



Original: English

No.: ICC-01/14-01/18
Date: 23 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 Request for Non-Standard Redactions under Rule 81(2) for Materials Relating to Witnesses P-1732, P-0342, P-0882, P-0992, P-1592, and P-0310, 30 October 2020, ICC-01/14-01/18-706-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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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

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Counsel Support Section

Victims and Witnesses Unit

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**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Prosecution requests that Trial Chamber V (“Chamber”) authorise non-standard redactions under rule 81(2) of the Rules of Evidence and Procedure (“Rules”) to materials relating to witnesses P-1732, P-0310, P-0882, and P-1592 which are due to be disclosed under rule 77 or article 67(2), together with materials relating to trial witnesses P-0992 and P-0342.¹ These witnesses provide information that is central to the ongoing investigation into Seleka crimes (“Seleka Investigation”) and disclosure of that information risks jeopardising the investigation through revealing its direction and targets.

II. CONFIDENTIALITY

2. This Request and its annexes are filed “Confidential, EX PARTE, available only to the Prosecution and the VWU” as they contain sensitive information regarding ongoing investigations which could be jeopardised if exposed. The Prosecution will file a confidential redacted version as soon as practicable.

III. SUBMISSIONS

A. Non-standard redactions under rule 81(2) are justified to protect the ongoing Seleka Investigation

3. Information provided by the aforementioned witnesses includes material that reveals the direction and targets of the Seleka Investigation as well as salient lead information. There is an objectively justifiable risk to the investigation if such information is disclosed.

¹ In its application for an extension of the page limit for this motion (*see* ICC-01/14-01/18-686-Conf, para. 19-21), the Prosecution anticipated that it would seek non-standard redactions in relation to the materials of 10 witnesses. However, it has reduced this number following a closer review of the specific content within these materials is deemed to fall under rule 77 or article 67(2) and therefore cannot be the subject of a redaction request under rule 81(2). It has also resolved certain security concerns relating to witnesses relevant to the Seleka Investigation in the interim.

4. On 30 July 2020 the Prosecution filed its first request before this Chamber for non-standard redactions under rule 81(2), in relation to materials pertaining to witnesses whom it intends to rely upon at trial ("First Request").² In the intervening period, the Prosecution has also identified various items due to be disclosed under rule 77 or article 67(2) which also justify redactions under rule 81(2), as well as subsequently obtained materials relating to trial witnesses. However, the Prosecution considered it prudent to await the issuance of the Chamber's decision on the First Request ("Decision")³ before filing any further requests. Taking into account the reasoning provided by the Single Judge in the Decision, the Prosecution now applies for rule 81(2) redactions regarding a limited number of items, where aspects of the evidence go directly to specific, identifiable incidents under investigation or Seleka suspects/persons of interests, and which, when viewed in context, would alert the reader to the direction and targets of the Seleka Investigation.

5. The legal and factual basis for redactions to protect the Seleka Investigation were set out in the First Request,⁴ as accepted in the Chamber's Decision.⁵ The Prosecution incorporates its earlier arguments⁶ by reference. Although three months have passed since the First Request, the same factors that gave rise at the time to an objectively identifiable risk of prejudice to the Seleka Investigation are still in existence. [REDACTED].

6. The discrete portions of material that the Prosecution seeks to withhold under rule 81(2) are solely relevant to the Seleka Investigation. The Prosecution does not seek to withhold any information assessed as falling under rule 77 or article 67(2),

² ICC-01/14-01/18-609-Conf-Exp.

³ ICC-01/14-01/18-670-Conf-Exp.

⁴ ICC-01/14-01/18-609-Conf-Exp, paras. 4-7.

⁵ ICC-01/14-01/18-670-Conf-Exp, paras. 14-19, 31-35, 39-43, 45-48, 50-53.

⁶ ICC-01/14-01/18-609-Conf-Exp, paras. 4-6.

ensuring that the rights of the Defence vis-à-vis the Prosecution's disclosure obligations at trial are fully respected.

7. There is no less restrictive measure available than applying non-standard redactions to the respective portions of the material in question to protect the Seleka Investigation and, as set out below, the redactions requested are proportional, discrete and confined.

