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TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public

**Prosecution's Submission in Compliance of the Single Judge's
"Order to Review *Ex Parte* Filings on the Case Records", ICC-01/14-01/18-492**

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”) provides its submissions in compliance with the Single Judge’s “Order to Review *ex parte* Filings on the Case Records” (“Order”).¹ As directed, the Prosecution has further consulted with the YEKATOM Defence, the NGAISSONA Defence, and the Registry, regarding *ex parte* filings to which they each have access.

2. The submissions below are limited to Prosecution filings. They do not comment on filings of the Pre-Trial Chamber, the Defence, the Registry, or documents otherwise inaccessible to the Prosecution.

II. SUBMISSIONS

A. Filings which may not be reclassified

3. The filings set out below should not be reclassified, particularly where there has been no change in circumstances since the Pre-Trial Chamber rejected previous Defence requests, such as the Prosecution’s Warrant of Arrest Application and related filings.² Absent any change, the prevailing circumstances preclude reclassification. The same applies to other filings that concern various protective measures. Moreover, the relevant content of most of these filings is accessible to the parties and participants through Confidential Redacted Versions or Public Redacted Versions.

4. Thus, the following filings should not be reclassified:

- i. ICC-01/14-01/18-2-US-Exp³
- ii. ICC-01/14-01/18-5-US-Exp⁴

¹ ICC-01/14-01/18-492, para. 4.

² ICC-01/14-01/18-31-Conf; ICC-01/14-01/18-190.

³ ICC-01/14-01/18-2-Conf-Red is available.

- iii. ICC-01/14-01/18-7-US-Exp⁵
- iv. ICC-01/14-01/18-8-US-Exp⁶
- v. ICC-01/14-01/18-9-US-Exp⁷
- vi. ICC-01/14-01/18-14-US-Exp⁸
- vii. ICC-01/14-01/18-22-US-Exp
- viii. ICC-01/14-01/18-24-US-Exp⁹
- ix. ICC-01/14-01/18-26-US-Exp¹⁰
- x. ICC-01/14-01/18-28-US-Exp¹¹
- xi. ICC-01/14-01/18-28-US-Exp-Anx1
- xii. ICC-01/14-01/18-70-Conf-Exp¹²
- xiii. ICC-01/14-01/18-88-US-Exp
- xiv. ICC-01/14-01/18-91-US-Exp¹³
- xv. ICC-01/14-01/18-93-US-Exp
- xvi. ICC-01/14-01/18-104-Conf-Exp¹⁴
- xvii. ICC-01/14-01/18-108-US-Exp
- xviii. ICC-01/14-01/18-110-US-Exp¹⁵
- xix. ICC-01/14-01/18-112-Conf-Exp
- xx. ICC-01/14-01/18-134-US-Exp
- xxi. ICC-01/14-01/18-170-Conf-Exp¹⁶
- xxii. ICC-01/14-01/18-174-Conf-Exp¹⁷
- xxiii. ICC-01/14-01/18-179-Conf-Exp
- xxiv. ICC-01/14-01/18-186-Conf-Exp¹⁸
- xxv. ICC-01/14-01/18-188-Conf-Exp¹⁹
- xxvi. ICC-01/14-01/18-214-US-Exp²⁰
- xxvii. ICC-01/14-01/18-228-Conf-Exp²¹
- xxviii. ICC-01/14-01/18-229-Conf-Exp²²

⁴ ICC-01/14-01/18-5-Conf-Red and ICC-01/14-01/18-5-Red are available.

⁵ ICC-01/14-01/18-7-Conf-Red is available.

⁶ ICC-01/14-01/18-8-Conf-Red is available.

⁷ ICC-01/14-01/18-9-Conf-Red is available.

⁸ ICC-01/14-01/18-14-Conf-Red is available.

⁹ ICC-01/14-01/18-24-Conf-Red is available.

¹⁰ ICC-01/14-01/18-26-Conf-Red available and the Prosecution has provided a Public Redacted Version. *see below* para. 10. *See also* ICC-01/14-01/18-26-Red2.

¹¹ ICC-01/14-01/18-28-Conf-Exp-Red is available and the Prosecution seeks its reclassification to ICC-01/14-01/18-28-Conf-Red. *See below* para. 7.

¹² ICC-01/14-01/18-70-Conf-Red is available.

¹³ ICC-01/14-01/18-91-Conf-Red is available

¹⁴ ICC-01/14-01/18-104-Conf-Red is available

¹⁵ ICC-01/14-01/18-110-Conf-Red is available.

¹⁶ ICC-01/14-01/18-170-Conf-Red is available.

¹⁷ ICC-01/14-01/18-174-Conf-Exp-Red is available and the Prosecution seeks its reclassification to ICC-01/14-01/18-174-Conf-Red. *See below* para. 7.

¹⁸ ICC-01/14-01/18-186-Red2 is available.

¹⁹ ICC-01/14-01/18-188-Red2 is available.

²⁰ ICC-01/14-01/18-214-US-Exp-Red is available and the Prosecution seeks its reclassification to ICC-01/14-01/18-214-Conf-Red.

²¹ ICC-01/14-01/18-228-Conf-Exp-Red is available and the Prosecution seeks its reclassification to ICC-01/14-01/18-228-Conf-Red.

