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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 Response to ‘Order for Additional
Information (ICC-01/14-01/18-201-Conf-Exp)’”,
ICC-01/14-01/18-209-Conf-Exp, 24 May 2019**

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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

Counsel for the Defence

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Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

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Counsel Support Section

[REDACTED]

Victims and Witnesses Unit

Detention Section

[REDACTED]

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. In compliance with the Chamber's 15 May 2019 Order¹, the Office of the Prosecutor ("Prosecution") hereby provides additional information in support of its pending applications for non-standard redactions under rules 81(2) and 81(4) of the Rules of Procedure and Evidence ("Rules").²

2. Since the Previous Filing, the Prosecution's Protection Strategies Unit ("PSU") has indicated that the identity of P-0234 may be disclosed. The Prosecution thus withdraws the related rule 81(4) application for this witness. Additionally, the Prosecution withdraws its application regarding P-0510 on whom it does not intend to rely.

3. The additional information provided herein ("Request") identifies the information which cannot be disclosed and the relevant justifications concerning witnesses P-0622, P-0664, P-0787, P-1277, P-1297, P-0234, P-0291, P-0567 and P-0646 under rule 81(2), given that there are objective risks of interference with these witnesses which could affect their cooperation and safety. In addition, redactions should be applied under rule 81(4) for witnesses P-0622, P-1277, P-1279, P-0787 and P-0664. The redactions are set out in an annex for each witness (B, C, D, E, F, G, H, I, J).

II. CONFIDENTIALITY

4. The Request and its annexes are filed "Confidential, *EX PARTE*, available only to the Prosecution and the VWU" as they respond to an Order of the same classification and contain sensitive information regarding witness security and ongoing investigations which, if exposed, could jeopardise both. A confidential redacted version will be filed as soon as practicable.

¹ ICC-01/14-01/18-201-Conf-Exp.

² ICC-01/14-01/18-162-Conf-Exp ("Previous Filing").

III. BACKGROUND

5. In this phase of the case, the Prosecution's disclosure is guided by the Single Judge's direction to provide "*only such evidence [...] which is of true relevance to the case and apt to support a particular factual allegation underlying the requisite legal elements.*"³ Not every piece of information about the conflict or the parties, even if relevant, is *material* for the Defence's preparation for the confirmation hearing as concerns the prospective incidents, their locations, timeframe, or the corresponding elements of the charges and modes of liability.

6. The Prosecution proposes to mitigate the disclosure of information affected by witness protection issues by providing excerpts of disclosable material under rule 77 (set out in Annex B of the Previous Filing). The Prosecution notes that other Pre-Trial and Trial Chambers have employed disclosure mitigating measures such as extracting the relevant information from documents. For instance, this has been permitted by Trial Chamber VI in the *Ntaganda* case.⁴ Properly used, excerpts are efficient and practical, and can be implemented without prejudice to the Defence or encroaching on a fair confirmation process. However, should the Chamber decline to proceed in this way, the Prosecution seeks leave alternatively to apply non-standard redactions under rules 81(2) and 81(4), as set out in the annexes to this filing.

7. The Appeals Chamber has held that four factors determine whether disclosure of witness identities and identity related information under rule 81(4) may be properly withheld:⁵

- the danger to the witness or family members that disclosing their identity might cause;

³ See ICC-01/14-01/18-64-Conf, para. 18.

⁴ See e.g. *Prosecutor v. Ntaganda*, Public redacted version of 'Decision on Defence requests regarding certain materials related to P-0190 and P-0899', ICC-01/04-02/06-1440-Red, 6 July 2016, para. 22 (concerning the extraction of relevant information only from a BSQ into an investigation note).

⁵ See *Katanga* decision on Defence appeal on redactions, para. 59.

- the necessity of non-disclosure (particularly, the feasibility and sufficiency of less restrictive measures);
- whether non-disclosure would be prejudicial to or inconsistent with the suspect's rights and a fair proceeding; and
- the relevance of the information.

8. The same factors apply to rule 81(2) determinations.⁶

9. The standard for authorising non-disclosure on either basis at the confirmation stage is less stringent than at trial. In the *Katanga* case, the Appeals Chamber stated “*it may be permissible to withhold the disclosure of certain information from the Defence prior to the hearing to confirm the charges that could not be withheld prior to trial*”.⁷

10. As the Appeals Chamber has held, interference with Prosecution witnesses may prejudice further and ongoing investigations.⁸ Witnesses interfered with may cease cooperating, and other witnesses—or potential witnesses—who learn of such interference and intimidation may also do so fearing that they may be targeted.

11. As is the case here, the witnesses face an “objectively justifiable risk”⁹ to their safety arising from the disclosure of their identity or other information to the Defence, taking into account the circumstances of the Suspects. Most of the information provided by the witnesses for whom non-standard redactions are sought pertains to the Seleka Investigation. The investigation is *under seal*, as are related Warrants of Arrest. As previously noted,¹⁰ any form of disclosure of this material—including to

⁶ *Prosecutor v. Katanga*, Judgment on the appeal of Mr Germain Katanga against the decision of Pre-Trial Chamber 1 entitled “First Decision on the Prosecution Request for Authorisation to Redact Witness Statements”, ICC-01/04-01/07-476, 13 May 2008, (“Katanga decision on Defence appeal on redactions”), para. 59.

⁷ *Prosecutor v. Katanga*, Judgement on the appeal of the Prosecutor against the decision of Pre-Trial Chamber 1 entitled “First Decision on the Prosecution Request for Authorisation to Redact Witness Statements”, ICC-01/04-01/07-475, 13 May 2008, (“Katanga decision on Prosecution appeal on redactions”), para. 68.

⁸ See Katanga decision on Defence appeal on redactions, para. 49 (“The Appeals Chamber accepts that further or ongoing investigations may be prejudiced if potential prosecution witnesses are interfered with in a manner that could lead to them being unable to co-operate further with the Prosecutor.”).

⁹ See Katanga decision on Defence appeal on redactions, para. 60.

¹⁰ ICC-01/14-01/18-162-Conf-Exp, para. 6. See also ICC-01/14-01/18-179-Conf-Exp, para. 10.

the Defence—risks prejudice to the Seleka Investigation through leaks or inadvertent disclosure through channels outside the Prosecution’s control. This inherent risk in disclosure is heightened because of the alliance between Nouradine ADAM (“ADAM”) and Maxime MOKOM GAWAKA (“MOKOM”) under the umbrella of the recent Khartoum peace agreement¹¹[REDACTED]. There is a realistic prospect that such information could be directly relayed between the Anti-Balaka Suspects and/ or their Counsel to sources on the ground in contact with ¹² Seleka Suspects.[REDACTED] As the Chamber is aware, MOKOM is now a Minister of Disarmament in the CAR government. His portfolio also includes DDR programs, in which several witnesses who have provided evidence as part of the Seleka Investigation—including sensitive ex-Seleka insider witnesses—have taken part. Thus, the new alliance has created the concrete risk that groups previously at odds with one another may not only communicate, but join in efforts to destabilise the OTP’s investigations through interfering with witnesses.

12. The Registry assesses¹³ [REDACTED]. All witnesses falling in this category need to be relocated and managed abroad. The main threat actors against Prosecution witnesses include members of the [REDACTED]. They operate throughout CAR, but also have contacts in neighbouring countries. Both groups have a strong interest in learning details of the ongoing investigation and are likely to interfere with it, given the chance.

13. As noted, the Prosecution relies on the results of PSU’s analysis of the witnesses’ circumstances at Annex A. The Prosecution has previously noted that the process of clearing witnesses for disclosure—meaning the assessment and implementation of adequate security measures for witnesses whose information must be disclosed—requires time.¹⁴ Although the review process for determining the scope of the disclosable material is advanced, the Prosecution has not been able to assess and

¹¹ See ICC-01/14-01/18-162-Conf-Exp, para. 6; fn. 2.