8. Detailed submissions justifying the redactions are set out below. Where redactions are sought in relation to an item for which a translation will also be disclosed, the Prosecution will seek to apply corresponding redactions to any relevant translation. The items for which redactions are sought are annexed to this filing with the proposed redactions highlighted. For some of these, standard redactions have already been marked; for others this will be completed before disclosure.

B. Detailed justifications for rule 81(2) redactions related to the Seleka Investigation for witness P-1732

9. During the relevant period, P-1732 [REDACTED]. In this capacity he had [REDACTED]. By virtue of his position and the information regarding [REDACTED], his witness statement contains detailed information relevant to the Seleka Investigation, with dedicated sections discussing the [REDACTED]. The information he provides in relation to these matters is often highly detailed and the manner in which the statement is phrased makes it evident to the reader that the investigators specifically asked the witness for the information he held in relation to these areas—as opposed to the information being spontaneously offered—further signalling the importance of these topics to the Seleka Investigation.

10. In his statement, P-1732 sets out the political context of the crisis, starting with the BOZIZE Government and the formation of the armed groups that would come to comprise the Seleka. He provides an overview of the Seleka seizing power and the crimes they committed during their time in power. He explains how the Anti-Balaka movement gained momentum; the Anti-Balaka attack on Bangui; and other crimes committed by the Anti-Balaka. [REDACTED]. Additionally, he also provides information in relation to [REDACTED], [REDACTED]. P-1732 also provides general structural information regarding the Seleka regime under President Michel DJOTODIA and its internal functioning, as well as information on the [REDACTED].

11. Proposed non-standard redactions have been applied to P-1732's witness statement (CAR-OTP-2091-0381) at Annex A to this filing.⁷ The justifications for withholding the proposed information under rule 81(2) are as follows.

- Paragraphs 68-81 (at ERN pages 0392-0394) and the accompanying heading refer [REDACTED].⁸ [REDACTED].
 - Specifically, paragraphs 74 and 77 refer to [REDACTED].
- Paragraphs 82-86 (at ERN pages 0394-0395) and the accompanying heading refer [REDACTED].⁹
 - Paragraph 84 refers to [REDACTED] a core component of the Seleka Investigation, where investigative inquiries are still active.¹⁰
- Paragraphs 87-94 (at ERN pages 0395-0396) and the accompanying heading refer again to [REDACTED] for which the investigation is still ongoing.

⁷ As the witness is [REDACTED].

⁸ See [REDACTED].

⁹ See [REDACTED].

¹⁰ See [REDACTED].

- Paragraphs 95-96 (at ERN pages 0396-0397) and the accompanying heading refer [REDACTED].
 - Paragraph 96 refers to [REDACTED] remains under investigation.
- Paragraph 114 (at ERN page 0400) and the accompanying heading addresses [REDACTED].¹¹ Moreover, this incident, [REDACTED] also remains under active investigation.
- Paragraph 115 (at ERN page 0400) and the accompanying heading concern [REDACTED].¹² This incident, [REDACTED], also remains under active investigation.
- Paragraphs 119-123 (at ERN page 0401) and the accompanying heading specifically address [REDACTED], referred to immediately above.
- The third-to-last and second-to-last sentences in paragraph 138 (at ERN page 0404) specifically refer to [REDACTED]. For the reasons set out above, these should be redacted.

C. Detailed justifications for rule 81(2) redactions related to the Seleka Investigation for witness P-0992

12. P-0992's first witness statement and screening were included in the First Request for non-standard redactions. A description of his role, the relevance of his evidence and the justification for the redactions are included in that filing.¹³ The

¹¹ [REDACTED].

¹² See [REDACTED].

¹³ ICC-01/14-01/18-609-Conf-Exp, paras. 25-30.

Chamber granted the request to redact aspects of his screening note and first witness statement in its Decision.¹⁴

13. A second statement was obtained from P-0992 in August 2020, which clarifies and elaborates upon various aspects of his first statement, including specific aspects relevant to the Seleka Investigation.

14. Proposed non-standard redactions have been applied to P-0992's second statement (CAR-OTP-2122-6499) at Annex B to this filing. The justifications for withholding the proposed information under rule 81(2) are as follows.

