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No.: ICC-01/14-01/18
Date: 20 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 redaction version of “Prosecution’s second request for non-disclosure under rule 81(2) of materials collected during the investigation of potential offences under article 70”, ICC-01/14-01/18-1588-Conf-Exp, 28 September 2022

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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]

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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”) requests that Trial Chamber V (“Chamber”) authorise the non-disclosure of 12 items of evidence critical to its investigation of potential article 70 offences, pursuant to rule 81(2) of the Rules of Evidence and Procedure (“Rules”).¹ The items consist of [REDACTED] related to witnesses [REDACTED] records were pending collection in June 2022, when the Prosecution disclosed the information in its possession concerning its article 70 investigation. For the reasons elaborated below, withholding the Materials is warranted and justified at this stage, as their disclosure would jeopardise the investigation.

II. CONFIDENTIALITY

2. This Request is filed “Confidential, EX PARTE, available only to the Prosecution and VWU”, and its annex “Confidential, EX PARTE, available only to the Prosecution” as they contain sensitive information regarding ongoing investigations which would be jeopardised if exposed.

III. SUBMISSIONS

A. Background

3. On 12 July 2022, the Prosecution received [REDACTED] authorities in response to a pending Request for Assistance (“RFA”).² The pendency of the RFA was specifically noted in the Prosecution’s 1 June 2022 Submission on the article 70

¹ The Materials, available in its annex comprise: CAR-OTP-00000089, CAR-OTP-00000094, CAR-OTP-00000092, CAR-OTP-00000071, CAR-OTP-00000084, CAR-OTP-00000073, CAR-OTP-00000082, CAR-OTP-00000077, CAR-OTP-00000080, CAR-OTP-00000079, CAR-OTP-00000096, CAR-OTP-2135-4203.

² CAR-OTP-2137-0092, which can be provided upon request.

investigation.³ It bears noting that unfortunately, the RFA was not fully executed, thus a further request was made and is now pending.

4. Based on information discovered [REDACTED] records, previous information obtained from [REDACTED] in November 2021 regarding prior threats he received became significant to the Prosecution's investigation. Thus, on 28 July 2022, Prosecution investigators registered information about these threats.

5. Moreover, based on information obtained [REDACTED] records indicating NGAISSONA's contact with third-parties about the case as described below, on 1 August 2022, the Prosecution requested Pre-Trial Chamber II to direct the Registry to provide certain [REDACTED] of NGAISSONA.⁴

6. A decision on that application has not yet been issued.

B. Summary of Materials

7. The Materials contain disclosable information under rule 77 of the Rules, consisting of:

i) [REDACTED] showing that during the course of trial, NGAISSONA contacted [REDACTED] from The Hague, an unauthorised third-party associated with members of the Anti-Balaka leadership and BOZIZE's circle, identified [REDACTED] as a trial witness, as well as [REDACTED].⁵ As a result, [REDACTED] in respect of the testimony he provided.

- (1) One week after [REDACTED] testimony, on 11 June 2021, [REDACTED] identified as an individual closely associated with the

³ ICC-01/14-01/18-1444-Conf-Exp, paras. 3, 7.

⁴ ICC-01/14-01/18-1537-Conf-Exp.

⁵ See Annex, p. 166-170; CAR-OTP-00000084, at 000033-000037.

Anti-Balaka leadership and within BOZIZE's circle — messaged[REDACTED]⁶ Significantly, all but one reference to[REDACTED].⁷

- (2) On 14 June 2021, [REDACTED] warned an interlocutor about [REDACTED],⁸ [REDACTED]⁹ Further in this conversation, [REDACTED] states that: "*Ngaissona m'a appelé depuis la Haye pour m'informer.*"¹⁰ Notably, all references to [REDACTED].¹¹
- (3) On 21 June 2021, [REDACTED].¹² [REDACTED] indicates that he had reliable and corroborated (by an independent source) [REDACTED] information regarding [REDACTED] testimony. [REDACTED]. This conversation occurred after [REDACTED] had been contacted the previous day by[REDACTED], likely NGAISSONA [REDACTED].¹³

ii) Information obtained by investigators on 19 November 2021 from [REDACTED] relating to a prior security incident following his testimony. In light of [REDACTED] records received on 15 July 2022, the Prosecution assesses that this information has now become disclosable. For this purpose, the information was recorded in an Investigator Report.¹⁴

- As the Investigator Report describes, [REDACTED] recounted that on two occasions at the end of [REDACTED], former FACA member

⁶ See Annex, p. 271: CAR-OTP-00000077, at 000001 [REDACTED].

