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No.: ICC-01/14-01/18
Date: 20 February 2026

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***

Public

**Public redacted version of “Prosecution’s Observations Pursuant to Order ICC-01/14-01/18-164-Conf-Exp, 12 April 2019, ICC-01/14-01/18-174-Conf-Exp”,
12 April 2019, ICC-01/14-01/18-174-Conf-Exp**

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

The Office of the Prosecutor

[REDACTED]

[REDACTED]

[REDACTED]

Counsel for Alfred Yekatom

[REDACTED]

[REDACTED]

Counsel for Patrice-Edouard Ngaïssona

[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”) provides the following observations on the questions below, as raised by the Chamber in its “Order Seeking Observations from the Prosecutor and the Victims and Witnesses Unit”.¹

II. CONFIDENTIALITY

2. These observations are filed “confidential, *EX PARTE*, available only to the Prosecution and VWU” as it responds to an order of the same classification.

III. OBSERVATIONS

a. How many witnesses have been referred to the VWU for protection purposes at present? How many additional witnesses does the Prosecutor intend to refer to the VWU for protection purposes before the confirmation of charges hearing?

3. There are currently [REDACTED] witnesses who have been referred to VWU. As it stands, there are no more planned referrals to facilitate disclosure for the confirmation of charges proceedings. However, the Prosecution cannot exclude issues arising in the on-going witness security process and the possibility of additional witnesses requiring referral to VWU as a result [REDACTED].² Given the fragile and unpredictable security situation in the Central African Republic (“CAR”), including the [REDACTED], there is a strong possibility that additional witnesses will need to be referred to VWU in the future.

¹ ICC-01/14-01/18-164-Conf-Exp.

² [REDACTED].

b. Does the Prosecutor intend to submit further requests for non-standard redactions regarding any evidence she has to disclose? How many requests to withhold the identity of witnesses and/or to present summaries of items of evidence pursuant to articles 61(5) and 68(5) of the Statute does the Prosecutor intend to submit before the confirmation of charges hearing?

4. Yes, the Prosecution intends to submit further requests for non-standard redactions and the withholding of witness identities.

5. The Prosecution cannot presently provide the Chamber with a definitive number of prospective requests. It is still in the process of reviewing and refining the scope of witnesses it considers ‘necessary’ for confirmation and those otherwise providing information disclosable under rule 77 or article 67(2). Until the correlative reviews are complete, it is not possible to provide the Chamber with a fixed and reliable number of how many witnesses require security measures, and of those, how many will not have yet have security measures in place by 17 May 2019,³ so as to require withholding their identities. Similarly, pending the completion of its review, the total number of witnesses requiring non-standard redactions remains unclear at this point. As noted, in its previous filing,⁴ the Prosecution hopes to be in a position to provide a firm list of witnesses whose identities need to be withheld by 18 April 2019⁵, those who require non-standard redactions in the next two weeks, and respectfully requests the Chamber’s indulgence.

6. With that said, as of today, the Prosecution has identified at least 68 witnesses who it considers virtually indispensable or core to the confirmation proceedings. Of those 68, 24 witnesses may require protection measures before their identities can be disclosed. The Prosecution has also identified at least 68 additional witnesses whose evidence may contain material disclosable under rule 77 or article 67(2). Of those

³ See ICC-01/14-01/18-163, p. 16.

⁴ See ICC-01/14-01/18-162-Conf-Exp, paras. 16-20.

⁵ See ICC-01/14-01/18-168, p. 8.

witnesses, 26 may require protection measures before their identities can be disclosed. These numbers, of course, will change based on the Prosecution's continuing assessment of witness security, review of information in its collection, the on-going investigation, and the changing security situation on the ground.

c. Does the Prosecutor wish to bring any other relevant matters to the attention of the Chamber?

7. Yes. Having carefully weighed and considered several factors affecting the timing of disclosure, including the assessment and implementation of possible witness security measures, the Prosecution considers that a postponement of the date for the confirmation hearing and corresponding deadlines will be necessary.

