

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-01/14-01/18**

Date: **25 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 *THE PROSECUTOR v.*
*ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

Public Redacted Version of the 'Yekatom Defence Response to Prosecution 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', 20 November 2020, ICC-01/14-01/18-735-Conf

Source: Defence for Mr. Alfred Rombhot Yekatom

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1. Counsel representing Mr. Alfred Rombhot Yekatom (“Defence”) hereby respond to the *Prosecution’s Request for Non-Standard Redactions under Rule 81(2) for Trial Witnesses P-1732, P-0342, P-0882, P-0992, P-1592, and P-0310* (“Second Request”).¹ We respectfully request that the Chamber examine the proportionality of the particular proposed redactions discussed below.

RELEVANT PROCEDURAL HISTORY

2. On 24 September 2014, the Prosecution opened its investigation into crimes committed since 2012 in the Central African Republic.²
3. On 28 June 2019, over the objection of the Yekatom and Ngaïssona Defence teams,³ the Pre-Trial Chamber authorised the Prosecution to withhold the identities of five witnesses and redact portions of the statements of nine other witnesses because the disclosure may prejudice the Prosecution’s ongoing investigation of the Seleka.⁴
4. On 17 July 2019, again over the objection of the Defence teams,⁵ the Pre-Trial Chamber authorised the Prosecution to redact portions of the statements of three additional witnesses for the same reasons.⁶
5. On 3 September 2019, the Pre-Trial Chamber rejected a request by the Yekatom Defence⁷ to lift the Seleka-related redactions.⁸
6. In its decision on the confirmation of charges on 11 December 2019, the Pre-Trial Chamber noted the objections of the Defence to the fairness of the proceedings

¹ [ICC-01/14-01/18-706-Conf-Red.](#)

² [Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening a second investigation in the Central African Republic](#), ICC-OTP-20140924-PR1043, 24 September 2014.

³ [ICC-01/14-01/18-165-Conf.](#) Public redacted version: [ICC-01/14-01/18-165-Red.](#)

⁴ [ICC-01/14-01/18-232-Conf-Red.](#) Public redacted version: [ICC-01/14-01/18-232-Red2.](#)

⁵ [ICC-01/14-01/18-230-Conf.](#) Public redacted version: [ICC-01/14-01/18-230-Red.](#)

⁶ [ICC-01/14-01/18-249-Conf-Red.](#) Public redacted version: [ICC-01/14-01/18-249-Red2.](#)

⁷ [ICC-01/14-01/18-290.](#)

⁸ [ICC-01/14-01/18-315-Conf.](#), para. 62. Public redacted version: [ICC-01/14-01/18-315-Red.](#)

in light of the failure to lift the Seleka-related redactions,⁹ and reaffirmed that its decision not to lift those redactions did not prejudice the Defence.¹⁰

7. On 5 August 2020, the Defence received a confidential redacted version of the *Prosecution's Request for Non-Standard Redactions under Rule 81(2) for Trial Witnesses P-1143, P-1172, P-2377, P-0992, P-1558, and P-2587* ("First Request").¹¹ The Defence responded on the 13 August 2020.¹²
8. On 30 September 2020 the Chamber issued its decision on the Prosecution's *First Request*, granting the request in part while rejecting the request to redact information concerning:
 - (i) crimes allegedly committed by the Seleka, where the information is (a) general in nature and does not reveal specific incidents, *or* (b) relates to events happening on 5 December 2013;
 - (ii) locations of Seleka bases;
 - (iii) Seleka's disarmament activities in the 4th *arrondissement*; and
 - (iv) crimes allegedly committed by the Seleka on an unknown date or where not specifically attributed to either the Seleka or the Anti-Bakala.¹³
9. Meanwhile, on 17 August 2020 the Defence moved the Chamber to lift in their entirety the non-standard redactions granted by the Pre-Trial Chamber for Prosecution Witnesses P-0291, P-0567, and P-0627.¹⁴
10. On 16 October 2020, the Chamber granted the motion in part, finding that "information related to the composition and functioning of the Seleka, and their alleged general *modus operandi*, might be material to the preparation of the

⁹ [ICC-01/14-01/18-340-Red](#), para. 25; [ICC-01/14-01/18-347](#), para. 7; Transcript of Hearing, [ICC-01/14-01/18-T-004-Red2-ENG](#), pp. 19-39 (19 September 2019).

¹⁰ [ICC-01/14-01/18-403-Red-Corr](#), para. 48.

¹¹ [ICC-01/14-01/18-609-Conf-Red](#).

¹² [ICC-01/14-01/18-623-Conf](#).

¹³ [ICC-01/14-01/18-670-Conf-Red](#), para. 22.

¹⁴ [ICC-01/14-01/18-626-Conf](#). Public redacted version: [ICC-01/14-01/18-626-Red](#).