- xxix. ICC-01/14-01/18-237-Conf-Exp²³
- xxx. ICC-01/14-01/18-242-Conf-Exp
- xxxi. ICC-01/14-01/18-244-Conf-Exp
- xxxii. ICC-01/14-01/18-326-US-Exp²⁴
- xxxiii. ICC-01/14-01/18-329-Conf-Exp²⁵

B. Filings which may be reclassified

5. After reaching an agreement with the YEKATOM Defence, the NGAISSONA Defence, and the Registry, the Prosecution seeks the reclassification of the following filings, as the base for their classification no longer exists.

6. Thus, the following filings should be reclassified as “Confidential”:

- i. ICC-01/14-01/18-44-Conf-Exp²⁶
- ii. ICC-01/14-01/18-69-Conf-Exp²⁷
- iii. ICC-01/14-01/18-130-Conf-Exp
- iv. ICC-01/14-01/18-131-Conf-Exp
- v. ICC-01/14-01/18-147-Conf-Exp
- vi. ICC-01/14-01/18-162-Conf-Exp
- vii. ICC-01/14-01/18-200-US-Exp²⁸
- viii. ICC-01/14-01/18-209-Conf-Exp²⁹
- ix. ICC-01/14-01/18-217-Conf-Exp³⁰
- x. ICC-01/14-01/18-267-Conf-Exp³¹
- xi. ICC-01/14-01/18-287-Conf-Exp
- xii. ICC-01/14-01/18-289-Conf-Exp

²² ICC-01/14-01/18-229-Conf-Exp-Red is available and the Prosecution seeks its reclassification to ICC-01/14-01/18-229-Conf-Red. *See below* para. 7.

²³ ICC-01/14-01/18-237-Conf-Red is available.

²⁴ ICC-01/14-01/18-326-Conf-Red is available and the Prosecution has provided a lesser redacted version. (*see below* para. 9; ICC-01/14-01/18-326-Conf-Red3), and a Public Redacted Version, (*see below* para. 10; ICC-01/14-01/18-326-Red2).

²⁵ ICC-01/14-01/18-329-Conf-Red is available.

²⁶ The annexes remaining *Under Seal Ex Parte*.

²⁷ The annexes remaining *Under Seal Ex Parte*.

²⁸ Filings relating to YEKATOM’s freeze of assets should remain “Confidential”, as YEKATOM maintains a network of supporters, including his family which may assist him to evade the asset freeze order. Public information concerning the asset freeze could result in persons close to him taking such action, even on their own initiative. *See also* ICC-01/14-01/18-512-Conf-Exp.

²⁹ The annexes remaining Confidential *Ex Parte*.

³⁰ The annexes remaining Confidential *Ex Parte*.

³¹ The annexes remaining Confidential *Ex Parte*.

- xiii. ICC-01/14-01/18-356-Conf-Exp
- xiv. ICC-01/14-01/18-387-Conf-Exp
- xv. ICC-01/14-01/18-392-Conf-Exp
- xvi. ICC-01/14-01/18-412-Conf-Exp
- xvii. ICC-01/14-01/18-418-Conf-Exp
- xviii. ICC-01/14-01/18-432-Conf-Exp
- xix. ICC-01/14-01/18-446-Conf-Exp
- xx. ICC-01/14-01/18-453-Conf-Exp
- xxi. ICC-01/14-01/18-465-Conf-Exp
- xxii. ICC-01/14-01/18-490-Conf-Exp
- xxiii. ICC-01/14-01/18-501-Conf-Exp³²
- xxiv. ICC-01/14-01/18-512-Conf-Exp³³

7. Additionally, the following filings should be reclassified as “Confidential Redacted”:

- i. ICC-01/14-01/18-28-Conf-Exp-Red
- ii. ICC-01/14-01/18-174-Conf-Exp-Red
- iii. ICC-01/14-01/18-214-US-Exp-Red
- iv. ICC-01/14-01/18-228-Conf-Exp-Red
- v. ICC-01/14-01/18-229-Conf-Exp-Red

8. Moreover, the following filings should be reclassified as “Public”:

- i. ICC-01/14-01/18-427-Conf-Exp
- ii. ICC-01/14-01/18-129-Conf-Exp
- iii. ICC-01/14-01/18-186-Conf-Exp³⁴
- iv. ICC-01/14-01/18-188-Conf-Exp³⁵

C. Filings to which access may be granted with redactions

³² This filing was not included in ICC-01/14-01/18-505-Conf-Exp-AnxII. The Prosecution nevertheless seeks its reclassification as “Confidential”.

³³ This filing was not included in ICC-01/14-01/18-505-Conf-Exp-AnxII. The Prosecution nevertheless seeks its reclassification as “Confidential”.

³⁴ ICC-01/14-01/18-186-Red2 is available.

³⁵ ICC-01/14-01/18-188-Red2.

9. Upon reviewing its *ex-parte* filings, the Prosecution has provided lesser redacted version of filing ICC-01/14-01/18-326-Conf-Red3.³⁶

10. Finally, the Prosecution has provided Public Redacted versions of filings ICC-01/14-01/18-5-US-Exp,³⁷ ICC-01/14-01/18-26-US-Exp,³⁸ and ICC-01/14-01/18-326-US-Exp.³⁹

III. CONCLUSION

11. On the foregoing, the Prosecution considers that it has fully complied with the Order.



Fatou Bensouda, Prosecutor

Dated this 22nd day of May 2019
At The Hague, The Netherlands

³⁶ ICC-01/14-01/18-326-Conf-Red3.

³⁷ ICC-01/14-01/18-5-Red.

³⁸ ICC-01/14-01/18-26-Red2.

³⁹ ICC-01/14-01/18-326-Red2.