⁷ [REDACTED].

⁸ See Annex, p. 166-170: CAR-OTP-00000084, at 000033-000037.

⁹ See Annex, p. 167: CAR-OTP-00000084, at 000034.

¹⁰ See Annex, p. 169: CAR-OTP-00000084, at 000036 (emphasis added).

¹¹ [REDACTED].

¹² See Annex, p. 329-331: CAR-OTP-00000079, at 000034-000036.

¹³ See Annex, p. 329: CAR-OTP-00000079, at 000034.

¹⁴ See Annex, p. 423: CAR-OTP-2135-4203.

[REDACTED], told [REDACTED].¹⁵ [REDACTED] also threatened [REDACTED], stating that “*he would pay for it*”. [REDACTED] further reportedly told [REDACTED] that his testimony against NGAISSONA was known to “*everybody in ‘the family’*.”¹⁶

iii) [REDACTED] showing that: a) [REDACTED] discussed the preparation of his upcoming testimony with various interlocutors;¹⁷ and b) NGAISSONA contacted P-2843 through a third-party in BANGUI, to ‘thank him’ for everything that he did for him¹⁸ in his testimony at the ICC on 5 and 7 November 2021,¹⁹ which may imply a prior understanding or agreement and improper contact.²⁰

iv) [REDACTED] show that trial witness [REDACTED], during his stay as a Prosecution witness in The Hague, and specifically from [REDACTED] when his direct examination took place, called [REDACTED]²¹ [REDACTED],²² [REDACTED].²³ This materially contradicts his claim that: a) [REDACTED].²⁴ [REDACTED] concealment of his communication during his testimony [REDACTED] particularly, is of obvious concern, given the latter’s knowledge of [REDACTED].

¹⁵[REDACTED].

¹⁶ See Annex, p. 423: CAR-OTP-2135-4203, at 4203, para. 3.

¹⁷ See Annex, p. 97-102, 108-110: CAR-OTP-00000092, at 000008-000013, 000019-000021; Annex, p. 118-120: CAR-OTP-00000071, at 000005-000007; Annex p. 241-248: CAR-OTP-00000082, at 000023-000030; Annex, p. 347-356, 412-413, 430-433, 435: CAR-OTP-00000096, at 000008-000017, at 000073-000074, at 000091-000094, 000096.

¹⁸ See Annex, p. 284 : CAR-OTP-00000080, at 000013 : [REDACTED].

¹⁹ T-073-Red-ENG and T-074-Red-ENG.

²⁰ See *Bemba et al.* Judgement, ICC-01/05-01/13-1989-Red, paras. 123, 170, 293, 298, 305, 586, 591-592 (finding that Bemba’s thanking D-55 pre-testimony and D-15 post-testimony was part of his and Kilolo’s conduct and understanding reached with the witness to provide favourable testimony, and amounted to a corrupt influence).

²¹ See Annex, p. 49-57: CAR-OTP-00000089, at 000047-000055.

²² See Annex, p. 83-85: CAR-OTP-00000094, at 000015-000017.

²³ CAR-OTP-2134-2700, at 2976.