¹² [REDACTED].

¹³ ICC-01/14-01/18-38-Conf-Exp, para. 12.

¹⁴ See ICC-01/14-01/18-186-Conf-Exp, para. 11-18.

implement the necessary security measures for five of the witnesses included in this filing.

14. The Prosecution emphasises that these five witnesses could be placed at risk even if the Defence does not desire or intend such a result. Counsel's existing confidentiality obligations are not sufficient to protect witnesses from serious threats. The material will be available to the Suspects and Defence investigation teams operating outside of the control of the Prosecution.

IV. SUBMISSIONS

A. Rule 77 Witnesses

15. The Prosecution requests non-standard redactions under rules 81(2) and 81(4) to the statements of P-0234,¹⁵ P-0622,¹⁶ P-0664, P-0787, P-1277 and P-1297 as provided in the respective annexes for each witness (Annexes F, G, E, D, B and C).

16. The arguments for non-standard redactions and for the withholding of identity under rules 81(2) and 81(4) are set out below for each witness. For each, limited portions of their evidence are disclosable under rule 77. An explanation is provided for paragraphs for which the Chamber has requested additional information, and other sections of the witnesses' statements to provide the Chamber with a more complete picture of the Prosecution's reasoning.

17. As noted, there exists an objectively justifiable risk of interference with all these witnesses by Suspects of the Seleka Investigation and persons closely aligned with them should they learn of the witness's cooperation with the Prosecution—particularly if they have given a potentially incriminating statement concerning Seleka

¹⁵ [REDACTED].

¹⁶ The Prosecution notes that the Chamber has not specifically requested further elaboration upon the Prosecution's basis for seeking to withhold information from P-0622's Witness Statement. However, in light of the Chamber's Order, the Prosecution takes the opportunity to clearly set out its reasoning in relation to this statement.

Suspects. Considering the current security situation in CAR, identifying information about these witnesses can only be disclosed once PSU and VWU have assessed their situation and made the necessary security arrangements.

18. There is no less restrictive measure available than applying non-standard redactions to the respective portions of the text and annexed materials to protect the investigation and the witnesses. The disclosure of the redacted statements will not prejudice the Suspects or impede the fairness of the confirmation process. The proposed redactions do not affect the disclosure of article 67(2) or rule 77 material which is informed by the Chamber's 29 March Decision.

19. The Prosecution has further considered the 15 May 2019 Order in reassessing and revising its initial position on withholding certain paragraphs under rule 81(2). The Prosecution has also identified paragraphs which it does *not* seek to withhold.

20. The annexes contain only non-standard redactions¹⁷ for the Chamber's consideration; pending the Chamber's final determination on these requests, *standard* redactions would be applied prior to disclosure.

¹⁷ With the exception of certain statements and their annexes where standard redactions have already been implemented in preparation for disclosure.

P-1277:*a. Additional Information on Witness P-1277*

21. Witness P-1277 was [REDACTED].

22. As P-1277's witness statement was assessed for disclosure purposes as containing rule 77 information, PSU has not yet "cleared" this witness and recommends redactions. Further information can be found in Annex A.

23. P-1277's statement covers: his personal background and his role [REDACTED]; the period in which former President BOZIZE was in power; crimes committed by the Seleka throughout 2013, as recorded by P-1277 [REDACTED]; the arrival of the Anti-Balaka in Boy Rabe, including information on various members of the Anti-Balaka and alleged Anti-Balaka crimes; a specific meeting with Anti-Balaka leader [REDACTED]; and threats made by the Anti-Balaka [REDACTED].

24. P-1277's statement includes three annexes: Annexes 1-6 are 6 signed pages from P-1277's notebook; Annex 7 contains a blank death certificate form [REDACTED].

b. Justification for measures under rules 81(2) and 81(4)

25. The non-standard redactions to the witness's identity and under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR are independently warranted. The respective justifications are as follows:

- Identity-related information: P-1277's identity should be withheld under rule 81(4) pending PSU's assessment and the implementation of any necessary protection measures or contingency planning for the reasons set out above.
- Paragraphs 11-14: These paragraphs contain information setting out P-1277's role [REDACTED], these paragraphs enable the identification of the witness. For

the reasons set out immediately above, this information should be withheld pending PSU clearance.

- Paragraphs 19-26: This information should be withheld under rule 81(2). This information details P-1277's knowledge of the Seleka crimes in the 4th *Arrondissement*, specifically focusing on the Seleka attacks in April and August 2013. The Prosecution relies on the portion of P-1277's statement concerning the 4th *Arrondissement* in support of the contextual elements for crimes against humanity regarding the Seleka Suspects for whom warrants of arrest have been issued ("[REDACTED] Seleka Suspects"), which remains under active investigation.¹⁸
- Paragraphs 27-30: This information should be withheld under rule 81(2). It refers to the abduction of two individuals from the 4th *Arrondissement* who were taken to a compound behind the Air France offices that was used as the CEDAD detention facility. The crimes committed there form the basis of the accusations against [REDACTED] Seleka suspects against whom warrants of arrest have been issued ("[REDACTED] Seleka Suspects"). The two individual victims named are Prosecution witnesses [REDACTED]. Paragraph 30 links Suspect ADAM to this detention facility. This is a core incident in the Seleka investigation and is still under active investigation.
- Paragraph 31: This information should be withheld under rule 81(2). This paragraph details the Seleka's 5 December 2013 attack on the *Hôpital de l'Amitié*, an incident which is relied upon by the Prosecution to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects.¹⁹ This incident remains under active investigation. Although this incident occurred on 5 December, the information provided by the witness is not material to the preparation of the Defence as it does not relate to any of the charged incidents.

¹⁸ ICC-01/14-19-US-Exp, para. 33, 39.

¹⁹ ICC-01/14-19-US-Exp, para. 41.

- Paragraphs 32-35: This information should be withheld under rule 81(2). The section refers to Seleka 5 December 2013 attacks in Boy Rabe. The Prosecution relies on evidence of these attacks, along with other attacks in Boy Rabe during 2013, to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects.²⁰ This incident remains under active investigation. These paragraphs refer only to the Seleka attacks on 5 December 2013, with a passing reference that the Anti-Balaka “got going” on the same date. Thus, the information was not identified as falling within rule 77.
- Paragraph 37: This information should be withheld under rule 81(2). The paragraph refers to the Seleka kidnapping of [REDACTED] within the 4th *Arrondissement*, which forms part of the broader area targeted by the Seleka, along with Boy Rabe. Crimes in the 4th *Arrondissement* are relied upon by the Prosecution to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects.²¹ In particular, paragraph 37 also refers to the arrest of another Prosecution witness, [REDACTED].
- Paragraph 38: This information should be withheld under rule 81(2). The paragraph refers to the Seleka’s April 2013 rocket attack on a church in Boy Rabe. The Prosecution relies on this incident to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects, and remains under active investigation.²²
- Paragraph 62: This information should be withheld under rule 81(2). The paragraph focuses on Suspect ADAM’s role. Although the information contained in the paragraph [REDACTED] as such, the manner in which it is written [REDACTED] strongly suggests that ADAM is a person of interest to the investigation, whom the witness was specifically questioned about.

²⁰ ICC-01/14-19-US-Exp, para. 34, 36.

²¹ ICC-01/14-19-US-Exp, para. 33, 39.

²² ICC-01/14-19-US-Exp, para. 36.

- Paragraphs 63-66: The Prosecution considers this information disclosable under rule 77, as reflected in the excerpts originally provided.
- Paragraphs 93-96: The Prosecution considers this information disclosable under rule 77, as reflected in the excerpts originally provided.
- The Prosecution does not seek to withhold the following paragraphs under Rule 81(2) Paragraphs 15-18, 36, 39-40, 41-46, 67-92 and 97-122. However, some of these paragraphs require redaction under rule 81(4).
- Annexes: All identifying information in the annexes should be redacted under rule 81(4), on the six pages of his notebook (Annexes 1 to 6) and on the [REDACTED] (Annex 7). In addition, Annex A3 should be redacted under rule 81(2), as it refers to the names of Prosecution witnesses who were arrested and to Suspect ADAM; and that Annex A4 be redacted under rule 81(2) where it refers to the investiture of DJOTODIA and ADAM.

