

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 22 May 2020

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD
NGAÏSSONA***

PUBLIC

**Defence Request for reclassification pursuant to the Single Judge's "Order to
Review *Ex Parte* Filings on the Case Record" (ICC-01/14-01/18-492)**

Source: Defence of Patrice-Edouard Ngaïssona

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

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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The Office of Public Counsel for the Defence

States' Representatives

Amicus Curiae

REGISTRY

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Counsel Support Section

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I. Introduction

1. On 24 April 2020, the Single Judge issued an "Order to Review *Ex Parte* Filings on the Case Record" ("Order"), instructing the Registry to file a list of *ex parte* filings on the case record by 1 May 2020.¹ The Single Judge also instructed the parties, participants and Registry to "(i) undertake a review of their respective filings in this list; (ii) engage in *inter partes* consultations with the other parties and participants – and the Registry, where applicable – who have access to their respective filings for the purposes of resolving any issues; and (iii) provide confidential redacted versions of their respective filings (and public redacted versions, where possible), or, alternatively, apply to the Chamber for their reclassification."²
2. On 1 May 2020, the Registry filed its "Transmission of the List of *ex parte* Filings Filed on the Record of the Case",³ accompanied by, *inter alia*, a list of *ex parte* filings filed by the Defence for Mr Patrice-Edouard Ngaïssona ("Registry's List" and "Defence").⁴
3. Pursuant to the Single Judge's Order, the Defence has undertaken a review of all the *ex parte* filings on the Registry's List and has engaged in *inter partes* consultations with other parties, where necessary. The Defence hereby presents its submissions.

II. Submissions

¹ ICC-01/14-01/18-492, para 3.

² ICC-01/14-01/18-492, para 4.

³ ICC-01/14-01/18-505

⁴ ICC-01/14-01/18-505-Conf-Exp-AnxIV

4. *First*, the Defence respectfully requests Trial Chamber V ("Chamber") to reclassify to "Confidential" or to "Confidential Redacted", as indicated below, the following *ex parte* filings and annexes:

- ICC-01/14-01/18-138-Conf-Exp to "Confidential";
- ICC-01/14-01/18-151-Conf-Exp-Corr to "Confidential";
- ICC-01/14-01/18-171-Conf-Exp to "Confidential";
- ICC-01/14-01/18-234-Conf-Exp to "Confidential";
- ICC-01/14-01/18-355-Conf-Exp-Red to "Confidential Redacted";
- ICC-01/14-01/18-373-Conf-Exp-Red to "Confidential Redacted";
- ICC-01/14-01/18-391-Conf-Exp to "Confidential";
- ICC-01/14-01/18-391-Conf-Exp-AnxI to "Confidential";
- ICC-01/14-01/18-401-Conf-Exp-Red to "Confidential Redacted";
- ICC-01/14-01/18-408-Conf-Exp-AnxII to "Confidential";
- ICC-01/14-01-18-426-Conf-Exp-AnxI to "Confidential";
- ICC-01/14-01/18-440-Conf-Exp to "Confidential";
- ICC-01/14-01/18-460-Conf-Exp to "Confidential";
- ICC-01/14-01/18-496-Conf-Exp-Red to "Confidential Redacted".

5. *Second*, the Defence provides confidential, lesser redacted versions of filings ICC-01/14-01/18-300-Conf-Exp-Red, ICC-01/14-01/18-397-Conf-Exp-Red, ICC-01/14-01/18-408-Conf-Exp-Red, ICC-01/14-01/18-420-Conf-Exp-Red and ICC-

01/14-01/18-426-Conf-Exp-Corr-Red, which will be filed on the case record contemporaneously.

6. *Third*, the Defence submits that the *ex parte* classification of filings ICC-01/14-01/18-421-Conf-Exp and ICC-01/18-01/14-435-Conf-Exp remains warranted, given that these submissions relate solely to Mr Ngaïssona's private life, health, and personal well-being. For the same reason, the Defence submits that the *ex parte* classification of the following Annexes remains warranted: ICC-01/14-01/18-397-Conf-Exp-AnxI, ICC-01/14-01/18-397-Conf-Exp-AnxII, ICC-01/14-01/18-408-Conf-Exp-AnxI, ICC-01/14-01/18-420-Conf-Exp-AnxI and ICC-01/14-01/18-421-Conf-Exp-AnxI.
7. *Fourth*, the Defence recalls its past submissions to the effect that Mr Ngaïssona's detention conditions at the ICC constitute a matter of public interest.⁵ In accordance with the principle of publicity of proceedings enshrined in article 67(1) of the Rome Statute, the Defence enjoins the reclassification to "Public Redacted" of the filings which it requested be reclassified as "Confidential" or "Confidential Redacted" in paragraphs 5 and 6 above, subject to the outcome of the Registry and Chamber's review of their *ex parte* filings and decisions.
8. *Lastly*, the Defence wishes to inform the Chamber that the continuous deterioration of Mr Ngaïssona's psychological well-being, brought about by his detention conditions, has seriously affected the Defence's ability to effectively engage with Mr Ngaïssona on the matters raised in these submissions.

⁵ ICC-01/14-01/18-473-Conf, para 2.

RELIEF SOUGHT

The Defence respectfully requests the Chamber to **reclassify** the filings listed at paragraph 5 of the present submissions.

Respectfully submitted,



Mr Knoops, Lead Counsel for Patrice-Edouard Ngaïssona

Dated this 22 May 2020,

At The Hague, the Netherlands.