²⁴ CAR-OTP-2130-4076, at 4076.

v) A [REDACTED] showing that [REDACTED] — a person with close ties to NGAISSONA and his Defence team, in that he: a) had NGAISSONA as “*témoin majeur*” [REDACTED];²⁵ b) is very close to and trusted by NGAISSONA;²⁶ c) is a person to whom NGAISSONA allegedly spoke to, in breach of his contact restrictions, through [REDACTED];²⁷ d) is an alleged advisor to his Defence team;²⁸ and e) is best apprised about NGAISSONA’s case and informed at every moment about elements which are of interest to NGAISSONA²⁹ - apprised via [REDACTED] about his activities during the his stay in The Hague as a Prosecution witness at the beginning of [REDACTED]:³⁰ [REDACTED].³¹

C. Non-disclosure is Necessary and Proportionate to the Rights of the Accused

8. Non-disclosure is necessary to address an objectively justifiable risk of prejudice arising from providing the Materials to the Defence at this stage. It is the least intrusive means available to safeguard the article 70 investigation. Moreover, it is manifestly proportionate and not prejudicial to or inconsistent with the rights of the Accused and a fair and impartial trial.³²

9. *First*, there is an objectively justifiable risk of prejudice to the article 70 investigation which would arise from disclosing the Materials. The Material acquired during the course of the Prosecution’s investigation tends to implicate NGAISSONA (in view of his apparent contact with [REDACTED] from The Hague), persons closely associated with NGAISSONA (such as the person in BANGUI who contacted

²⁵ [REDACTED].

²⁶ *Ibid.*

²⁷ CAR-OTP-2130-4051, at 4052, para. 6; CAR-OTP-2127-8340, at 8341.

²⁸ CAR-OTP-2130-4051, at 4052, para. 5; CAR-OTP-2134-0072, at 0074-0075, para. 17.

²⁹ CAR-OTP-2134-0072, at 0074, para. 13.

³⁰ See Annex, p. 217-218: CAR-OTP-00000073, at 000001-000002.

³¹ CAR-OTP-2130-4051, at 4052, last paragraph ; CAR-OTP-2134-00072, at 00076, para. 26.

³² See ICC-01/14-01/18-670-Conf, para. 8 and ICC-01/14-01/18-790-Conf, para. 6, and the jurisprudence incorporated therein.

[REDACTED] on his behalf), or a [REDACTED] for his Defence (such as, [REDACTED], who apparently contacted [REDACTED] regarding [REDACTED] confidential testimony). It further tends to show that [REDACTED] as a Prosecution witness and of his travel to The Hague to testify, and further sought out [REDACTED],³³ was also inappropriately made aware of [REDACTED]. In such circumstances, the objective risk to the investigation is heightened. [REDACTED]. Further, the decision on the Prosecution's request to obtain [REDACTED] before Pre-Trial Chamber II is still outstanding. These [REDACTED] will help clarify aspects of the incidents above, and direct the Prosecution's remaining article 70 investigation.

10. *Second*, non-disclosure of the Materials is necessary and the least intrusive measure available to the Prosecution to safeguard the continuing investigation pending its conclusion. Disclosure of the Materials, accompanied by warnings and/or guarantees would be insufficient to address the risk of prejudice to the investigation. Again, this is particularly so when the Accused and persons linked to the Defence are implicated in the activities under investigation.

11. *Third*, non-disclosure of the Materials is proportionate, as is not prejudicial to or inconsistent with the rights of the Accused and a fair and impartial trial. The relevant information does not go to substantive issues and has minimal 'material' value in the case being tried before the Chamber. It is again out of abundance of caution, as prescribed by the Appeals Chamber, that the Prosecution brings the Materials before the Chamber for a determination under rule 81(2).³⁴

³³ CAR-OTP-2127-8525, at 8526; CAR-OTP-2134-0072, at 0077, para. 34.

³⁴ See the guidance provided by the Appeals Chamber in the *Ntaganda* Appeals Judgment: ICC-01/04-02/06-2666-Red, para. 177.

IV. CONCLUSION

12. For the foregoing reasons, the Prosecution seeks the Chamber's authorisation for the non-disclosure of the Materials at this time under rule 81(2), pending the completion of the article 70 investigation.



Mame Mandiaye Niang, Deputy Prosecutor

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