Defence within the meaning of Rule 77 of the Rules”,¹⁵ and that “information related to the location of Seleka military bases at the time of the Anti-Balaka Attack could be potentially relevant to the Defence”.¹⁶

11. On 7 November 2020, the Prosecution filed its *Second Request*.¹⁷

RELEVANT PROVISIONS

12. Rule 81(2)—Restrictions on Disclosure

Where material or information is in the possession or control of the Prosecutor which must be disclosed in accordance with the Statute, but disclosure may prejudice further or ongoing investigations, the Prosecutor may apply to the Chamber dealing with the matter for a ruling as to whether the material or information must be disclosed to the defence. The matter shall be heard on an ex parte basis by the Chamber. However, the Prosecutor may not introduce such material or information into evidence during the confirmation hearing or the trial without adequate prior disclosure to the accused.

ARGUMENT

13. The non-disclosure of portions of witness statements is an exception to the general rule of full disclosure.¹⁸ The overriding principle is that full disclosure should be made and the information withheld from the Defence must remain under review and, should circumstances change, must be disclosed.¹⁹
14. Redactions may be granted if they satisfy the following requirements: (i) there is an *objectively justifiable risk of prejudice* to further or ongoing investigations which arises from disclosing the information to the Defence, as opposed to the general public; (ii) the non-disclosure of the information could overcome or reduce the risk and it is *necessary*, in that it is the least intrusive measure

¹⁵ [ICC-01/14-01/18-684-Conf-Red](#), para. 23.

¹⁶ [ICC-01/14-01/18-684-Conf-Red](#), para. 31.

¹⁷ [ICC-01/14-01/18-706-Conf-Red](#).

¹⁸ *Prosecutor v. Katanga & Ngudjolo*, [Judgment on the Appeal of the Prosecutor against the Decision of Pre-Trial Chamber I entitled “First Decision on the Prosecution Request for Authorisation to Redact Witness Statements”](#), 13 May 2008, ICC-01/04-01/07-475, paras. 61,70.

¹⁹ [ICC-01/14-01/18-670-Conf-Red](#), para. 10.

available to the Prosecution to safeguard the investigation; and (iii) the non-disclosure of the information is *proportionate*, in that it is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.²⁰

15. The burden is squarely on the party seeking the redactions to justify the need for them.²¹
16. Given that the Chamber authorised the Prosecution to redact portions of the statements of witnesses because the disclosure may prejudice the Prosecution's ongoing investigation of the Seleka, the Defence will limit its objections to whether or not the proposed redactions are proportionate.
17. Because the Defence is completely "in the dark" as to the content of redacted materials we must rely on the Chamber to insure that any change in circumstances over time may result in a change as to what is "proportionate". Such change(s) may then justify the lifting of a number of existing redactions.

(A) Lack of Prejudice to the Seleka Investigation

18. Whereas the *Second Request* is heavily redacted, the Defence is often rendered unable to discern the nature of the information provided by the witnesses about, in particular, the Seleka crimes. This in turn hampers the ability of the Defence to present detailed and informed submissions as to whether the proposed redactions are proportionate for the purpose of maintaining the integrity of the Seleka investigation.
19. Whilst it trusts the Chamber will appropriately limit the restrictions of disclosure to what is necessary, the Defence makes the following submissions on paragraphs that it assesses as, contrary to the Prosecution's conclusion,²²

²⁰ [ICC-01/14-01/18-670-Conf-Red](#), para. 8.

²¹ *Prosecutor v. Gbagbo & Blé Goudé*, [Judgment on the Appeal of Mr. Laurent Gbagbo against the Oral Decision on Redactions of 29 November 2016](#), 31 July 2017, ICC-02/11-01/15-915-Red, paras. 61-62.

²² Cf. [ICC-01/14-01/18-706-Conf-Red](#), para. 6.

falling under Rule 77 or Article 67(2).

20. Regarding **Witness P-1732**, the Defence submits that his position and knowledge of [REDACTED] is, on its own, materially relevant to the Defence.²³ Some witnesses claim to have read in the [REDACTED] which contain allegations of Anti-Balaka wrongdoings and Mr. Yekatom's responsibility.²⁴ In order to verify, *inter alia*, whether the witnesses were mistaken as to the alleged perpetrator's affiliation, the Defence has been trying to obtain reports [REDACTED].²⁵ The materiality of such information is profound. The Defence therefore requests the statement being disclosed in full.
21. Regarding **Witness P-0992, paragraphs 47-61**, the Prosecution indicates that P-0992 elaborates on the incident mentioned in the witness's screening and first statement – for which the Chamber authorised redactions.²⁶ The Defence not being privy to the proposed redactions in the witness's screening and first statement, nor in the witness second statement, relies once again on the Chamber's assessment to determine whether or not the proposed redactions fall within the ambit of its Decision.
22. For **Witness P-0310**, [REDACTED], due to the redactions applied to the Prosecution submissions,²⁷ the Defence is unable to meaningfully advise the Chamber as to the proportionality of the proposed redactions. It nevertheless recalls the relevance of the [REDACTED] confirmed by the Trial Chamber's previous decision finding that Seleka's disarmament activities therein cannot be redacted pursuant to Rule 81(2).²⁸
23. For **Witness P-0342**, a [REDACTED] during the conflict,²⁹ the Prosecution failed