P-1297:

a. Additional Information on Witness P-1297

26. Witness P-1297 [REDACTED]. The most recent information in the Prosecution's possession indicates that he continues to [REDACTED] and also works as [REDACTED]. He continues to reside [REDACTED].

27. Non-disclosure of his identity and identifying information is sought under rule 81(4) until PSU can provide clearance (see Annex A).

28. P-1297's witness statement covers: his personal background [REDACTED]; the circumstances surrounding the Seleka's attack on Bangui and the immediate effect of the Seleka's arrival [REDACTED] neighbourhood; the Seleka attack on Boy Rabe

during August 2013; the Anti-Balaka attack on Bangui on 5 December 2013 and retaliatory crimes committed by the Seleka; and other crimes committed by the Anti-Balaka.

29. P-1297's statement includes three Annexes: Annex 1) [REDACTED] notebook [REDACTED]; Annex 2) List of [REDACTED] victims; Annex 3) Complaint letter submitted to CAR judicial authorities [REDACTED]. In addition, his statement also refers to a further annex separately registered at CAR-OTP-2016-0485, which is a group complaint filed by several residents of the 4th *Arrondissement*, [REDACTED], alleging that they were the victims of Seleka crimes.

b. Justification for measures under rules 81(2) and 81(4)

30. The disclosure of a redacted statement is independently warranted under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR. In addition, the identity and any identifying information pertaining to this witness should be withheld under rule 81(4).

31. A detailed justification for the redactions under rules 81(2) and 81(4) sought / not sought by the Prosecution follows:

- Identity-related information: The Prosecution seeks for P-1297's identity to be withheld under rule 81(4) as recommended by PSU in Annex A.
- Paragraphs 11-18: These paragraphs contain information setting out P-1297's personal background and [REDACTED]. These paragraphs enable identification of the witness.
- Paragraphs 23-43: This information should be withheld under rule 81(2). These paragraphs set out the information the witness obtained [REDACTED], regarding Seleka operations and crimes in this neighbourhood. [REDACTED] falls within the the 4th *Arrondissement*, which forms part of the broader area targeted by the Seleka, along with Boy Rabe. This remains under active investigation. Portions of P-1297's statement related to crimes in the 4th *Arrondissement* are relied upon by the Prosecution to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects, which remains under active investigation.²³ The detail with which this incident is covered in the statement enables a reader to discern that it is a clear area of interest for the investigation. In particular, paragraphs 29-31 refer to the Seleka commander [REDACTED] and his role in the events in Boy Rabe. [REDACTED] is a person of interest to the Seleka Investigation and his relationship to other senior Seleka commanders, including ADAM, is still under

²³ ICC-01/14-19-US-Exp, para. 36, 45.

investigation. Paragraphs 36-38 discuss P-1297's own victimisation by the Seleka during this period.

- Paragraphs 44-60: This information should be withheld under rule 81(2). These paragraphs deal with the Seleka's attack on the [REDACTED]neighbourhood of Boy Rabe in August 2013. Attacks against the Boy Rabe neighbourhood form part of the core evidence relied upon by the Prosecution to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects, and remain under active investigation.²⁴ The detail with which this incident is covered in the statement enables a reader to discern that it is a clear area of interest for the investigation. This incident remains under active investigation.
- Paragraphs 61-66 and 69-77: The Prosecution considers this information disclosable under rule 77. However, paragraphs 67-68 include names of victims which pertain to the Seleka Investigation and these paragraphs should be redacted under 81(2).
- Paragraph 77: This information should be withheld under rule 81(2), as it contains the specific names and circumstances surrounding the deaths of victims of the Seleka Investigation.
- Paragraph 78: This information should be withheld under rule 81(2). It refers to the killing of P-1297's [REDACTED], who was killed in the context of Seleka retaliatory crimes in Boy Rabe in December 2013. Attacks in Boy Rabe in December are relied upon by the Prosecution to support the contextual elements for crimes against humanity in respect of the [REDACTED]Seleka Suspects. This incident remains under active investigation.
- Paragraph 79: This information should be withheld under rule 81(2). It is a reference to a specific incident involving the Seleka detaining and torturing an individual. This individual is witness [REDACTED], who was arrested in Boy

²⁴ ICC-01/14-19-US-Exp, para. 34-36, 43, 45-46, 48; fn. 119.

Rabe before being detained at the Seleka base at *Sapeurs Pompiers* (firefighters' base) and then transferred the OCRB.²⁵ Detention related crimes at the OCRB are the subject of warrants of arrest for the [REDACTED] Seleka Suspects.

- Paragraphs 80-85: The Prosecution considers this information disclosable under rule 77, as reflected in the excerpts originally provided.
- Paragraph 93: This information should be withheld under rule 81(2). It is a reference to a specific incident involving the Seleka arresting an individual in [REDACTED]. This individual is witness [REDACTED], who was subsequently transferred to [REDACTED]. Alleged detention related crimes committed at Camp de Roux form the basis of the arrest warrants issued in relation to [REDACTED]Seleka Suspects ("[REDACTED] Seleka Suspects"), and remain under active investigation.
- Paragraphs 94: The Prosecution requests that this information be withheld under rule 81(4). This paragraph enables identification of the witness through his working relationship with [REDACTED].
- The Prosecution does not seek to withhold: Paragraphs: 19-22, 74-76, 86-92, 95, 96-97.
- Annexes: Annex 1, page 1 through to the penultimate entry on page 11, [REDACTED] should be withheld under rule 81(2), as this contains information primarily related to the crimes committed [REDACTED] by the Seleka, as detailed above. In addition, the single entry on the [REDACTED] (CAR-OTP-2039-0202) should be withheld, as it relates to the arrest of witness [REDACTED]. The list of victims from [REDACTED] in Annex 2 should also be withheld under rules 81(2) and 81(4) at this point in the proceedings, as it contains detailed information setting out the names and contact information for victims of crimes in this neighbourhood, all but one of which are attributed to the Seleka or else 'shot dead' as the cause of death. The Prosecution further requests that the

²⁵ See ICC-01/14-29-US-Exp, para. 87, fn. 321-326.

[REDACTED] letter of complaint to the CAR judicial authorities in Annex 4 also be withheld under rules 81(2) and 81(4), as this contains information solely related alleged crimes committed by the Seleka, particularly within the 4th *Arrondissement*.

P-0787:

a. Additional Information on Witness P-0787

32. P-0787 is [REDACTED]. During the period of the Seleka regime [REDACTED]. The most recent information in the Prosecution's possession indicates that [REDACTED], he is considered an easily identifiable individual. He is from the [REDACTED] ethnic group.

33. As outlined in Annex A, PSU recommends protecting the witness's identity.

34. P-0787's witness statement covers: his background and [REDACTED] career; the arrival of the Seleka in Bangui and their targeting of specific individuals; the Seleka's April 2013 operation in the 4th *Arrondissement*; [REDACTED] his evidence about the structure and functioning of the OCRB [REDACTED]; evidence relating to Seleka commanders associated with the OCRB including Suspect ADAM [REDACTED] detention site at the *Sapeurs Pompiers* (firefighters' base); general information on Seleka discipline; the CEDAD detention facility; other Seleka crimes; and information on the Anti-Balaka and their attack in December 2013.

35. P-0787's statement includes three annexes: Annex 1) A list of Seleka members who worked [REDACTED]; Annex 2) A sketch of [REDACTED]; Annex 3) A sketch of the cattle trucks used by the Seleka to detain people at the firefighters' base.

b. Justification for measures under rules 81(2) and 81(4)

36. The disclosure of a redacted statement is independently warranted under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR. In addition, the identity and any identifying information pertaining to this witness should be withheld under rule 81(4) given that his identity will, by implication, exposes other witnesses linked to the same ongoing investigation.

