-01/14-01/18-2122, para. 5.

IV. CONCLUSION

12. For the foregoing reasons, the Prosecution defers to the discretion of the Chamber in the disposition of the Request for Protective Measures. The Chamber should reject the Request for Delayed Disclosure of the identities of the Seven Defence witnesses to the CLRV and VPRS.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 16th day of February 2026
At The Hague, The Netherlands