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**No. ICC-01/14-01/18
Date: 28 January 2021**

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
NGAISSONA***

Public redacted version of

Decision on Reclassification of Documents

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart
Kweku Vanderpuye

Counsel for Alfred Yekatom

Mylène Dimitri
Thomas Hannis

Counsel for Patrice-Edouard Ngaïssona

Geert-Jan Alexander Knoops
Richard Omissé-Namkeamaï

Legal Representatives of Victims

Abdou Dangabo Moussa
Elisabeth Rabesandratana
Yaré Fall
Marie-Edith Douzima-Lawson
Paolina Massidda
Dmytro Suprun

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

Harry Tjonk

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Articles 64(2) and (6)(c) and (e), 67 and 68(1) of the Rome Statute (the ‘Statute’), Rules 15 and 43 of the Rules of Procedure and Evidence, Regulation 23bis of the Regulations of the Court (the ‘Regulations’) and Regulation 14 of the Regulations of the Registry, issues this ‘Decision on Reclassification of Documents’.

I. Procedural history and submissions

1. On 24 April 2020, the Single Judge issued an order directing the participants and the Registry to review their respective *ex parte* filings on the case record and provide confidential redacted versions (and public redacted versions, where possible) or, alternatively, request reclassification (the ‘Order’).¹
2. On 18 May 2020, the Office of Public Counsel for Victims (the ‘OPCV’) informed the Chamber that it did not have any reclassification requests to make, as its only *ex parte* document had already been reclassified as confidential by Pre-Trial Chamber II (the ‘PTC II’).²
3. On 20 May 2020, the Legal Representatives of Victims of Other Crimes (external counsel) requested reclassification of one document,³ which was reclassified on 26 May 2020, following instructions from the Single Judge.⁴

¹ Order to Review *Ex Parte* Filings on the Case Record, ICC-01/14-01/18-492.

² Email from the OPCV, 18 May 2020, at 10:20.

³ Email from the Legal Representatives of Victims of Other Crimes (external counsel), 20 May 2020, at 15:39.

⁴ Email from the Chamber to the Registry, 22 May 2020, at 10:53.

4. On 22 May 2020, the Office of the Prosecutor (the ‘Prosecution’),⁵ the Yekatom Defence⁶ and the Ngaïssona Defence⁷ (collectively, the ‘Defence’) filed their respective requests for reclassification pursuant to the Order.
5. On 29 May 2020, following an extension of the time limit,⁸ the Registry filed its submissions pursuant to the Order.⁹
6. On 21 January 2021, the Registry requested authorisation to reclassify as public and file public redacted versions of a number of documents.¹⁰

II. Analysis

7. Regulation 23bis(3) of the Regulations provides that, where the basis for the classification ‘*ex parte*’, ‘under seal’ or ‘confidential’ no longer exists, a chamber may reclassify a document upon request by a participant or the Registry, or on its own motion.
8. Mindful of the importance of the principle of publicity and the Chamber’s duty to ensure that proceedings are conducted with full respect for the rights of the accused, the Single Judge has reviewed the case record with a view to identifying which documents currently classified under seal or confidential, *ex parte*, may be made available to all participants or to the public, with or without redactions. In carrying out this assessment, the Single Judge has balanced the different interests at stake, including (i) the principle of publicity; (ii) the accused’s right to access documents which are necessary for the preparation of their defence; (iii) the safety, physical and psychological well-being, dignity and privacy of victims and witnesses; (iv) the protection of the Prosecution’s ongoing investigations; (v) the confidentiality of matters related to judicial cooperation between the Court and

⁵ 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, ICC-01/14-01/18-529 (the ‘Prosecution Request’).

⁶ Application for Reclassification of *Ex Parte* Filings, ICC-01/14-01/18-526 (the ‘Yekatom Defence Request’).

⁷ Corrigendum of “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)”, ICC-01/14-01/18-527-Corr (with one annex) (corrected version notified on 20 July 2020) (the ‘Ngaïssona Defence Request’).

⁸ See email from the Registry, 15 May 2020, at 08:52, requesting an extension of the time limit until 29 May 2020; email from the Chamber, 15 May 2020, at 17:17, granting the request.

⁹ Registry Submissions related to *EX PARTE* Filings on the Record of the Case, ICC-01/14-01/18-536-Conf-Exp, confidential *ex parte*, only available to the Registry (the ‘Registry Observations’).

¹⁰ Email from the Registry, 21 January 2021, at 14:56.

States Parties; (vi) the need to preserve sensitive information concerning the Court's operation and internal functioning; and (vii) the accused's right to privacy.

A. Documents concerning the arrest and surrender of the accused

1. Decisions

9. The Single Judge finds that decision ICC-01/14-01/18-6-US-Exp, currently classified under seal, *ex parte*, only available to the Prosecution and the Registry, may be made public, with redactions. The Chamber will issue a public redacted version in due course.

2. Documents filed by the Registry

10. Noting the Registry's submissions,¹¹ the Single Judge finds that the basis for the current classification, under seal, *ex parte*, only available to the Prosecution and the Registry, no longer exists for the following documents, and orders their reclassification as confidential:

- ICC-01/14-01/18-4-US-Exp; and
- ICC-01/14-01/18-92-US-Exp.

11. The Single Judge finds that the current classification, under seal, *ex parte*, only available to the Prosecution and the Registry, of the following documents – including their annexes – remains warranted to protect sensitive information concerning the Court's operation and its cooperation with States Parties:

- ICC-01/14-01/18-17-US-Exp;
- ICC-01/14-01/18-96-US-Exp;
- ICC-01/14-01/18-101-US-Exp; and
- ICC-01/14-01/18-142-US-Exp.

¹¹ Registry Observations, ICC-01/14-01/18-536-Conf-Exp, para. 24.

12. With regard to document ICC-01/14-01/18-17-US-Exp, the Single Judge notes that both the main document¹² and several of its annexes are available to Mr Yekatom in redacted form and considers that Annex XII, ICC-01/14-01/18-17-US-Exp-AnxXII, may also be made available to him. Accordingly, the Single Judge orders its reclassification as under seal, *ex parte*, only available to the Yekatom Defence and the Registry.
13. With regard to documents ICC-01/14-01/18-96-US-Exp, ICC-01/14-01/18-101-US-Exp and ICC-01/14-01/18-142-US-Exp, which concern the arrest of Mr Ngaïssona and his surrender to the Court, the Single Judge notes that there are no redacted versions available to the Ngaïssona Defence. Therefore, the Single Judge orders the Registry to file under seal, *ex parte*, redacted versions of the three documents, available to the Prosecution, the Registry and the Ngaïssona Defence only. The order extends also to the annexes to the three documents, except for those annexes which, in the Registry's assessment, cannot be disclosed because they concern matters of judicial cooperation.