37. A detailed justification for the redactions under rules 81(2) and 81(4) sought / not sought by the Prosecution follows:

- Identity-related information: The Prosecution seeks for P-0787's identity to be withheld under rule 81(4) as recommended by PSU until the implementation of any necessary protection measures or contingency planning.
- Paragraphs 11-13, 21, 22, 110, 113, 119: These paragraphs contain information setting out P-0787's personal background and [REDACTED], these paragraphs enable identification of the witness.
- Paragraph 17: This information should be withheld under rule 81(2). It specifically refers to events at the OCRB [REDACTED].
- Paragraph 18: This information should be withheld under rules 81(2) and 81(4). The information is specific to an incident involving [REDACTED] Suspect ADAM, and the paragraph cites ADAM as the source of the information, exposing [REDACTED].
- Paragraphs 21-22: Parts of these paragraphs should be withheld under rule 81(4) as they expose the identity of the witness through [REDACTED], the location of his house and his professional role.
- Paragraph 23: This information should be withheld under rule 81(2). [REDACTED] in relation to the Anti-Balaka [REDACTED]. However, his detention at the OCRB is an episode which is specifically relevant to the Seleka Investigation. This paragraph references [REDACTED] detention and specifically links this to Suspect ADAM. Detention related crimes at the OCRB

are a core component of the arrest warrant issued for the [REDACTED] Seleka Suspects.

- Paragraphs 26-29: This information should be withheld under rule 81(4). The information specifically refers to [REDACTED], including [REDACTED] of Suspect ADAM, which are sufficiently particular that they would enable a reader to discern the witness's identity.
- Paragraphs 30-33: This information should be withheld under rule 81(2). This section deals with the Seleka's 'disarmament' operation (used interchangeably with the term 'attack') in the 4th *Arrondissement*, and in Boy Rabe in particular. The attacks in the 4th *Arrondissement* are relied upon by the Prosecution to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects. These attacks remain under active investigation.
- Paragraphs 34-35: This information should be withheld under rule 81(2). These paragraphs link the [REDACTED] to the attacks in Boy Rabe. As noted immediately above, these attacks are relied upon by the Prosecution to substantiate the contextual elements for crimes against humanity. The roles of the specific Seleka commanders with connections to the attacks are presently a main focus of the ongoing investigation.
- Paragraph 36: This information should be withheld under rule 81(2). This paragraph focuses specifically upon the role of [REDACTED] at the OCRB detention facility. Alleged crimes committed at the OCRB are a core component of the arrest warrant issued against the [REDACTED] Seleka Suspects.
- Paragraph 37: The Prosecution requests that this information be withheld under rule 81(2). This paragraph references two members of the alleged common plan covering the OCRB detention facility, including one Suspect. As noted above, alleged crimes committed at the OCRB are a core component of the arrest warrant issued against the [REDACTED] Seleka Suspects. Moreover, this paragraph links these individuals to the operations in Boy Rabe, relied upon by the Prosecution to substantiate the contextual elements for crimes against

humanity. The roles of the specific Seleka commanders with connections to the attacks are presently a main focus of the ongoing investigation, including the linkage between the Boy Rabe attacks and individuals prominent Seleka bases such as the OCRB.

- Paragraph 38: This information should be withheld under rule 81(2). This paragraph refers to the operations in Boy Rabe, which are relied upon by the Prosecution to substantiate the contextual elements for crimes against humanity. This paragraph makes specific reference to an individual with knowledge of the attacks, whom the Prosecution has received authorisation to interview, but has not yet been able to conduct this interview.
- Paragraphs 39-66: This information should be withheld under rule 81(2). This segment of P-0787's statement focuses exclusively on his knowledge of the OCRB detention facility, which forms a core component of the arrest warrants issued in relation to the [REDACTED] Seleka Suspects. The information provided is sufficiently detailed and specific that it would enable any reader to discern that this incident is a core focus of the investigation. The section contains specific information relating to Suspects ADAM and Mahamat SAID Abdel Kani, as well as alleged common plan members such as [REDACTED].
- Paragraph 67: This information should be withheld under rule 81(2). This paragraph refers to [REDACTED], a member of the Seleka and alleged member of the common plan at the OCRB and CEDAD detention facilities, which form the basis of the arrest warrants against the [REDACTED] Seleka Suspects. If this paragraph were to be disclosed while related paragraphs are withheld, it would alert the reader that other, non-disclosed, information in the statement [REDACTED]. Moreover, the paragraph refers to [REDACTED], and at the compound of [REDACTED], enabling a reader to discern that the witness [REDACTED].
- Paragraphs 68-72: This information should be withheld under rule 81(2). This section contains further information on the role of alleged common plan member

[REDACTED] and his link to the OCRB detention facility, which, for the reasons set out above, goes to a core component into the investigation of Seleka crimes. In particular, paragraph 72 references the alleged killing of individuals brought to the OCRB [REDACTED]. Whether killings alleged to have occurred at the OCRB can be attributed to the presently named OCRB common plan members is a specific question that remains under active investigation.

- Paragraphs 73-77: This information should be withheld under rule 81(2). It involves the activities of OCRB common plan members such [REDACTED] SAID profiting from the extortion of detainees at the OCRB and [REDACTED] such money would flow up to Suspect ADAM. The extortion of prisoners is an integral aspect of the case against Seleka suspects for crimes committed at the OCRB and elsewhere.
- Paragraph 78: This information should be withheld under rule 81(2). This paragraph references another big attack on the Boy Rabe neighbourhood. These attacks are relied upon by the Prosecution to substantiate the contextual elements for crimes against humanity. The roles of the specific Seleka commanders with connections to the attacks are presently a main focus of the ongoing investigation, including the linkage between the Boy Rabe attacks and individuals from prominent Seleka bases such as the OCRB.
- Paragraphs 79-87: This information should be withheld under rule 81(2). This section refers to the detention of prisoners at the firefighters' base (*Sapeurs Pompiers*) [REDACTED]. The Prosecution [REDACTED] the *Sapeurs Pompiers* to date, but this base remains relevant to the Prosecution's theory of Seleka coordination and control, given that Seleka detainees were transferred from there to other detention sites of interest.²⁶ [REDACTED] is also an ongoing focus of the Seleka Investigation in relation to his role in the Boy Rabe attacks.²⁷ Paragraphs 83-87 specifically refer to the connection of Suspect ADAM to this

²⁶ See e.g. ICC-01-14-29-US-Exp, para. 24, 34, 35, 41, 61, 63.

²⁷ See e.g. ICC-01-14-29-US-Exp, para. 35, 61.

incident, and the transfer of prisoners under his control from the firefighters' base to the OCRB.

- Paragraphs 88-89: This information should be withheld under rules 81(2) and 81(4). The paragraphs detail incidents that came to P-0787's attention [REDACTED], and the manner in which they are phrased contains sufficient information to reveal [REDACTED].
- Paragraph 92: This information should be withheld under rule 81(2). It refers again to specific information relating to the alleged commission of crimes by the Seleka at the OCRB, and specifically incriminates Suspect Mahamat SAID Abdel Kani.
- Paragraphs 95-99: This information should be withheld under rule 81(2). It refers to events concerning the OCRB detention facility. Paragraphs 97-99 contain information concerning detention conditions and the treatment of prisoners, which is sufficiently detailed and specific as to enable a reader to discern that this information is of importance to the Seleka Investigation. Paragraph 98 specifically incriminates Suspect Mahamat SAID Abdel Kani [REDACTED].
- Paragraphs 100-104: This information should be withheld under rule 81(2). [REDACTED] Suspect ADAM's removal from the OCRB and his subsequent role at the CEDAD, another detention facility which also forms the basis of the arrest warrants against the [REDACTED]Seleka Suspects. Paragraph 104 concerns the SRI, a sub-unit of the gendarmerie with its headquarters in Bangui, which was used as a Seleka base. The activities of the Seleka at the SRI, including the treatment of detainees there, remain part of the on-going investigation into Seleka crimes. [REDACTED], the SRI remains relevant to the Prosecution's theory of Seleka coordination and control, particularly given that Seleka detainees were transferred there from other detention sites of interest.²⁸

²⁸ See e.g. ICC-01-14-29-US-Exp, para. 24, 41, 72, 87, 93; fn. 157.