- Paragraphs 42-43 (ERN page 6506), it is apparent from the phrasing of the statement that [REDACTED].¹⁵ [REDACTED]. Although the witness does not provide substantive information, it is clear to the reader that this is as specific line of inquiry in the Seleka Investigation.
- Paragraphs 47-61 (ERN pages 6506-6509) and the accompanying heading substantially elaborate on the incident mentioned in the witness's screening and first statement – for which the Chamber authorised redactions – relating to [REDACTED]. The detail in which this incident is recounted by the witness makes it clear to the reader that it is a core component of the Seleka Investigation.
- Paragraphs 72-75 (ERN pages 6510-6511) again refer to [REDACTED]. The Prosecution does not seek to redact the portion of paragraph 75 referring [REDACTED] [REDACTED] and it is mentioned that [REDACTED] on 5 December 2013, which may be considered to fall within the scope of rule 77.
- Paragraphs 78-79 (ERN page 6511) refer to [REDACTED].

¹⁴ ICC-01/14-01/18-670-Conf-Exp, paras. 45-48.

¹⁵ [REDACTED].

- Paragraphs 80-81 (ERN pages 6511-6512) and the associated title [REDACTED].¹⁶

D. Detailed justifications for rule 81(2) redactions related to the Seleka Investigation for witness P-0310

15. P-0310 is the [REDACTED] and provides information in her screening regarding events within [REDACTED] during the Seleka and Anti-Balaka periods. As noted above, [REDACTED].¹⁷ [REDACTED].

16. Proposed non-standard redactions have been applied to P-0310's screening (CAR-OTP-2006-0013) at Annex C to this filing. The justifications for withholding the proposed information under rule 81(2) are as follows.

- On page five of the screening (at ERN page 0017), one paragraph refers to [REDACTED]. Further, the Prosecution notes that if it did not seek to redact this material now in the witness's screening note, [REDACTED].

E. Detailed justifications for rule 81(2) redactions related to the Seleka Investigation for witness P-0882

17. P-0882 is the [REDACTED]. [REDACTED].¹⁸ To this extent, [REDACTED].

18. P-0882's witness statement focuses upon his knowledge of events occurring within [REDACTED] during 2013 and into 2014, based upon his personal observations; information he received from [REDACTED]; and [REDACTED]. He also mentions the Anti-Balaka attack on 5 December, the insecurity in his neighbourhood in the following days, and further observations about the Anti-Balaka leadership and criminality.

¹⁶ [REDACTED].

¹⁷ *Above*, fn. 12.

¹⁸ [REDACTED].

19. Proposed non-standard redactions have been applied to P-0882's statement (CAR-OTP-2032-0654) at Annex D to this filing and screening (CAR-OTP-2027-2361) at Annex E. The justifications for withholding the proposed information under rule 81(2) are as follows.

20. Witness statement (Annex D to filing):

- Paragraphs 33-43 (ERN pages 0660-0661) cover [REDACTED],¹⁹ [REDACTED]. The level of detail provided indicates to the reader that this is a specific incident of interest.
- Paragraphs 44-59 (ERN pages 0061-0663) and the accompanying heading detail [REDACTED]. The detail with which these events are covered in the statement signifies their importance to the reader. Evidence regarding [REDACTED]. The Chamber has authorised redactions to evidence of similar [REDACTED].²⁰
- Paragraphs 65-67 (ERN pages 0664-0665) describes an incident in which [REDACTED].
- Paragraphs 90-94 (ERN page 0668) refer to [REDACTED], which is still under active investigation in the Seleka Investigation. The detail in which he is described indicates this specific line of inquiry into a Seleka person of interest, which is ongoing.
- Paragraphs 96-98 (ERN page 0669) refer to [REDACTED]. This individual remains of interest to the Seleka Investigation and is readily identifiable through the information provided in the witness statement.

¹⁹ [REDACTED].

²⁰ ICC-01/14-10/18-670-Conf-Exp, paras. 13-15.

21. Witness screening (Annex E to filing): Redactions are sought to P-0882's screening in relation to the same subject matter covered in his witness statement, namely:

- Specific reference (ERN page 2363) to [REDACTED];
- Reference (ERN page 2363) to the [REDACTED].
- The "lead" information (ERN page 2363) on [REDACTED].