3. Documents filed by the Prosecution

14. The Single Judge finds that the current classification, under seal, *ex parte*, only available to the Prosecution and the Registry, of the following documents – including their annexes – remains warranted in order to protect the security and well-being of witnesses and the Prosecution's ongoing investigations:
 - ICC-01/14-01/18-2-US-Exp;
 - ICC-01/14-01/18-5-US-Exp;¹³
 - ICC-01/14-01/18-7-US-Exp;¹⁴

¹² See under seal, *ex parte*, redacted version, ICC-01/14-01/18-17-US-Exp-Red, available to the Yekatom Defence since 17 December 2018.

¹³ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-5-Conf-Red, is available since 17 December 2018 and a public redacted version, ICC-01/14-01/18-5-Red2, since 20 May 2020.

¹⁴ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-7-Conf-Red, is available since 17 December 2018.

- ICC-01/14-01/18-9-US-Exp;¹⁵
- ICC-01/14-01/18-88-US-Exp;
- ICC-01/14-01/18-91-US-Exp;¹⁶ and
- ICC-01/14-01/18-93-US-Exp.

15. Noting the Yekatom Defence's request to specifically scrutinise the under seal, *ex parte*, classification of documents ICC-01/14-01/18-2-US-Exp and ICC-01/14-01/18-88-US-Exp,¹⁷ the Single Judge finds that making these documents available to the Defence would endanger the security and well-being of witnesses and may prejudice the Prosecution's ongoing investigations.¹⁸ Applying redactions would render the documents incomprehensible and would thus not be in the interest of the efficient conduct of the proceedings. The same applies to document ICC-01/14-01/18-93-US-Exp.

4. *Documents filed by the Yekatom Defence*

16. Noting the Yekatom Defence's submissions,¹⁹ the Single Judge finds that document ICC-01/14-01/18-29-Conf-Exp may be made public, without redactions, and orders its reclassification.

B. Documents concerning [REDACTED]

1. *Decisions and orders*

17. The Single Judge is satisfied that the basis for the classification under seal, *ex parte*, only available to the Prosecution, the Registry and/or the Yekatom Defence, no longer exists for the following decisions and orders their reclassification as confidential:

¹⁵ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-9-Conf-Red, is available since 17 December 2018.

¹⁶ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-91-Conf-Red, is available since 5 February 2019.

¹⁷ Yekatom Defence Request, ICC-01/14-01/18-526, para. 31.

¹⁸ See also PTC II, Order on Reclassification, 12 December 2018, ICC-01/14-01/18-31-Conf, para. 6.

¹⁹ Yekatom Defence Request, ICC-01/14-01/18-526, para. 26.

- ICC-01/14-01/18-126-US-Exp;
 - ICC-01/14-01/18-184-US-Exp; and
 - ICC-01/14-01/18-204-US-Exp.
18. With regard to decisions ICC-01/14-01/18-126-US-Exp and ICC-01/14-01/18-184-US-Exp, the Single Judge notes that they contain information relating to Mr Yekatom's private life, more specifically, the personal and financial situation of his family. Considering that the Yekatom Defence has requested that its underlying requests – which contain similar information – be reclassified as confidential,²⁰ and noting that Mr Yekatom does not object to these specific aspects of his private life being shared with all participants, the Single Judge finds no reason to maintain the decisions under seal *ex parte*.
19. Conversely, the Single Judge finds that the current classification, under seal, *ex parte*, only available to the Prosecution, the Registry and/or the Yekatom Defence, of the following decisions and orders remains warranted for the reasons provided below:
- ICC-01/14-01/18-3-US-Exp;
 - ICC-01/14-01/18-30-US-Exp;
 - ICC-01/14-01/18-94-US-Exp;
 - ICC-01/14-01/18-95-US-Exp;
 - ICC-01/14-01/18-107-US-Exp; and
 - ICC-01/14-01/18-213-US-Exp.
20. With regard to decisions and orders ICC-01/14-01/18-3-US-Exp, ICC-01/14-01/18-30-US-Exp, ICC-01/14-01/18-94-US-Exp and ICC-01/14-01/18-107-US-Exp, currently classified as under seal, *ex parte*, only available to the Prosecution

²⁰ Yekatom Defence Request, ICC-01/14-01/18-526, paras 21-22, *referring, inter alia*, to ICC-01/14-01/18-85-US-Exp and ICC-01/14-01/18-181-US-Exp-Red.

and the Registry, the Single Judge considers that they may not be made available to all participants, even in redacted form, as [REDACTED].

21. The Single Judge notes the Yekatom Defence's request to issue public redacted versions of decisions ICC-01/14-01/18-126-US-Exp and ICC-01/14-01/18-213-US-Exp.²¹ The Single Judge rejects the request as making these decisions available to the public, even in redacted form, would [REDACTED]. The Chamber will issue confidential redacted versions of decisions ICC-01/14-01/18-95-US-Exp²² and ICC-01/14-01/18-213-US-Exp in due course.

2. Documents filed by the Registry

22. Noting the Registry's submissions,²³ the Single Judge finds that the current classification, under seal, *ex parte*, only available to the Prosecution and/or the Registry, of the following documents – including their annexes – remains warranted for the reasons provided below:

- ICC-01/14-01/18-97-US-Exp;²⁴
- ICC-01/14-01/18-135-US-Exp;
- ICC-01/14-01/18-136-US-Exp;
- ICC-01/14-01/18-146-US-Exp;
- ICC-01/14-01/18-246-US-Exp; and
- ICC-01/14-01/18-398-US-Exp.²⁵

23. The Single Judge considers that the reclassification of these documents may (i) [REDACTED]; (ii) disclose confidential information regarding the Court's operation; and (iii) reveal information pertaining to the accused's private life.

²¹ Yekatom Defence Request, ICC-01/14-01/18-526, para. 24.

²² The Single Judge notes that a confidential, *ex parte*, redacted version is already available to the Prosecution and the Ngaïssona Defence since 1 February 2019; see ICC-01/14-01/18-95-Conf-Exp-Red.

²³ Registry Observations, ICC-01/14-01/18-536-Conf-Exp, paras 28, 31, 33.

²⁴ The Single Judge notes that an under seal, *ex parte*, redacted version is available to the Prosecution and the Registry; see ICC-01/14-01/18-97-US-Exp-Red.

²⁵ The Single Judge notes that an under seal, *ex parte*, redacted version of Annex II(A) is available to the Prosecution and the Registry; see ICC-01/14-01/18-398-US-Exp-AnxII(A)-Red.

Applying redactions would render the documents incomprehensible and would thus not be in the interest of the efficient conduct of the proceedings. Therefore, a filing of redacted versions will not be ordered at this stage of the proceedings.