- Paragraphs 105-109: This information should be withheld under rule 81(2). While the information on ‘other crimes’ provided by P-0787 is not particularly detailed, the topics he covers in these paragraphs, ranging from the Seleka operations in Boy Rabe, bodies at the *Colline des Panthères* and the disposal of bodies in the Oubangui river are all major components of the Seleka Investigation. Specifically, the dumping of bodies at the *Colline des Panthères* and in the river form the core of the allegations against the [REDACTED] Seleka Suspects. The manner in which paragraph 105 is phrased makes it apparent to the reader that the witness was specifically questioned in relation to these incidents, signalling their importance to the Seleka Investigation.
- Paragraphs 110-115: The Prosecution considers this information disclosable under rule 77, as reflected in the excerpts originally provided. However, in paragraphs 110 and 113, redactions are required under rule 81(4) is to protect the identity of the witness.
- The Prosecution does not seek redaction of paragraphs: 14-16, 19-20, 24-25, 90-91, 93-94 and 116-118. The Prosecution also does not seek to withhold information in paragraphs 119-121 except specific information enabling the position of the witness within the Police to be discerned.
- Annexes: The information in the annexes should be withheld under rule 81(2) and 81(4). Annexes 1 and 2 relate specifically to the OCRB which, for the reasons above, would reveal a core component of the case against the [REDACTED] Seleka Suspects if disclosed. Annex 3 refers to detentions at the fire fighters base, an incident still under investigation and relevant to the Prosecution’s theory of Seleka coordination and control. None of the information in the annexes is identified as rule 77.

P-0664:

a. Additional Information on Witness P-0664

38. P-0664 was a [REDACTED] arrested by the Seleka and detained at the CEDAD. The most recent information in the Prosecution's possession indicates that [REDACTED].

39. As P-0664's statement was assessed for disclosure purposes as containing rule 77 information, PSU recommends redacting the identity of the witness (Annex A).

40. P-0664's witness statement covers: his background, his arrest by the Seleka and transfer to the CEDAD; his interrogation and torture at the CEDAD; the detention conditions at the CEDAD; the death of two Seleka members at the CEDAD; an investigation into events at the CEDAD; information on his release; information on his co-detainees at the CEDAD; information regarding other alleged Seleka crimes; and information on the Anti-Balaka.

41. P-0664's statement includes six annexes: Annex 1) A complaint relating to the treatment of detainees at the CEDAD; Annex 2) A sketch of the CEDAD premises; Annex 3) P-0664's medical record; Annex 4) Copies of the witness's birth certificate and identification; Annex 5) Death certificate and identifying information for Seleka victim [REDACTED]; Annex 6) Complaint file for [REDACTED], survivor of Seleka killings in Bangui.

b. Justification for measures under rules 81(2) and 81(4)

42. The disclosure of a redacted statement is independently warranted under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR. In addition, the identity and any identifying information pertaining to this witness should be withheld under rule 81(4).

43. A detailed justification for the redactions under rules 81(2) and 81(4) sought / not sought by the Prosecution follows:

- Identity-related information: The Prosecution seeks to withhold P-0664's identity under rule 81(4) as recommended by PSU.
- Paragraphs 12-17, 169, 170 and 193: These paragraphs set out the witness's personal background including his occupation, family members and education. This information should be withheld under rule 81(4).
- Paragraphs 18-166: This information should be withheld under rule 81(2). This information goes to the heart of the Prosecution's case in relation to detention-related crimes at the CEDAD, which forms the basis for the arrest warrants against the [REDACTED] Seleka Suspects. The relevant paragraphs provide detailed and specific information concerning the witness's arrest, his interrogation and torture at the CEDAD, the detention conditions at the CEDAD, information on his co-detainees and specific occurrences at the CEDAD including the beating and subsequent deaths [REDACTED] and an internal investigation of events at the CEDAD. The account of P-0664's interrogation and mistreatment focuses specifically upon [REDACTED], enabling any reader to discern that ADAM is a key focus on the investigation into crimes at the CEDAD. P-0664's account also contains numerous references to other witnesses, including his co-detainees, as well as a civil servant who worked at the CEDAD. The account also contains references to other members of the Seleka working at the CEDAD whom the Prosecution has identified as potential witnesses, but has been unable to contact yet.
- Paragraphs 169-170: The information naming the victim should be withheld under rule 81(4), as it exposes the identity of the witness, through their familial relationship.
- Paragraphs 183-189: The Prosecution considers this information disclosable under rule 77, as reflected in the excerpts originally provided. However, minor redactions under rule 81(4) are required in paragraph 183.

- The Prosecution does not seek to withhold: Paragraphs 167-182 (with the exception of the minor rule 81(4) redactions noted above), or 190-199 (with the exception of the minor rule 81(4) redaction to paragraph 193 noted above).
- Annexes: Redactions should be applied to Annexes 1) and 2) under rules 81(2) and 81(4). They contain the witness's complaint regarding his detention at the CEDAD and a sketch of the CEDAD premises. In addition, Annexes 3) and 4) should be redacted under rule 81(4) as they contain the witness's medical records and identifying documents. Identifying information should also be redacted from Annexes 5) and 6).

P-0234:*a. Additional Information on Witness P-0234*

44. P-0234 was [REDACTED] and was [REDACTED].

45. PSU has cleared the disclosure of P-0234's identity.

46. P-0234's witness statement covers: his background [REDACTED]; an overview of the events in CAR from August 2012; information pertaining to [REDACTED] former President BOZIZE; information regarding a military prison in BOSSEMBELE; information on [REDACTED] pillaging and killings, information relating to the December 2013 Anti-Balaka attack on Bangui; and miscellaneous information on alleged Seleka and Anti-Balaka crimes and persons of interest.

47. P-0234's statement includes three annexes: Annex 1) A media article relating to proceedings against Seleka members accused of pillage in Boy Rabe; Annex 2) A media article regarding the discovery of bodies in the Oubangui River in July 2013; and Annex 3) A handwritten list of persons convicted of pillaging before the *Tribunal de Grande Instance* in Bangui.

b. Justification for measures under rules 81(2)

48. The disclosure of a redacted statement is independently warranted under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR. A detailed justification for the redactions under rule 81(2) sought / not sought by the Prosecution follows:

- Paragraphs 34-36: This information should be withheld under rule 81(2). Paragraphs 34-36 describe the 'parallel structure' that the Seleka imposed in taking over various Government institutions. The notion of the Seleka seizing

control of state institutions and usurping regular reporting structures is at the core of the Seleka Investigation and the case theory²⁹ against the [REDACTED] Seleka Suspects.