F. Detailed justifications for rule 81(2) redactions related to the Seleka Investigation for witness P-0342

22. P-0342 worked as [REDACTED] during the crisis and [REDACTED] various incidents relating to the Seleka and the Anti-Balaka, including [REDACTED], and later, that of the [REDACTED] which he established. P-0342 provides background information about the BOZIZE regime and the arrival and leadership of the Seleka as well as his personal experiences at the time. He also provides evidence regarding the Anti-Balaka in Bangui and the provinces.

23. Because of his [REDACTED] of Seleka criminality, [REDACTED].

24. In his second witness statement, P-0342 provides a detailed review of the photographs contained in his Facebook albums. In this context, he references [REDACTED]. In this regard, while the photographs themselves are a matter of public record and it is [REDACTED], the Prosecution seeks to redact [REDACTED]. In his second statement, the witness also describes in detail [REDACTED].

25. Proposed non-standard redactions have been applied to P-0342's first statement at Annex F (CAR-OTP-2008-0499)²¹ and his second statement at Annex G (CAR-OTP-2116-0216). The justifications for withholding the proposed information under rule 81(2) are as follows.

26. P-0342 first witness statement (Annex F):

- Paragraphs 41 – 51 (ERN pages 0505-0506) and the accompanying headings: The witness describes [REDACTED]. This detailed account highlights [REDACTED].
- Paragraphs 52-53 (ERN pages 0506-0507). The Prosecution considers that these paragraphs contain certain material disclosable under rule 77, as it refers to the Seleka pillaging NGAÏSSONA's warehouse. The Prosecution therefore only seeks to redact the sentences that [REDACTED].
- Paragraphs 54-65 (ERN pages 0507-0508): The witness continues [REDACTED].
- Paragraphs 66-83 (ERN pages 0509-0511) and the accompanying heading: The witness describes [REDACTED].
 - At paragraph 71 the witness mentions [REDACTED].
 - At paragraphs 79-80, the witness [REDACTED].
- Paragraphs 84-100 (ERN pages 0511-0514) and accompanying heading: The witness details [REDACTED].
 - [REDACTED].

²¹ Two annexes from P-0342's first statement are assessed as being disclosable under rule 77: CAR-OTP-2008-0549: Image showing location of NGAÏSSONA's warehouse; CAR-OTP-2008-0556: Image referenced in statement in relation to crimes committed by the Seleka in BOSSANGO. The Prosecution does not seek any redactions to those.

- Paragraph 101 (ERN page 0514): The wording [REDACTED], which the Prosecution seeks to redact, as above.
- Paragraph 112 (ERN page 0515) and accompanying heading: The phrasing of the paragraph makes it clear that the witness was specifically asked for information concerning [REDACTED].
- Paragraphs 113-114 (ERN page 0516) and accompanying heading: The phrasing of the paragraphs makes it clear that the witness was specifically asked for information concerning [REDACTED].²²
- Paragraph 153 (ERN page 0522): This directly references [REDACTED], which the Prosecution seeks to redact, as above.
- Paragraph 155 (ERN page 0522): The sentence [REDACTED], which the Prosecution seeks to redact, as above.
- Paragraphs 159 (ERN page 0523): The sentence [REDACTED], which the Prosecution seeks to redact, as above.
- Paragraphs 160-162 (ERN page 0523) reference [REDACTED].
- Paragraph 164 (ERN page 0524): The witness references [REDACTED], which the Prosecution has sought to redact, as above.
- Paragraph 167 (ERN page 0524): The wording [REDACTED], which the Prosecution seeks to redact, as above.
- Paragraphs 168-170, 172 (ERN pages 0524-0525): These paragraphs [REDACTED], which the Prosecution seeks to redact, as above.

²² See [REDACTED].

- Paragraph 173 (ERN page 0525): The witness provides detailed information on [REDACTED].
- Description of Annexes (ERN page 0526): The Prosecution seeks to redact the description of the annexes that reveal sensitive information in the witness's statement relating to [REDACTED], namely descriptions of Annexes II, III, VII, VIII, IX, X, XI, XIII, XIV, XVI,²³ XVII, XVIII.