24. As regards document ICC-01/14-01/18-189-US-Exp, the Single Judge notes that it is currently available only to the Prosecution, the Yekatom Defence and the Registry. The Single Judge instructs the Registry to file a confidential redacted version or, in the event that the document can be reclassified without redactions, authorises the Registry to reclassify it accordingly.

3. *Documents filed by the Prosecution*

25. Noting the Prosecution's submissions,²⁶ the Single Judge orders the reclassification of the following documents as follows:

- ICC-01/14-01/18-200-US-Exp as confidential; and
- ICC-01/14-01/18-214-US-Exp-Red as confidential redacted.

26. Conversely, the Single Judge finds that the current classification, under seal, *ex parte*, only available to the Prosecution and the Registry, of the following documents remains warranted, as their reclassification may [REDACTED] and redactions would render the documents incomprehensible:

- ICC-01/14-01/18-22-US-Exp;
- ICC-01/14-01/18-108-US-Exp;
- ICC-01/14-01/18-134-US-Exp; and
- ICC-01/14-01/18-214-US-Exp.²⁷

²⁶ Prosecution Request, ICC-01/14-01/18-529, paras 6-7.

²⁷ The Single Judge notes that an under seal, *ex parte*, redacted version is available to the Prosecution, the Yekatom Defence and the Registry, ICC-01/14-01/18-214-US-Exp-Red, which will be reclassified as confidential redacted pursuant to the present decision.

4. Documents filed by the Yekatom Defence

27. Noting the Yekatom Defence's submissions,²⁸ the Single Judge orders the reclassification of the following documents as confidential or confidential redacted, as follows:

- ICC-01/14-01/18-85-US-Exp as confidential (only the main document);²⁹
- ICC-01/14-01/18-181-US-Exp-Red as confidential redacted (only the main document);³⁰
- ICC-01/14-01/18-187-US-Exp as confidential;
- ICC-01/14-01/18-195-US-Exp as confidential; and
- ICC-01/14-01/18-210-US-Exp as confidential (only the main document).³¹

28. The Single Judge notes that a number of these documents contain information pertaining to Mr Yekatom's private life. However, considering that the Yekatom Defence requests their reclassification and has no (further) redactions to apply, the Single Judge sees no reason to maintain the current under seal, *ex parte*, classification.

²⁸ Yekatom Defence Request, ICC-01/14-01/18-526, paras 21-22.

²⁹ Annex A shall remain under seal, *ex parte*, Yekatom Defence only, as it contains information relating to Mr Yekatom's private life which he does not wish to share with all participants; see Yekatom Defence Request, ICC-01/14-01/18-526, para. 28.

³⁰ The unredacted version of document ICC-01/14-01/18-181-US-Exp and its Annexes A to C shall remain under seal, *ex parte*, Yekatom Defence only, as they contain information relating to Mr Yekatom's private life which he does not wish to share with all participants; see Yekatom Defence Request, ICC-01/14-01/18-526, para. 28.

³¹ Annexes A and B shall remain under seal, *ex parte*, Yekatom Defence only, as they contain information relating to Mr Yekatom's private life which he does not wish to share with all participants; see Yekatom Defence Request, ICC-01/14-01/18-526, para. 28.

C. Documents concerning restrictions on the accused's contacts and communications in detention

1. Decisions

29. Noting the Yekatom Defence's request to issue public redacted versions of all detention-related decisions,³² and mindful of the principle of publicity of the proceedings, the Single Judge finds that the basis for the classification confidential or confidential *ex parte* no longer exists for the following decisions, and orders their reclassification as public or public redacted, as follows:

- ICC-01/14-01/18-11-Conf-Exp as public;
- ICC-01/14-01/18-25-Conf-Exp as public;
- ICC-01/14-01/18-52-Conf-Exp as public;
- ICC-01/14-01/8-63-Conf-Exp as public;
- ICC-01/14-01/18-75-Conf-Exp as public;
- ICC-01/14-01/18-86-Conf-Exp as public;
- ICC-01/14-01/18-98-Conf-Exp as public;
- ICC-01/14-01/18-114-Conf-Exp-Red as public redacted;³³
- ICC-01/14-01/18-137-Conf-Exp as public;
- ICC-01/14-01/18-157-Conf-Exp as public;
- ICC-01/14-01/18-161-Conf-Exp as public;
- ICC-01/14-01/18-215-Conf as public;
- ICC-01/14-01/18-393-Conf-Exp as public;

³² Yekatom Defence Request, ICC-01/14-01/18-526, para. 19; *see also* Ngaïssona Defence Request, ICC-01/14-01/18-527-Corr, para. 7.

³³ ICC-01/14-01/18-114-Conf-Exp shall retain its current classification.

- ICC-01/14-01/18-402-Conf-Exp as public;
- ICC-01/14-01/18-404-Conf-Exp as public;
- ICC-01/14-01/18-419-Conf-Exp as public;
- ICC-01/14-01/18-502-Conf-Exp as public;
- ICC-01/14-01/18-540-Conf as public;
- ICC-01/14-01/18-582-Conf as public; and
- ICC-01/14-01/18-627-Conf as public.

30. Further, the Single Judge orders the Registry to reclassify the following decisions as confidential or confidential redacted, as follows:

- ICC-01/14-01/18-240-Conf-Exp as confidential;
- ICC-01/14-01/18-241-Conf-Exp as confidential;
- ICC-01/14-01/18-350-Conf-Exp as confidential;
- ICC-01/14-01/18-357-Conf-Exp-Red as confidential redacted;³⁴
- ICC-01/14-01/18-374-Conf-Exp-Red as confidential redacted;³⁵
- ICC-01/14-01/18-413-Conf-Exp-Red as confidential redacted;³⁶
- ICC-01/14-01/18-424-Conf-Exp-Red as confidential redacted;³⁷
- ICC-01/14-01/18-441-Conf-Exp-Red as confidential redacted;³⁸
- ICC-01/14-01/18-484-Conf-Exp-Red as confidential redacted;³⁹

³⁴ ICC-01/14-01/18-357-Conf-Exp shall retain its current classification.

³⁵ ICC-01/14-01/18-374-Conf-Exp shall retain its current classification.

³⁶ ICC-01/14-01/18-413-Conf-Exp shall retain its current classification.

³⁷ ICC-01/14-01/18-424-Conf-Exp shall retain its current classification.

³⁸ ICC-01/14-01/18-441-Conf-Exp shall retain its current classification.

³⁹ ICC-01/14-01/18-484-Conf-Exp shall retain its current classification.

- ICC-01/14-01/18-485-Conf-Exp as confidential; and
- ICC-01/14-01/18-507-Conf-Exp as confidential.