- Paragraph 35 refers to the SRI, a sub-unit of the gendarmerie with its headquarters in Bangui, which was used as a Seleka base. The activities of the Seleka at the SRI, including the treatment of detainees there, remain part of the ongoing investigation into Seleka crimes. While the Prosecution has not sought an arrest warrant on the basis of crimes at the SRI to date, the SRI remains relevant to the Prosecution's theory of Seleka coordination and control, particularly given that Seleka detainees were transferred there from other detention sites of interest.³⁰
- Paragraph 36 refers to the parallel structure at the firefighters' base (*Sapeurs Pompiers*) and to [REDACTED]. As with the SRI, the Prosecution [REDACTED] crimes at the *Sapeurs Pompiers* to date, but this base remains relevant to the Prosecution's theory of Seleka coordination and control, given that Seleka detainees were transferred from there to other detention sites of interest.³¹ [REDACTED] is also an ongoing focus of the Seleka Investigation in relation to his role in the Boy Rabe attacks.³²
- Paragraphs 48-55: This information should be withheld under rule 81(2). Paragraphs 48-54 deal with the pillaging of Boy Rabe. As noted, the attacks in Boy Rabe are relied upon by the Prosecution to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects. This incident remains under active investigation.
- Paragraphs 60-72: The Prosecution considers this information disclosable under rule 77, as reflected in the excerpts originally provided. Although paragraph 72

²⁹ See e.g. ICC-01/14-19-US-Exp, para. 16, 67, 97, 174-175.

³⁰ See e.g. ICC-01-14-29-US-Exp, para. 24, 41, 72, 87, 93; fn. 157.

³¹ See e.g. ICC-01-14-29-US-Exp, para. 24, 34, 35, 41, 61, 63.

³² See e.g. ICC-01-14-29-US-Exp, para. 35, 61.

appears to be on an unrelated topic, the Prosecution does not seek redaction of this paragraph.

- Paragraphs 73-74: This information should be withheld under rule 81(2). This section deals with the CEDAD. The crimes committed there form the basis of the arrest warrants issued in respect of the [REDACTED] Seleka Suspects. The paragraphs specifically reference Suspect ADAM [REDACTED] and alleged common plan member [REDACTED].
- Paragraph 87: This information should be withheld under rule 81(2). This section deals with the CEDAD and the specific issue [REDACTED] in relation to CEDAD prisoners to secure their transfer, which is an important aspect of the Prosecution's case theory in relation to the CEDAD.
- Paragraph 88: This information should be withheld under rule 81(2). It deals with the issue of sexual assaults in Boy Rabe. As noted, the Prosecution relies upon the attacks in Boy Rabe to substantiate the contextual elements for crimes against humanity, and sexual and gender based violence in this context is an important component of the ongoing investigation.
- Paragraphs 98-110: This information should be withheld under rule 81(2). The manner in which the text is phrased makes it apparent to the reader that the witness was specifically directed to answer questions on these particular topics, highlighting their significance.
 - Paragraphs 98, 100 and 101 refer to Suspect ADAM's role in relation to the OCRB and the CEDAD, the two detention facilities that form the basis of the arrest warrant issued in relation to the [REDACTED] Seleka Suspects. Paragraphs 99 and 102 refer to [REDACTED] *Sapeurs Pompiers* (the firefighters' base). As noted above, this Seleka base is relevant to the Prosecution's theory of Seleka coordination and control, given that Seleka detainees were transferred from there to other detention sites of interest. [REDACTED].

- Paragraphs 103-107 discuss the issue of prisoners at Camp de Roux. Detention related crimes at Camp de Roux form the basis of the arrest warrants issued for the [REDACTED] Seleka Suspects. The relevant paragraphs also discuss Seleka commander and witness [REDACTED]. Paragraph 108 discusses the attack on *Hôpital de l'Amitié*. As noted above, this incident—and the connection of any senior Seleka commanders to it—is currently under active investigation, and is relied upon by the Prosecution to support the contextual elements for crimes against humanity.
- Paragraphs 109-110 relate to the mass grave at the *Colline des Panthères*. As noted, the killing of prisoners / dumping of bodies at the *Colline des Panthères* forms a central part of the case against the [REDACTED] Seleka Suspects. The manner in which paragraph 110 is phrased makes it apparent that the witness was specifically questioned in relation to this incident.
- The Prosecution does not to withhold: Paragraphs 8-16, 17-25, 27-32, 37-47, 56-59, 75-86, 89-97 and 111.
- Annexes: The Prosecution does not seek to withhold the information contained in any of the annexes.

P-0622:

49. As noted above, while the Chamber has not specifically requested the Prosecution to provide further justifications in relation to witness P-0622, the Prosecution takes the opportunity to provide full and detailed justifications for the measures under rule 81(2) and 81(4) in respect of this witness, in the event that the Chamber does not permit the Prosecution to disclose excerpts as originally requested.

a. Additional Information on Witness P-0622

50. P-0622 worked as [REDACTED]. The most recent information in the Prosecution's possession indicates that he still [REDACTED] and continues to reside in Bangui. P-0622 is a Christian of [REDACTED] ethnicity.

51. P-0622's witness statement was assessed to include rule 77 information. PSU recommend the witnesses identity and identifying information to be redacted (Annex A).

52. P-0622's statement covers: his personal background; the seizure of power by the Seleka and the visit of Seleka soldiers to P-0622's [REDACTED] ; P-0622's arrest and transfer to the OCRB; his detention at the OCRB; his transfer and subsequent detention at Camp de Roux; other incidents involving the Seleka he was aware of; and information on the Anti-Balaka.

53. P-0622's statement includes 16 Annexes. Annexes 1-4 are sketches of the OCRB and Camp de Roux; Annex 5 is an investigative documentary about the crisis in CAR; Annexes 6-16 are photographs of various persons of interest to the investigation identified by the witness.

b. Justification for measures under rules 81(2) and 81(4)

54. The disclosure of a redacted statement is independently warranted under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR. In addition, the identity and any identifying information pertaining to this witness should be withheld under rule 81(4). A detailed justification for the redactions under rules 81(2) and 81(4) sought / not sought by the Prosecution follows:

- Identity-related information: The Prosecution seeks for P-0622's identity to be withheld under rule 81(4) as recommended by PSU.
- Paragraphs 13-17: This section sets out the witness's personal background including his occupation. It enables identification of the witness. This information should be withheld under rule 81(4).
- Paragraphs 18-32: This information should be withheld under rules 81(2) and 81(4). P-0622's information on the Seleka's seizure of power is specifically linked [REDACTED]. This section details the arrival of Seleka soldiers [REDACTED] and P-0622's arrest while he was forced to [REDACTED]. As becomes apparent from the remainder of the statement, P-0622's subsequent arrest and mistreatment is linked this initial encounter with the Seleka.
- Paragraphs 33-94: This information should be withheld under rule 81(2). This section provides detailed and specific information regarding the witness's arrest and transfer to the OCRB, and the circumstances surrounding his detention and mistreatment there. Detention related crimes at the OCRB remain under active investigation, and form the basis for the arrest warrants issued in respect of the [REDACTED] Seleka Suspects. This section focuses specifically upon the role of Seleka suspect ADAM. Were this information to be disclosed, it would clearly reveal to the reader that crimes at the OCRB are a central focus of the Seleka Investigation.

- Paragraphs 95-152: This information should be withheld under rule 81(2). This section provides detailed and specific information regarding the witness's arrest and transfer to Camp de Roux, and the crimes he alleged seeing there. Detention related crimes at Camp de Roux remain under active investigation, and form the basis for the arrest warrants issued in respect of the [REDACTED]Seleka Suspects. This section specifically mentions senior Seleka commanders who were present at Camp de Roux, including those stationed at other Seleka bases such as ADAM [REDACTED]. The possible connection between Seleka commanders from other bases, and the events at Camp de Roux, are still under active investigation. Were this information to be disclosed, it would clearly reveal to the reader that crimes at Camp de Roux are a central focus of the Seleka Investigation. Even though this incident falls within the time frame of the charges brought against NGAISSONA and YEKATOM, the information provided is solely material to the Seleka Investigation and does not include information assessed as disclosable under article 67(2) or rule 77.
- Paragraphs 153-223: This information should be withheld under rule 81(2). These paragraphs comprise a list of various photographs that were shown to the witness for identification / recognition purposes. Because of this witness's profile as a detainee-victim of the Seleka, the photographs he was shown are all Seleka persons of interest, including those associated with the OCRB and Camp de Roux. Were these to be disclosed, they would reveal the prosecution's main lines of inquiry and shed light onto the remaining portions of the statement which the Prosecution has requested be withheld.
- Paragraphs 234-244: This information should be withheld under rule 81(2). This section deals with the Seleka attacks in Boy Rabe. Seleka commanders General YAYAH and General BICHARA are mentioned in this connection. The responsibility of various Seleka commanders for the events in Boy Rabe—and their possible links to Seleka suspects [REDACTED]—remains under active investigation.