8. The Prosecution will provide details in a substantiated separate filing next week. This will provide the Chamber with full submissions and a clear understanding of the attendant circumstances and challenges in respect of the current schedule, as well as provide the Defence with an opportunity to respond.

9. In preview, a postponement is necessary for a combination of reasons, and the length of the extension dependent on several related factors, some outside the Prosecution's control. *First*, the Prosecution requires additional time to finalise the list of witnesses that it intends to rely on for confirmation. This has not yet been concretely determined, in part, based on some of the factors identified above. In turn, this impacts the preparation of the document containing the charges and the Pre-Confirmation Brief. As well, the assessment and implementation of adequate witness security measures necessarily and adversely affect the disclosure process, since the relevant disclosure depends on the relative and current security situation for each witness and the finalisation of the witness list. In essence, these two issues are completely interdependent.

10. *Second*, additional time is required for the Prosecution fully to implement unique pseudonyms concerning redactions to the identities of all innocent third-parties in accordance with the Decision on Disclosure and Related Matters (“Decision”). As the Prosecution’s variance request⁶ underscores, the process of assigning and *applying* unique pseudonyms to the redacted identities of individuals under categories A.2, A.3, A.6, B.2, and B.3 of the Redactions Protocol is unduly onerous and time-consuming, particularly when accounting for the complexity and scope of this case. While the *application* of redactions (as distinguished from the exercise of identifying appropriate redactions) may appear a simple or straightforward to the Chamber it is in fact a detailed an electronic process that is highly labour intensive. It further requires secondary and tertiary quality control reviews to ensure that it is done correctly. Applying unique pseudonyms imposes a further and necessary layer of checks and controls to ensure their proper and accurate implementation, in this case, for potentially thousands of innocent third-parties comprising the disclosed collection.

11. The Prosecution is doing its level best to meet the Chamber’s expectations. However, its resources are not infinite and the evidence collection large. Based on these factors and considering the current pace of its review in light of the circumstances, the Prosecution can positively state at this point that it will not be in a position to finalise disclosure in this case by 17 May 2019. The Prosecution is presently assessing the likely time it needs fully to implement the Decision, as such.

12. *Finally*, whether and to what extent additional time is needed will depend on what the Chamber requires the Prosecution to do concerning witnesses whose security situation prevents the disclosure of their identities. Should the Chamber require full disclosure of all witnesses on whom the Prosecution intends to rely, as well as all witness statements containing exculpatory and rule 77 information before

⁶ See ICC-01/14-01/18-153, paras. 6-12.

the confirmation hearing date, then it is very likely that the confirmation hearing will need to be postponed substantially and potentially to the year's end.

13. While alternatives exist that may substantially mitigate such a delay, each bears its costs in terms of the resources, time, and work required:

- The Chamber could permit the Prosecution to disclose extracts or excerpts of witness statements requiring disclosure, but where security clearance is still pending. This process is the least labour- and time-intensive of the options presented;
- The Chamber could order the Prosecution to disclose all statements as "attorney-eyes only". In this way, the statements of witnesses for which security clearance is pending, including their identities, would be made available to the Suspects' Counsel and legal staff on condition that no putative witness' identifying information be revealed to the Suspect or others, pending the implementation of necessary security measures. This option is more labour-intensive than the first and more risky because of the potential for unintentional divulgence within the Defence team of restricted identifying information to the Suspects; or
- The Chamber can order the Prosecution to disclose anonymized summaries of all witnesses whose identities cannot be disclosed for the time-being. This process is easily the most time-consuming and labour-intensive.

14. In each of the above options, witness identities and full statements would be released to the Suspects once the security measures are implemented. However, which mitigating measure the Chamber adopts will naturally affect the extent of the required postponement.

15. In sum, the Prosecution considers that, based on the combination of factors and uncertainties identified above, a postponement of the confirmation hearing is required. As noted, the length of that postponement will further depend on the mitigating remedies (if any) the Chamber may provide for in order to facilitate and/or expedite the disclosure process.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 20th day of February 2026
At The Hague, The Netherlands