31. The Chamber will issue public redacted versions of the decisions mentioned above and all remaining decisions rendered pursuant to Regulation 101 of the Regulations in due course.

2. *Reports filed by the Registry*

32. The Single Judge notes the Yekatom Defence's request to reclassify all Registry detention-related filings from confidential *ex parte* to confidential.⁴⁰ Having regard to the Registry's submissions, the result of its consultations with the Defence,⁴¹ and the principle of publicity, the Single Judge finds that the basis for the classification confidential, *ex parte*, only available to the Prosecution, the Registry and the Yekatom Defence or the Ngaïssona Defence, no longer exists for the following reports. Accordingly, the Single Judge orders their reclassification as public, confidential, or confidential redacted, as follows:

- ICC-01/14-01/18-124-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-125-Conf-Exp-Red, together with confidential *ex parte* redacted Annexes I and II, as confidential redacted;
- ICC-01/14-01/18-166-Conf-Exp-Red, together with confidential *ex parte* redacted Annexes I to V, as confidential redacted;
- ICC-01/14-01/18-167-Conf-Exp-Red, together with confidential *ex parte* redacted Annexes I to IV, as confidential redacted;
- ICC-01/14-01/18-225-Conf-Exp-Red, together with confidential *ex parte* redacted Annex I, as confidential redacted, and confidential *ex parte* Annex II as confidential;

⁴⁰ Yekatom Defence Request, ICC-01/14-01/18-526, para. 17.

⁴¹ Registry Observations, ICC-01/14-01/18-536-Conf-Exp, paras 11-23.

- ICC-01/14-01/18-226-Conf-Exp-Red, together with confidential *ex parte* redacted Annex I, as confidential redacted, and confidential *ex parte* Annex II as confidential;
- ICC-01/14-01/18-276-Conf-Exp-Red as confidential redacted (only the main document);
- ICC-01/14-01/18-277-Conf-Exp as public;
- ICC-01/14-01/18-337-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-362-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-386-Conf-Exp as public;
- ICC-01/14-01/18-390-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-406-Conf-Exp as public;
- ICC-01/14-01/18-416-Conf-Exp-Red as public redacted;
- ICC-01/14-01/18-417-Conf-Exp as confidential (only the main document);
- ICC-01/14-01/18-428-Conf-Exp-Red as public redacted;
- ICC-01/14-01/18-467-Conf-Exp, together with confidential *ex parte* Annex II, as confidential;
- ICC-01/14-01/18-469-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-481-Conf-Exp as public; and
- ICC-01/14-01/18-592-Conf-Exp-Red as confidential redacted (only the main document).

33. Further, noting the Registry's submissions,⁴² the Single Judge orders it to file confidential redacted versions of the following reports:

- ICC-01/14-01/18-115-Conf-Exp, together with Annexes I to IV;
- ICC-01/14-01/18-400-Conf-Exp; and
- ICC-01/14-01/18-444-Conf-Exp.

34. The Single Judge finds that the current classification, confidential, *ex parte*, only available to the Prosecution, the Registry and/or the Yekatom Defence or the Ngaïssona Defence, of the following documents remains warranted, as they contain information regarding (i) the accused's communication schedule in detention; (ii) his private life, most notably, the identities of third parties and the content of their conversations; and (iii) the internal functioning of the Detention Centre, as well as the Court's relationship with the host State:⁴³

- ICC-01/14-01/18-23-Conf-Exp, together with Annexes I and II;⁴⁴
- ICC-01/14-01/18-32-Conf-Exp;⁴⁵
- ICC-01/14-01/18-62-Conf-Exp, together with Annexes I to IV;⁴⁶
- ICC-01/14-01/18-81-Conf-Exp;⁴⁷
- ICC-01/14-01/18-102-Conf-Exp;
- ICC-01/14-01/18-124-Conf-Exp;
- ICC-01/14-01/18-125-Conf-Exp, together with Annexes I and II;

⁴² Registry Observations, ICC-01/14-01/18-536-Conf-Exp, paras 19-20.

⁴³ See also Registry Observations, ICC-01/14-01/18-536-Conf-Exp, paras 12-14, 16-23.

⁴⁴ The Single Judge notes that confidential redacted versions of the main document, ICC-01/14-01/18-23-Conf-Red, and its annexes are available since 7 December 2018.

⁴⁵ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-32-Conf-Red, is available since 17 December 2018.

⁴⁶ The Single Judge notes that confidential redacted versions of the main document, ICC-01/14-01/18-62-Conf-Red, and Annexes II and IV are available since 25 January 2019.

⁴⁷ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-81-Conf-Red, is available since 12 February 2019.

- ICC-01/14-01/18-166-Conf-Exp, together with Annexes I to V;
- ICC-01/14-01/18-167-Conf-Exp, together with Annexes I to IV;
- ICC-01/14-01/18-225-Conf-Exp, together with Annex I;
- ICC-01/14-01/18-226-Conf-Exp, together with Annex I;
- ICC-01/14-01/18-276-Conf-Exp and its annex;
- ICC-01/14-01/18-337-Conf-Exp;
- ICC-01/14-01/18-362-Conf-Exp;
- ICC-01/14-01/18-390-Conf-Exp;
- ICC-01/14-01/18-416-Conf-Exp;
- ICC-01/14-01/18-417-Conf-Exp-Anx;
- ICC-01/14-01/18-428-Conf-Exp;
- ICC-01/14-01/18-429-Conf-Exp;
- ICC-01/14-01/18-467-Conf-Exp-AnxI;
- ICC-01/14-01/18-469-Conf-Exp;
- ICC-01/14-01/18-592-Conf-Exp and its annex; and
- ICC-01/14-01/18-673-Conf-Exp, together with Annexes I and II.⁴⁸

35. While confidential redacted versions are or will become available pursuant to the present decision for most of the documents mentioned above, the Single Judge finds that the remaining documents cannot be made available to all participants, even in redacted form, as the information contained therein regarding the functioning of the Detention Centre, the Court's relationship with the host State

⁴⁸ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-673-Conf-Red, is available since 6 October 2020.

and the accused's private life is extensive. Applying redactions would render the documents incomprehensible and would thus not be in the interest of the efficient conduct of the proceedings.