- Paragraphs 245-257: The Prosecution considers this information disclosable under rule 77, as reflected in the excerpts originally provided.
- Paragraphs 260-270 concern the witness's observations about a video dealing with the 8 December Press Conference held at Camp de Roux, which is under investigation. He gives information about Seleka persons of interest.
- Annexes: Annexes 1-4 should be withheld under rule 81(2), as they refer to the witness's detention at the OCRB and Camp de Roux. The Prosecution also requests that the photos shown to the witness (Annexes 6 to 16) be withheld, as they depict the photographs of Seleka persons of interest commented on by the witness.

B. Witnesses providing incriminatory evidence

55. In the following section, the Prosecution provides individual justifications for non-standard redactions under rule 81(2) for three witnesses providing evidence the Prosecution seeks to rely on for the confirmation of charges proceedings: P-0291; P-0567 and P-0646. Provided these redactions are granted, these witnesses can be disclosed as soon as the necessary contingency plans have been implemented by PSU. As with the rule 77 witnesses above, the Prosecution has considered the guidance provided by the Chamber in its Order and has, in several instances, revised its initial position on whether certain paragraphs should be withheld under rule 81(2). Those changes are reflected in Annex J (P-0291), Annex I (P-0567) and Annex H (P-0646).

56. For these witnesses there exists an objectively justifiable risk of interference by Suspects of the Seleka Investigation as well as persons closely aligned with them, should they be informed or inadvertently learn that a witness has cooperated with the Prosecution and given a statement.

57. There is also no less restrictive measure available other than applying non-standard redactions to the respective portions of the text to protect the investigation at this point in the proceedings.

58. The disclosure of the redacted statements will not prejudice the rights of the Suspects nor impede fair and impartial confirmation proceedings. The Prosecution does not seek to rely upon the redacted evidence at the Confirmation hearing, nor is it assessed to contain article 67(2) or rule 77 evidence. This also extends to the redactions which relate to timeframes *within* the charged period of the case against NGAISSONA and YEKATOM. The Prosecution reiterates that not all information provided by a witness is necessary to assess a witness's credibility, especially not at the confirmation proceedings stage.

P- 0646:

a. Additional Information on Witness P-0646

59. Witness P-0646 [REDACTED] in Bangui, a position that he has held since the time of former President BOZIZE and still holds today.

60. PSU has cleared this witness's disclosure.

61. P-0646's statement includes seven Annexes: Annex 1) Sketch of Camp de Roux; Annex 2a) Sketch of Camp de Roux; Annex 2b) Sketch of Camp de Roux;³³ Annex 3a) 20 photographs; Annex 3b) 30 photographs; Annex 3c) Family photographs; Annex 3d) Photographs of pillage / looting; Annex 3 e) Photographs of victims of Fatima church attack; Annex 3f) Photographs of the "*Tueries en mars*"; Annex 4) *Procès Verbale de Constat* (File on looting); Annex 5) *Mandat de Perquisition*; Annex 6) *Plainte contre les*

³³ This third sketch is not referenced in the body of the Witness Statement but is electronically appended to the statement.

éléments de la Seleka pour pillage; Annex 7) Message Porté; and Annex 8) Identification of a Seleka person of interest.

b. Justification for measures under rule 81(2)

62. The disclosure of a redacted statement is independently warranted under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR. A detailed justification for the redactions under rule 81(2) sought / not sought by the Prosecution follows:

- Paragraphs 26-45: This information should be withheld under rule 81(2). This section explains how the witness and his family were threatened by a prominent Seleka [REDACTED] after the Seleka arrive in Bangui. P-0646's [REDACTED] abducted and he had to pay to have him returned. The extortion of individuals by the Seleka for their own enrichment is a core component of the case theory in the Seleka Investigation.
- Paragraph 48: This information should be withheld under rule 81(2). This paragraph deals with information [REDACTED] about Suspect ADAM and other prominent Seleka. Although the paragraph gives general information, if presented in isolation it would enable the reader to discern that the surrounding sections concern matters relevant to the Seleka Investigation. It is not assessed as containing information that is disclosable under rule 77.
- Paragraphs 49-58: This information should be withheld under rule 81(2). In this section the witness describes his interactions with [REDACTED], further providing context relevant to the Seleka Investigation.
- Paragraphs 59-78. This information should be withheld under rule 81(2). This section deals with the ART and the Seleka's use of the CAR telecommunications infrastructure to conduct surveillance on persons of interest. Suspect ADAM, in his capacity as head of the CEDAD, is specifically referenced in relation to this

surveillance. The Seleka's targeting of perceived threats to its regime is at the core of the case theory in the Seleka Investigation.

- Paragraphs 79-149: This information should be withheld under rule 81(2). The witness describes that he was arrested on 15 July 2013 by Seleka and taken to the OCRB and later Camp de Roux where he was tortured for 4 days. He was re-arrested on [REDACTED] and taken to the OCRB and later back to Camp de Roux. The witness also gives information on killings allegedly committed at Camp de Roux. The crimes committed at both detention centres are still under active investigation and form the basis for the warrants of arrest issued against the [REDACTED] Seleka Suspects.
- Paragraphs 150-151: This information should be withheld under rule 81(2). These paragraphs deal with the CEDAD detention centre, which remains under investigation and forms the basis for the arrest warrants issued against the [REDACTED] Seleka Suspects. The manner in which paragraph 150 is phrased makes it apparent to the reader that the witness was specifically questioned about the CEDAD. In these paragraphs, the witness refers to [REDACTED].
- Paragraphs 152-156: This information should be withheld under rule 81(2). These paragraphs provide additional context into the use of child soldiers and the crimes committed in Boy Rabe, which are both subject to continuing investigation.
- Paragraphs 176, 177 and 179: This information should be withheld under rule 81(2). These paragraphs deal with the Camp de Roux investigations and other aspects under ongoing investigation which should not be exposed at this point.
- Annexes: Annexes 1, 2a and 2b should be redacted under rule 81(2). They are sketches of the Camp de Roux military base where the witness alleges he witnessed crimes. The Prosecution has requested that the corresponding paragraphs in his statement be redacted. Annex 7 should be withheld under rule 81(4) as it shows that the witness has been questioned due to [REDACTED].

- The Prosecution does not seek to withhold: Paragraphs 11-17, 18-25, 124, 129-131 and all photographs in Annex 3—which includes the photographs referred to paragraph 184(f)—and Annexes 4, 5, 6 and 8.

P- 0567:

a. Additional Information on Witness P-0567

63. The witness is [REDACTED] who in 2013 worked for [REDACTED] in Bangui. He currently lives and works [REDACTED]. At the time of writing, PSU has not yet cleared the Witness's disclosure. However, the Prosecution is confident that this will occur in the near future.

64. P-0567's witness statement covers: his professional background; his work in Bangui [REDACTED], including information he received in relation to certain incidents; the Anti-Balaka attack on Bangui on 5 December 2013; the *Colline des Panthères* grave site; a shooting incident in January 2014; subsequent work for the [REDACTED] in CAR from [REDACTED] including information obtained in that capacity; and information on discrete Seleka and Anti-Balaka crimes and incidents.