²³ [ICC-01/14-01/18-706-Conf-Red](#), para. 9 referring to [CAR-OTP-2091-0381-R01](#), paras. 13-16.

²⁴ [CAR-OTP-2099-0165-R01](#), paras. 49, 80, 158, 187, 195.

²⁵ [REDACTED].

²⁶ [ICC-01/14-01/18-706-Conf-Red](#), para. 14.

²⁷ [ICC-01/14-01/18-706-Conf-Red](#), paras. 15-16.

²⁸ [ICC-01/14-01/18-670-Conf-Red](#), para. 22.

²⁹ [ICC-01/14-01/18-706-Conf-Red](#), para. 22.

to demonstrate how the disclosure of the relevant paragraphs would result in the inference as to whom or what is under their investigation. In this regard, the Defence notes that the statements of several [REDACTED] who have witnessed Seleka crimes³⁰ and [REDACTED]³¹ have previously been disclosed, without redaction. The Prosecution offered no explanation as to why the testimony of P-0342 is distinguishable from the others in its capacity to prejudice the Seleka investigation.

24. Rather, the redaction request resembles that made in the *First Request* for Witness P-2857, [REDACTED]. Indeed, the Chamber was “not persuaded that an objectively justifiable risk of prejudice to the Seleka Investigation arises from the disclosure of the [information from P-2857’s statement] to the Defence”.³² Like the evidence of P-2857, [REDACTED]³³ and his commentaries provided during the interviews³⁴ are merely an account of the events he witnessed,³⁵ [REDACTED].
25. In addition, the materials discussed in P-0342’s second statement were already posted on Facebook.³⁶ Even though the Defence is not privy to the privacy setting of P-0342’s personal account, it can be argued that the information was, at least to some extent, released to the public. The argument that objectively justifiable risk would arise should the same information being released to the Defence is, therefore, untenable.
26. For **Witness P-1592**, a resident of Boy-Rabe located in the 4th arrondissement of Bangui, It appears that the narrative contained in paragraphs 31-33 relates to

³⁰ [CAR-OTP-2014-0129-R01](#), paras. 27-29, 51.

³¹ See, for example, [CAR-OTP-2076-0911-R01](#), paras. 35-41, 49-83, 93; [CAR-OTP-2065-0003-R01](#), paras. 34-35, 53, 104; [CAR-OTP-2058-0581-R01](#), paras. 35-43, 58-69; [CAR-OTP-2117-0645-R01](#), paras. 72-73.

³² [ICC-01/14-01/18-670-Conf-Red](#), para. 56.

³³ See, e.g., annex section of [CAR-OTP-2008-0499-R01](#).

³⁴ See, e.g., [CAR-OTP-2008-0499-R01](#), paras 153, 155, 159, 160-162, 164; [CAR-OTP-2116-0216-R01](#), paras. 51 and 73 ([REDACTED]), paras. 77, 92, 93, 114, 122, 125, 129, 174-191 (comments on the images [REDACTED]); paras. 313-314 (comments on certain individuals depicted on [REDACTED]).

³⁵ [ICC-01/14-01/18-670-Conf-Red](#), para. 56.

³⁶ [ICC-01/14-01/18-706-Conf-Red](#), para. 24.

the 5 December attack. The basis on which the Prosecution distinguishes this specific information from other evidence relating to events on 5 December 2013, both of which have been deemed as disclosable by the Chamber,³⁷ is not revealed to the Defence.³⁸

CONCLUSION

27. The Trial Chamber is respectfully requested to limit the restrictions of disclosure to what is necessary.

CONFIDENTIALITY

28. This pleading is filed confidentially because it responds to a motion that has been filed confidentially and for which no public redacted version has yet been filed. The Chamber is requested to issue a public redacted version of its decision and order the parties to file public redacted versions of its submissions.

RESPECTFULLY SUBMITTED ON THIS 25TH DAY OF FEBRUARY 2026



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³⁷ [ICC-01/14-01/18-670-Conf-Red](#), para. 22.

³⁸ [ICC-01/14-01/18-706-Conf-Red](#), para. 29, third bullet point.