3. *Documents filed by the Defence*

36. The Single Judge notes the Yekatom Defence's submission that the two Defence teams have agreed to access each other's detention-related filings and generally do not oppose their reclassification from *ex parte* to confidential.⁴⁹ Having regard to the Defence's submissions,⁵⁰ the Single Judge finds that the basis for the classification confidential, *ex parte*, only available to the Prosecution, the Registry and/or the Yekatom Defence or the Ngaïssona Defence, no longer exists for the following documents, and orders their reclassification as confidential or confidential redacted, as follows:

- ICC-01/14-01/18-37-Conf-Exp, together with confidential *ex parte* Annex A, as confidential;
- ICC-01/14-01/18-49-Conf-Exp as confidential (only the main document);
- ICC-01/14-01/18-84-Conf-Exp as confidential;
- ICC-01/14-01/18-123-Conf-Exp as confidential;
- ICC-01/14-01/18-132-Conf-Exp as confidential;
- ICC-01/14-01/18-138-Conf-Exp as confidential;
- ICC-01/14-01/18-145-Conf-Exp as confidential;
- ICC-01/14-01/18-151-Conf-Exp-Corr, together with Annex A, as confidential;
- ICC-01/14-01/18-171-Conf-Exp as confidential;

⁴⁹ Yekatom Defence Request, ICC-01/14-01/18-526, para. 16.

⁵⁰ Yekatom Defence Request, ICC-01/14-01/18-526, paras 15-16; Ngaïssona Defence Request, ICC-01/14-01/18-527-Corr, para. 4.

- ICC-01/14-01/18-234-Conf-Exp as confidential;
- ICC-01/14-01/18-235-Conf-Exp as confidential;
- ICC-01/14-01/18-291-Conf-Exp as confidential;
- ICC-01/14-01/18-355-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-373-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-389-Conf-Exp as confidential;
- ICC-01/14-01/18-391-Conf-Exp and its annex as confidential;
- ICC-01/14-01/18-401-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-408-Conf-Exp-AnxII as confidential;
- ICC-01/14-01/18-414-Conf-Exp as confidential;⁵¹
- ICC-01/14-01/18-426-Conf-Exp-Corr-Anx1 as confidential;
- ICC-01/14-01/18-433-Conf-Exp as confidential;
- ICC-01/14-01/18-440-Conf-Exp as confidential;
- ICC-01/14-01/18-458-Conf-Exp as confidential (only the main document);
- ICC-01/14-01/18-460-Conf-Exp as confidential;
- ICC-01/14-01/18-494-Conf-Exp as confidential; and
- ICC-01/14-01/18-496-Conf-Exp-Red as confidential redacted.

37. The Single Judge observes that several of the documents mentioned above contain detailed information regarding the accused's private life. Nonetheless, considering that the Defence requests their reclassification, the Single Judge finds

⁵¹ The Single Judge notes that Annex A to document ICC-01/14-01/18-414-Conf-Exp is already classified confidential.

no reason to maintain them as confidential *ex parte*. Should the Defence have any concerns about their reclassification, it is instructed to inform the Chamber within two days of notification of the present decision. Otherwise the Registry shall reclassify the documents as ordered.

38. Further, the Single Judge finds that the current classification of the following documents remains warranted, as they contain information pertaining to the private life of the accused, their health and well-being, or internal correspondence:

- ICC-01/14-01/18-37-Conf-Exp-AnxB;
- ICC-01/14-01/18-49-Conf-Exp-AnxA;
- ICC-01/14-01/18-172-Conf-Exp;⁵²
- ICC-01/14-01/18-300-Conf-Exp;⁵³
- ICC-01/14-01/18-355-Conf-Exp;⁵⁴
- ICC-01/14-01/18-373-Conf-Exp;⁵⁵
- ICC-01/14-01/18-397-Conf-Exp, together with Annexes 1 and 2;⁵⁶
- ICC-01/14-01/18-401-Conf-Exp;⁵⁷

⁵² The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-172-Conf-Red, is available since 10 April 2019.

⁵³ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-300-Conf-Red2, is available since 22 May 2020; *see also* Ngaiissona Defence Request, ICC-01/14-01/18-527-Corr, para. 5.

⁵⁴ The Single Judge notes that a confidential redacted version will become available pursuant to the present decision.

⁵⁵ The Single Judge notes that a confidential redacted version will become available pursuant to the present decision.

⁵⁶ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-397-Conf-Red2, is available since 22 May 2020; *see also* Ngaiissona Defence Request, ICC-01/14-01/18-527-Corr, para. 5. As for the annexes, the Single Judge notes that they contain information of a private nature which is extensive and applying redactions would render them incomprehensible.

⁵⁷ The Single Judge notes that a confidential redacted version will become available pursuant to the present decision.

- ICC-01/14-01/18-408-Conf-Exp, together with Annex I;⁵⁸
- ICC-01/14-01/18-420-Conf-Exp and its annex;⁵⁹
- ICC-01/14-01/18-421-Conf-Exp and its annex;
- ICC-01/14-01/18-426-Conf-Exp-Corr;⁶⁰
- ICC-01/14-01/18-435-Conf-Exp;
- ICC-01/14-01/18-458-Conf-Exp-AnxA;
- ICC-01/14-01/18-496-Conf-Exp;⁶¹ and
- ICC-01/14-01/18-662-Conf-Exp.⁶²

39. While confidential redacted versions are or will become available pursuant to the present decision for most of the documents mentioned above, the Single Judge finds that the remaining documents cannot be made available to all participants, even in redacted form, as the necessary redactions to information regarding the private life of the accused or internal correspondence would render the documents incomprehensible and would not be in the interest of the efficient conduct of the proceedings.

4. Documents filed by the Prosecution

40. The Single Judge notes the Yekatom Defence's request to reclassify all of the Prosecution's detention-related filings from confidential *ex parte* to

⁵⁸ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-408-Conf-Red2, is available since 22 May 2020; *see also* Ngaïssona Defence Request, ICC-01/14-01/18-527-Corr, para. 5. As for Annex I, the Single Judge notes that it contains information of a private nature which, if redacted, would render the document incomprehensible.

⁵⁹ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-420-Conf-Red2, is available since 22 May 2020; *see also* Ngaïssona Defence Request, ICC-01/14-01/18-527-Corr, para. 5.

⁶⁰ The Single Judge notes that a confidential redacted version of the main corrected document, ICC-01/14-01/18-426-Conf-Corr-Red2, is available since 22 May 2020; *see also* Ngaïssona Defence Request, ICC-01/14-01/18-527-Corr, para. 5.

⁶¹ The Single Judge notes that a confidential redacted version will become available pursuant to the present decision.

