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No.: **ICC-01/14-01/18**
Date: **15 October 2019**

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 Yekatom’s Request for Public Redacted Versions of Decisions”, ICC-01/14-01/18-379-Conf, 8 October 2019

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) submits that the Pre-Trial Chamber (“Chamber”) should grant in part and deny in part Defence Counsel for Yekatom’s Request for Public Redacted Versions of Decisions (“Request”).¹

II. CONFIDENTIALITY

2. The Response is filed as “Confidential” because it discusses details of the Yamwara School incident that were discussed in closed session at the Confirmation Hearing in accordance with the Prosecution’s obligations to protect the safety, dignity, and well-being of victims under article 68. A public redacted version will be filed within one week.

III. SUBMISSIONS

A. The Prosecution has no objection to the Chamber issuing public redacted versions of the ten decisions and one email identified in the Request.

3. On 27 September 2019, Defence Counsel for Yekatom (“Defence”) submitted a Request for the issuance of public redacted versions of ten decisions and one email that it identified in two confidential annexes.² The Prosecution has no objection to the Chamber issuing public redacted versions of these decisions, provided that sensitive or private information including for example identifying information for victims, and the email addresses of Parties, are properly redacted.

¹ ICC-01/14-01/18-363 and its confidential annexes A and B.

² ICC-01/14-01/18-363 at paras. 1-2.

B. The Prosecution requests that any public information about the Yamwara School incident (Counts 11-16) be subject to standard protective measures under article 68 and rule 87, including the use of pseudonyms and the redaction of identifying information for victims and witnesses.

4. In the event the Chamber confirms the Counts 11-16 pertaining to the Yamwara School incident, the Defence requests that the underlying facts be made public in the Confirmation Decision.³ The Defence argues that the Chamber should follow the approach of the *Ongwen* Pre-Trial Chamber, which heard evidence of certain counts in private session during their Confirmation Hearing, and subsequently made those counts public in their Confirmation Decision. It therefore requests the Chamber to “include a public description of those events”.⁴
5. While the Prosecution does not oppose the request, it notes that in the *Ongwen* Confirmation Decision, the Pre-Trial Chamber made clear that appropriate redactions to the identity of the victims would still apply in the public decision, and indeed referred to the victims by their pseudonyms, redacting their names:

“At the commencement of the confirmation of charges hearing, the Chamber informed the parties and participants that while it would accept that submissions at the hearing concerning charges 50 to 60 would be made in closed session to avoid any possible risk unwarranted at a stage in which it was yet to be determined whether there will be a trial on these charges, the Chamber, should these charges be confirmed, would make them public, either in their entirety or with the appropriate redactions to the identity of the concerned victims, in its decision under article 61(7) of the Statute[...] in the public version of the present decision, these victims are referred to by their pseudonyms and their names redacted.”⁵

³ ICC-01/14-01/18-363 at para. 3.

⁴ ICC-01/14-01/18-363 at paras. 6-7 (citing ICC-02/04-01/15-422-Red, para. 25-28).

⁵ ICC-02/04-01/15-422-Red, para. 25, 27.

6. If the Chamber grants the Defence Request with respect to Counts 11-16, the Prosecution thus requests that protection measures be applied under article 68 and rule 87.
7. The Yamwara School incident underlying Counts 11-16 [REDACTED].
[REDACTED].
8. Accordingly, the Prosecution does not object to the Counts 11-16 themselves becoming public information, however, the Prosecution requests to maintain the confidentiality of the underlying facts that would lead to [REDACTED].
[REDACTED]:
 - i. [REDACTED];
 - ii. [REDACTED];
 - iii. [REDACTED];
 - iv. [REDACTED]; [REDACTED]
 - v. [REDACTED].
9. The Prosecution also reserves the right to make an additional application under rule 87 for protective measures for these witnesses, should the Chamber be inclined to publicise all of the underlying facts pertaining to the Yamwara School incident.

IV. CONCLUSION

10. For the above reasons, the Defence Request should be granted in part and denied in part.



Fatou Bensouda, Prosecutor

Dated this 15th day of October 2019
At The Hague, The Netherlands