27. P-0342 second witness statement (Annex G)

- Paragraph 23 (ERN page 0220): The witness references [REDACTED].
- Paragraph 24 (ERN page 0220): The witness references [REDACTED].
- Final three sentences of paragraph 51 (ERN page 0225): These sentences reference [REDACTED].
- Paragraph 73 (ERN page 0230): The second clause of the second sentence references [REDACTED].
- Paragraph 77 (ERN page 0231): [REDACTED].
- Paragraph 92 (ERN page 0232-0233): References to [REDACTED].
- Paragraph 93 (ERN page 0233): Reference to [REDACTED].
- Paragraph 101 (ERN page 0234): The paragraph refers to [REDACTED].
- Paragraph 102 (ERN page 0234-0235): Refers to [REDACTED].
- Paragraph 114 (ERN page 0216): Reference to [REDACTED].

²³ The justification for this redaction is set out below, [REDACTED].

- Paragraph 122 (ERN page 0238): The entire paragraph [REDACTED].
- Paragraph 125 (ERN page 0238), second sentence, where the witness references [REDACTED].
- Paragraph 129 (ERN page 0239), first sentence: This references [REDACTED].
- Paragraphs 174-190 and the preceding heading (ERN pages 0245-0248): [REDACTED].²⁴ [REDACTED]. The Chamber has previously authorised redactions under rule 81(2) to materials relating to this incident.²⁵ [REDACTED], the detail in which it is covered in the witness statement highlights the importance of this event to the Seleka Investigation.
 - In paragraphs 181-184 and 186 the witness describes [REDACTED].
 - In paragraphs 181, 183 and 188 the witness describes [REDACTED].
- Paragraph 313 (ERN page 0265): The witness is asked specifically to provide more information on certain individuals, including [REDACTED]. The phrasing of the paragraph clearly signifies the Prosecution is interested in [REDACTED], hence revealing the direction and targets of the Seleka Investigation.
- Paragraph 314 (ERN page 0265-0266): The witness is asked to elaborate on [REDACTED], which reveals the directions and targets of the Seleka Investigation.

G. Detailed justifications for rule 81(2) redactions related to the Seleka Investigation for witness P-1592

²⁴ *Above*, fn. 24.

²⁵ ICC-01/14-01/18-670-Conf-Exp, paras. 39-40.

28. P-1592 is a [REDACTED]. She details various events affecting herself and her family, primarily during the Seleka period. She provides detailed information on the [REDACTED] on 5 December 2013. She also describes [REDACTED].

29. Proposed non-standard redactions have been applied to P-1592's witness statement (CAR-OTP-2050-0487) at Annex H to this filing. The justifications for withholding the proposed information under rule 81(2) are as follows:

- Paragraph 20 and preceding heading (ERN page 0490): This paragraph references [REDACTED].²⁶ [REDACTED].
- Paragraph 21 and preceding heading (ERN page 0490): This paragraph references [REDACTED].
- Paragraphs 31-33 (ERN page 0492): These paragraphs provide detailed information on [REDACTED]. In the Decision on the First Request, the Single Judge indicated a presumption towards disclosing evidence relating to events on 5 December 2013 and noted that the Prosecution had not sought to redact all instances where the attack on [REDACTED] was referenced by witnesses.²⁷ In the present instance, the Prosecution does not seek to redact the witness's narrative account of the events of 5 December or the [REDACTED] attack itself, but solely [REDACTED]. This specific information is solely relevant to the Seleka Investigation, thus withholding the information is not prejudicial to the Defence, and constitutes a proportionate measure, given that the redactions are limited in scope.
- The penultimate sentence in paragraph 36 (ERN page 0493): This sentence references [REDACTED].

²⁶ See [REDACTED].

²⁷ See ICC-01/14-01/18-670-Conf-Exp, paras. 13, 22, 25-26.

IV. RELIEF SOUGHT

30. For the above reasons, the Prosecution seeks the Chamber's authorisation to apply non-standard redactions under rule 81(2) to the materials relating to witnesses P-1732, P-0342, P-0882, P-0992, P-1592, and P-0310 as set out above and contained in Annexes A-H.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 23rd day of February 2026
At The Hague, The Netherlands