⁶² The Single Judge notes that a confidential redacted version was filed the same day; *see* ICC-01/14-01/18-662-Conf-Red.

confidential.⁶³ Having regard to the Prosecution's submissions⁶⁴ and noting the Single Judge's decision to reclassify related Registry reports and Defence filings, the Single Judge finds that the basis for the classification confidential *ex parte* no longer exists for the following documents, and orders their reclassification as public, confidential, or confidential redacted, as follows:

- ICC-01/14-01/18-28-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-44-Conf-Exp as confidential (only the main document);
- ICC-01/14-01/18-69-Conf-Exp as confidential (only the main document);
- ICC-01/14-01/18-129-Conf-Exp as public;
- ICC-01/14-01/18-130-Conf-Exp as confidential;
- ICC-01/14-01/18-131-Conf-Exp as confidential;
- ICC-01/14-01/18-147-Conf-Exp as confidential;
- ICC-01/14-01/18-228-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-229-Conf-Exp-Red as confidential redacted;
- ICC-01/14-01/18-287-Conf-Exp as confidential;
- ICC-01/14-01/18-289-Conf-Exp as confidential;
- ICC-01/14-01/18-356-Conf-Exp as confidential;
- ICC-01/14-01/18-387-Conf-Exp as confidential;
- ICC-01/14-01/18-392-Conf-Exp as confidential;

⁶³ Yekatom Defence Request, ICC-01/14-01/18-526, para. 17.

⁶⁴ Prosecution Request, ICC-01/14-01/18-529, paras 4-8.

- ICC-01/14-01/18-412-Conf-Exp as confidential;
- ICC-01/14-01/18-418-Conf-Exp as confidential;
- ICC-01/14-01/18-427-Conf-Exp as public;
- ICC-01/14-01/18-432-Conf-Exp as confidential;
- ICC-01/14-01/18-446-Conf-Exp as confidential;
- ICC-01/14-01/18-453-Conf-Exp as confidential;
- ICC-01/14-01/18-465-Conf-Exp as confidential;
- ICC-01/14-01/18-490-Conf-Exp as confidential;
- ICC-01/14-01/18-501-Conf-Exp as confidential; and
- ICC-01/14-01/18-512-Conf-Exp as confidential.

41. Noting the Yekatom Defence's request to scrutinise the redactions applied by the Prosecution to documents ICC-01/14-01/18-28-Conf-Exp-Red and ICC-01/14-01/18-229-Conf-Exp-Red,⁶⁵ the Single Judge finds that the redactions continue to be warranted in order to protect the security and well-being of witnesses and the Prosecution's ongoing investigations.

42. Further, the Single Judge finds that the current classification, under seal or confidential, *ex parte*, only available to the Prosecution and the Registry, of the following documents remains warranted in order to protect the safety and well-being of witnesses, the Prosecution's ongoing investigations and the accused's right to private life:

- ICC-01/14-01/18-24-US-Exp,⁶⁶

⁶⁵ Yekatom Defence Request, ICC-01/14-01/18-526, para. 33.

⁶⁶ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-24-Conf-Red, is available since 17 December 2018.

- ICC-01/14-01/18-28-US-Exp and its annex;⁶⁷
- ICC-01/14-01/18-44-US-Exp-AnxA;
- ICC-01/14-01/18-44-US-Exp-AnxB;
- ICC-01/14-01/18-69-US-Exp-AnxA;
- ICC-01/14-01/18-70-Conf-Exp;⁶⁸
- ICC-01/14-01/18-104-Conf-Exp;⁶⁹
- ICC-01/14-01/18-112-Conf-Exp;⁷⁰
- ICC-01/14-01/18-170-Conf-Exp and Annexes A and B;⁷¹
- ICC-01/14-01/18-228-Conf-Exp; and
- ICC-01/14-01/18-229-Conf-Exp.

43. While confidential redacted versions are available for a number of documents mentioned above, the Single Judge finds that the remaining documents cannot be made available to all participants, even in redacted form, as the required redactions would be extensive and would render the documents incomprehensible.

44. Lastly, considering that restrictions on the accused's contacts and communications in detention are a matter of public interest, the Single Judge orders the Prosecution, the Defence and the Registry to undertake a review of their respective documents and, where possible, provide public redacted versions

⁶⁷ The Single Judge notes that document ICC-01/14-01/18-28-US-Exp-Anx1 is the same in content as document ICC-01/14-01/18-24-Conf-Exp, which is available in confidential redacted form since 17 December 2018.

⁶⁸ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-70-Conf-Red, is available since 28 January 2019.

⁶⁹ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-104-Conf-Red, is available since 28 January 2019.

⁷⁰ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-112-Conf-Red, is available since 4 February 2019.

⁷¹ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-170-Conf-Red, is available since 10 April 2019.

of their respective filings or request reclassification. The participants and the Registry are instructed to do so within two weeks of notification of the public or public redacted version of a decision under Regulation 101 of the Regulations for the documents underlying said decision.

D. Documents concerning witness protection and the Prosecution's ongoing investigations

1. Decisions and orders

45. The Single Judge finds that the basis for the classification confidential or confidential, *ex parte*, only available to the Prosecution, the Defence and the Registry, no longer exists for the following documents and orders their reclassification as public:

- ICC-01/14-01/18-164-Conf-Exp;
- ICC-01/14-01/18-201-Conf; and
- ICC-01/14-01/18-207-Conf.

2. Documents filed by the Registry

46. The Single Judge finds that the current classification, confidential, *ex parte*, only available to the Prosecution and the Registry, of the following documents remains warranted, as making them available to the Defence may have an impact on the protection of witnesses or the Court's cooperation with States Parties:

- ICC-01/14-01/18-38-Conf-Exp;⁷²
- ICC-01/14-01/18-173-Conf-Exp;⁷³
- ICC-01/14-01/18-470-Conf-Exp-AnxI;

⁷² The Single Judge notes that a confidential, *ex parte*, redacted version, ICC-01/14-01/18-38-Conf-Exp-Red, is available to the Defence since 18 September 2019.

⁷³ The Single Judge notes that a confidential, *ex parte*, redacted version, ICC-01/14-01/18-173-Conf-Exp-Red, is available to the Defence since 17 September 2019.

- ICC-01/14-01/18-635-Conf-Exp;⁷⁴
- ICC-01/14-01/18-661-Conf-Exp;⁷⁵ and
- ICC-01/14-01/18-693-Conf-Exp.⁷⁶

47. While redacted versions are available for all but one of the documents mentioned above, the Single Judge finds that the remaining document cannot be made available to all participants, even in redacted form, as the required redactions would be extensive and would render the document incomprehensible.

48. Further, noting the Registry's submissions,⁷⁷ the Single Judge orders it to reclassify the following documents as confidential redacted:

- ICC-01/14-01/18-38-Conf-Exp-Red; and
- ICC-01/14-01/18-173-Conf-Exp-Red.

49. Lastly, the Single Judge directs the Registry to assess whether a lesser redacted confidential version of document ICC-01/14-01/18-752-Conf-Exp may be made available to the Defence and, if so, to file one accordingly.⁷⁸

3. Documents filed by the Prosecution

50. The Single Judge finds that the current classification, under seal or confidential, *ex parte*, only available to the Prosecution and the Registry, of the following documents remains warranted to protect witnesses and the Prosecution's ongoing investigations:

⁷⁴ The Single Judge notes that a confidential, *ex parte*, redacted version, ICC-01/14-01/18-635-Conf-Red-Exp, is available to the Defence since 28 August 2020 and a confidential redacted version, ICC-01/14-01/18-635-Conf-Red2, is available since 31 August 2020.