65. P-0567's statement includes two Annexes: Annex 1 is the Personal History Profile of the witness. Annex 2 is a handwritten sketch of the scene at the *Colline des Panthères*.

b. Justification for measures under rules 81(2)

66. The disclosure a redacted statement is independently warranted under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR. A detailed justification for the redactions under rule 81(2) sought / not sought by the Prosecution follows:

- Paragraphs 40-64: This information should be withheld under rule 81(2). The witness describes the circumstances surrounding the discovery of bodies on the

hillside behind Camp de Roux known as the *Collines des Panthères* at the end of December 2013. This incident forms the basis for arrest warrants against the [REDACTED] Seleka Suspects. The significance of this discovery to the Seleka Investigation becomes clear through the line of questioning and the detail captured in the statement. Even though the witness's information falls within the timeframe of the potential charges against NGAISSONA and YEKATOM, under the criteria outlined above the information provided is solely relevant to the Seleka Investigation and does not contain disclosable material under article 67(2) or rule 77.

- Paragraph 80: This information should be withheld under rule 81(2). It specifically refers to the 'torture centre' of ADAM, namely the CEDAD, and [REDACTED] interest in this incident, which aligns with that of the Seleka Investigation.
- Paragraph 83: This information should be withheld under rule 81(2). It specifically refers to the *Colline des Panthères*, which as noted above, is a core component of the Seleka Investigation, which is still subject to ongoing investigation. The information is not identified as rule 77.
- Paragraphs 100-103: This information should be withheld under rule 81(2). These paragraphs provide specific information about the CEDAD, which as noted above, remains under investigation. The answers provided by the witness make clear that the Prosecution is specifically focused upon this incident as part of its investigations.
- Paragraphs 104-109: This information should be withheld under rule 81(2). The witness is expressly asked about any knowledge he may have about specific bases established by the Seleka in Bangui at the relevant time. Disclosing these paragraphs would show the Prosecution's line of investigation regarding the inner workings of the Seleka and which bases it is particularly focused on. As noted above, the leadership of the various Seleka bases and the degree of coordination between them is central to the Prosecution's theory into Seleka

coordination and control. This information is, however, not material to the preparation of the Defence under rule 77. It is of general nature and can be derived from other sources such as open source reports and other witnesses, which will be available to the Defence.

- Paragraph 114: This information should be withheld under rule 81(2). The witness is questioned specifically about crimes which allegedly occurred in the neighbourhood of Boy Rabe during the Seleka rule, which are still subject to active investigation. Disclosing this paragraph would reveal that the Prosecution is investigating these incidents, even though the witness himself does not provide much detail.
- Paragraphs 115-116: This information should be withheld under rule 81(2). These paragraphs reference the Seleka's attack on the *Hôpital de l'Amitié* on 5 December 2013, an incident which is under active investigation by the Prosecution as a significant number of persons were allegedly killed at the hospital by Seleka. The attack is also relied upon by the Prosecution to support the contextual elements for crimes against humanity in respect of the [REDACTED] Seleka Suspects.³⁴ Even though it falls within the time frame of the charges brought against NGAISSONA and YEKATOM, the information provided is solely material to the Seleka Investigation and does not include information assessed as disclosable under rule 77, as the information does not relate to the incidents charged.
- Paragraph 160: This information should be withheld under rule 81(2). The manner in which this paragraph is phrased reveals that the illegal detentions, including at Camp de Roux, are a specific area of interest. These matters remain subject to ongoing investigation.
- Paragraph 175: This information should be withheld under rule 81(2). This paragraph references Annex 2 of the statement which is a sketch of the crime

³⁴ ICC-01/14-19-US-Exp, para. 41.

scene on *Colline des Panthères*, which remains a core aspect of the ongoing investigations into Seleka crimes.

- The Prosecution does not seek to withhold: Paragraphs 11-39, 65-79, 81-82, 84-99, 110-112, 117-159 and 161-174.
- Annexes: The Prosecution request that Annex 2 be withheld, as it depicts the crime scene on the *Colline des Panthères*, which remains a core aspect of the ongoing investigations into Seleka crimes.

P-0291:

a. Additional Information on Witness P-0291

67. The witness is the former Prime Minister of CAR appointed by BOZIZE, who continued to hold this position under the Seleka Government. PSU has cleared the Witness's disclosure. Thus, no identity redactions are sought.

68. P-0291's witness statement covers: The BOZIZE government; the advance of the Seleka and Libreville negotiations; the Seleka attack on Bangui; the structure of the government under the Seleka; the Seleka structure and prominent commanders; and the 5 December 2013 Anti-Balaka attack.

69. P-0291's statement includes nine annexes: Annex 1) Complaint about a killing by ANDJILO; Annex 2) List of Anti-Balaka members; Annex 3) List of Anti-Balaka members; Annex 4) Document re Anti-Balaka payments; Annex 5) Complaint against Seleka Colonel RAMADAN; Annex 6) Witness's resume; Annex 7) Witness's passport; Annex 8) Transcript of an interview given to the media; and Annex 9) Press article.

b. Justification for measures under rule 81(2)

70. The disclosure of a redacted statement is warranted under rule 81(2) to protect the Prosecution's future and ongoing investigations in CAR. A detailed justification for the redactions under rule 81(2) sought / not sought by the Prosecution follows:

- Paragraphs 71-99: This information should be withheld under rule 81(2). Herein, the witness describes in specific terms the structure of the Seleka government and the interrelationship between persons of interest such as President Michel DJOTODIA and Suspect ADAM. The Prosecution notes that within this section of the statement there are portions which provide general information that could be released to the Defence. Releasing such portions individually would, however, reveal the line of questioning by the investigators and the themes that the Seleka Investigation is exploring. Thus, there is sufficient reason to withhold the entire section. In addition, this information is not classified as including incriminatory or rule 77 material.
- Paragraphs 112-114: This information should be withheld under rule 81(2), beginning with the second sentence in paragraph 12. This section deals with the abduction and attempted murder of [REDACTED] of the witness. [REDACTED], a survivor of the Seleka executions on the *Colline des Panthères*. From the line of questioning it is clear that the Prosecution is investigating this incident, which is still under active investigation. The incident is not related to any of the charged incidents of the case against NGAISSONA and YEKATOM. The mere fact that it occurred on the 5 December 2013 is not sufficient to classify it as rule 77 material.
- Paragraph 133: The reference to Annex 5 information should be withheld under rule 81(2). The Annex is a complaint of [REDACTED], who held a leading position at ENERCA in 2013, who claims that the Seleka Colonel RAMADAN rented and subsequently looted and pillaged a villa [REDACTED] March 2013. [REDACTED] mentions the complainant YAGOZA in paragraph 114 of his statement and claims that he was subsequently killed during the attack on the *Hôpital de l'Amitié* by [REDACTED]. Both incidents are under active

investigation. As noted, the mere fact that the attack on *Hôpital de l'Amitié* occurred on 5 December 2013 is not considered sufficient to classify it as rule 77 material for the above stated reasons.

- The Prosecution does not seek to withhold: Paragraphs 11-70, 100-110 and 115-133 (with the exception of reference to Annex 5).
- Annexes: Annex 5 should be withheld under rule 81(2), for the reasons set out above.

V. RELIEF SOUGHT

71. For the above reasons, the Prosecution seeks an order under rules 81(2) and 81(4) authorising the Prosecution to:

- a. Withhold the identities and identifying information of P-0622, P-0664, P-0787, P-1297, and P-1277;
- b. Disclose to the Defence excerpts of the relevant material pertaining to the witnesses under a., or in the alternative, disclose anonymous redacted versions of the witness statements and annexed material under with rule 81(2) redactions as set out in Annexes G, E, D, C and B respectively.
- c. Redact the names of the witnesses reflected in the metadata of the statements and corresponding annexes;
- d. Disclose to the Defence the redacted versions of statements and annexed material of P-0234, P-0646, P-0567 and P-0291 under rule 81(2) as set out in Annexes F, H, I and J respectively.

72. Should the Request be denied in whole or in part, the Prosecution requests the Chamber to permit any necessary disclosures concerning the affected witnesses to take place only after necessary protective measures are implemented.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 25th day of February 2026
At The Hague, The Netherlands