⁷⁵ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-661-Conf-Red, is available since 21 September 2020.

⁷⁶ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-693-Conf-Red, is available since 21 October 2020.

⁷⁷ Registry Observations, ICC-01/14-01/18-536-Conf-Exp, para. 36.

⁷⁸ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-752-Conf-Red, is available since 4 December 2020.

- ICC-01/14-01/18-8-US-Exp;⁷⁹
- ICC-01/14-01/18-110-US-Exp;⁸⁰
- ICC-01/14-01/18-162-Conf-Exp and Annexes A-F;⁸¹
- ICC-01/14-01/18-174-Conf-Exp;⁸²
- ICC-01/14-01/18-179-Conf-Exp and Annexes A-B;⁸³
- ICC-01/14-01/18-186-Conf-Exp and its annex;⁸⁴
- ICC-01/14-01/18-209-Conf-Exp and Annexes A-J;
- ICC-01/14-01/18-217-Conf-Exp and Annexes A and B;
- ICC-01/14-01/18-237-Conf-Exp and Annexes A and B;⁸⁵
- ICC-01/14-01/18-242-Conf-Exp and Annexes A-C;
- ICC-01/14-01/18-267-Conf-Exp and Annexes A-O;⁸⁶
- ICC-01/14-01/18-329-Conf-Exp and Annexes A-C;⁸⁷

⁷⁹ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-8-Conf-Red, is available since 17 December 2018.

⁸⁰ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-110-Conf-Red, is available since 5 February 2019.

⁸¹ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-162-Conf-Red, is available since 2 April 2019.

⁸² The Single Judge notes that a confidential, *ex parte*, redacted version, ICC-01/14-01/18-174-Conf-Exp-Red, is available to the Defence since 17 September 2019.

⁸³ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-179-Conf-Red, is available since 14 June 2019.

⁸⁴ The Single Judge notes that a corrected confidential redacted version of the main document, ICC-01/14-01/18-186-Conf-Red-Corr, is available since 6 June 2019 and a public redacted version, ICC-01/14-01/18-186-Red2, is available since 8 May 2019.

⁸⁵ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-237-Conf-Red, is available since 23 July 2019.

⁸⁶ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-267-Conf-Red, is available since 8 August 2019.

⁸⁷ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-329-Conf-Red, is available since 11 September 2019.

- ICC-01/14-01/18-609-Conf-Exp and Annexes A-O;⁸⁸
- ICC-01/14-01/18-628-Conf-Exp;⁸⁹
- ICC-01/14-01/18-634-Conf-Exp;⁹⁰
- ICC-01/14-01/18-668-Conf-Exp;⁹¹
- ICC-01/14-01/18-706-Conf-Exp and Annexes A-H;⁹² and
- ICC-01/14-01/18-714-Conf-Exp and Annexes A-C.⁹³

51. With regard to documents ICC-01/14-01/18-162-Conf-Exp, ICC-01/14-01/18-209-Conf-Exp, ICC-01/14-01/18-217-Conf-Exp and ICC-01/14-01/18-267-Conf-Exp, the Single Judge notes the Prosecution's submission that they may be reclassified as confidential.⁹⁴ The Single Judge considers this to be an oversight as the documents contain information which, if disclosed, may prejudice the Prosecution's ongoing investigations or the security of witnesses. The Single Judge trusts that the Prosecution will be more attentive in the future.
52. The Single Judge orders the Prosecution to file confidential redacted versions of documents ICC-01/14-01/18-209-Conf-Exp and ICC-01/14-01/18-217-Conf-Exp.⁹⁵ Further, the Single Judge observes that a number of redactions applied to the following documents are no longer warranted and orders the Prosecution to file lesser redacted confidential versions:

⁸⁸ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-609-Conf-Red, is available since 5 August 2020.

⁸⁹ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-628-Conf-Red, is available since 21 August 2020.

⁹⁰ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-634-Conf-Red, is available since 27 August 2020.

⁹¹ The Single Judge notes that two confidential redacted versions of the main document, ICC-01/14-01/18-668-Conf-Red and ICC-01/14-01/18-668-Conf-Red2, are available since 29 September 2020 and 16 November 2020 respectively.

⁹² The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-706-Conf-Red, is available since 7 November 2020.

⁹³ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-714-Conf-Red, including confidential redacted versions of Annexes A-C, and a public redacted version, ICC-01/14-01/18-714-Red2, are available since 4 November 2020 and 29 December 2020 respectively.

⁹⁴ Prosecution Request, ICC-01/14-01/18-529, para. 6.

⁹⁵ The annexes shall remain confidential *ex parte*.

- ICC-01/14-01/18-162-Conf-Red;
- ICC-01/14-01/18-179-Conf-Red;
- ICC-01/14-01/18-237-Conf-Red; and
- ICC-01/14-01/18-267-Conf-Red.

53. Noting the Yekatom Defence's request to closely scrutinise the redactions applied by the Prosecution to document ICC-01/14-01/18-174-Conf-Exp-Red,⁹⁶ the Single Judge finds that the redactions remain warranted as they relate to the security situation of witnesses.

54. Further, regarding document ICC-01/14-01/18-242-Conf-Exp, the Single Judge notes that applying redactions would likely render it incomprehensible and would thus not be in the interest of the efficient conduct of the proceedings.

55. Lastly, the Single Judge orders the reclassification of the following documents as public redacted, confidential, or confidential redacted, as follows:

- ICC-01/14-01/18-162-Conf-Red as public redacted;
- ICC-01/14-01/18-174-Conf-Exp-Red as confidential redacted;⁹⁷
- ICC-01/14-01/18-179-Conf-Red as public redacted;
- ICC-01/14-01/18-237-Conf-Red as public redacted; and
- ICC-01/14-01/18-244-Conf-Exp as confidential (only the main document).

4. *Transcripts*

56. Noting the Yekatom Defence's request,⁹⁸ the Single Judge instructs the Registry to apply the following redactions to the transcript of the *ex parte* status conference

⁹⁶ Yekatom Defence Request, ICC-01/14-01/18-526, para. 33.

⁹⁷ See also Prosecution Request, ICC-01/14-01/18-529, para. 4(xxii), n. 17, para. 7.

⁹⁸ Yekatom Defence Request, ICC-01/14-01/18-526, para. 32.

held by PTC II on 29 May 2019, transcript ICC-01/14-01/18-T-003-CONF-EXP-ENG, and to file a confidential redacted version:

- page 2, lines 9-10, from the beginning of line 9 to ‘behind me directly is’ in line 10;
- page 2, lines 11-12, from ‘to her left is’ to ‘immediately behind me’;
- page 4, lines 8-10;
- page 5, line 19, to page 6, line 1;
- page 6, line 2, from ‘and’ to ‘can’;
- page 6, line 7, from ‘and’ to ‘can’;
- page 6, line 22, from ‘Witnesses who’, to page 7, line 10;
- page 7, line 21, from ‘it’s’ to ‘in total’;
- page 9, line 7, from ‘have’ to the end of the line;
- page 9, lines 18-19; and
- page 10, lines 4-22.

57. The Single Judge finds that these redactions are necessary in order to protect witnesses and the Prosecution’s ongoing investigations. The redactions extend also to the French version of the transcript.

E. Documents concerning victim participation

1. Decisions and orders

58. The Single Judge finds that the basis for the classification confidential or confidential, *ex parte*, only available to the Common Legal Representatives of Victims of Other Crimes and the Registry, no longer exists for the following documents and orders their reclassification as public or confidential, as follows:

- ICC-01/14-01/18-220-Conf as public;

- ICC-01/14-01/18-243-Conf as public; and
- ICC-01/14-01/18-351-Conf-Exp as confidential.

2. *Documents filed by the Registry*

59. The Single Judge finds that the current classification remains warranted for the following documents, as they contain information on the identity and security situation of victims:

- ICC-01/14-01/18-133-Conf-Exp-AnxII;⁹⁹
- Confidential *ex parte* Annexes I to III to ICC-01/14-01/18-178;¹⁰⁰
- Confidential *ex parte* Annexes 1 to 15 to ICC-01/14-01/18-197;¹⁰¹
- Confidential *ex parte* Annexes 1 to 74 to ICC-01/14-01/18-222;
- Confidential *ex parte* Annexes 1 to 161 to ICC-01/14-01/18-245;
- Confidential *ex parte* Annexes 1 to 150 to ICC-01/14-01/18-258;
- Confidential *ex parte* Annexes 1 to 301 to ICC-01/14-01/18-279;
- Confidential *ex parte* Annexes 1 to 8 to ICC-01/14-01/18-280;¹⁰²
- Confidential *ex parte* Annexes 1 to 387 to ICC-01/14-01/18-320;
- ICC-01/14-01/18-321-Conf-Exp-AnxB;
- Confidential *ex parte* Annexes I and II to ICC-01/14-01/18-352;

⁹⁹ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-133-Conf-AnxII-Red, and a public redacted version, ICC-01/14-01/18-133-AnxII-Red2, are available since 18 September 2019 and 22 May 2020, respectively.

¹⁰⁰ The Single Judge notes that a public redacted version of Annex I, ICC-01/14-01/18-178-AnxI-Red, is available since 16 May 2019.

¹⁰¹ The Single Judge notes that confidential redacted versions are available.

¹⁰² The Single Judge notes that confidential redacted versions are available.

- Confidential *ex parte* Annexes II and III to ICC-01/14-01/18-470;¹⁰³
- Confidential *ex parte* Annexes I to 15 to ICC-01/14-01/18-687;¹⁰⁴ and
- Confidential *ex parte* Annexes 1 to 100 to ICC-01/14-01/18-746.

60. While redacted versions are available for a number of documents mentioned above, the Single Judge notes that the remaining documents contain victim application forms falling under Groups A and B and the Registry's assessment thereof which, as per the adopted procedure, are transmitted to the Chamber only.¹⁰⁵

61. Further, the Single Judge instructs the Registry to reclassify document ICC-01/14-01/18-116-Conf-Exp-Anx as confidential and to file a public redacted version of document ICC-01/14-01/18-216-Conf-Exp-Anx1. The Registry is also instructed to assess whether documents ICC-01/14-01/18-178-Conf-Exp-AnxII and ICC-01/14-01/18-178-Conf-Exp-AnxIII may be made available to the Defence, with redactions, and if so to file confidential redacted versions.

3. *Documents filed by the OPCV*

62. Noting the submissions made by the OPCV and the result of its consultations with the Victims Participation and Reparations Section (the 'VPRS'),¹⁰⁶ the Single Judge decides to maintain the current classification of document ICC-01/14-01/18-218-Conf-Exp-Anx1, which contains internal correspondence between the OPCV and the VPRS.

¹⁰³ The Single Judge notes that confidential redacted versions are available, ICC-01/14-01/18-470-Conf-AnxII-Red and ICC-01/14-01/18-470-Conf-AnxIII-Red, since 17 April 2020 and 8 April 2020 respectively. A public redacted version is available for Annex III, ICC-01/14-01/18-470-AnxIII-Red2. As per the Single Judge's instruction in paragraph 46 above, Annex I, ICC-01/14-01/18-470-Conf-Exp-AnxI, shall retain its current classification.

¹⁰⁴ The Single Judge notes that confidential redacted versions are available.

¹⁰⁵ PTC II, Decision Establishing the Principles Applicable to Victims' Applications for Participation, 5 March 2019, ICC-01/14-01/18-141, para. 41.

¹⁰⁶ Email from the OPCV to the Chamber, 18 May 2020, at 10:20.

F. Other documents

1. *Decisions and orders*

63. The Single Judge finds that the basis for the classification confidential no longer exists for the following documents and orders their reclassification as public or public redacted, as follows:

- ICC-01/14-01/18-31-Conf as public; and
- ICC-01/14-01/18-800-Conf-Red as public redacted.

2. *Documents filed by the Registry*

64. Noting the Registry's request,¹⁰⁷ the Single Judge finds that the basis for the classification confidential or confidential, *ex parte*, only available to the Defence and the Registry, no longer exists for the following documents and orders their reclassification as public:

- ICC-01/14-01/18-12-Conf-Exp;
- ICC-01/14-01/18-149-Conf-Exp;
- ICC-01/14-01/18-578-Conf;
- ICC-01/14-01/18-597-Conf;
- ICC-01/14-01/18-665-Conf;
- ICC-01/14-01/18-696-Conf;
- ICC-01/14-01/18-741-Conf; and
- ICC-01/14-01/18-788-Conf.

¹⁰⁷ Email from the Registry to the Chamber, 21 January 2021, at 14:56.

65. The Single Judge further directs the Registry to file public redacted versions of the following confidential documents, as proposed:¹⁰⁸

- ICC-01/14-01/18-578-Conf-AnxI;¹⁰⁹
- ICC-01/14-01/18-597-Conf-Anx;
- ICC-01/14-01/18-632-Conf and its annex;
- ICC-01/14-01/18-665-Conf-Anx;
- ICC-01/14-01/18-741-Conf-Anx; and
- ICC-01/14-01/18-788-Conf-Anx.

66. The Single Judge finds that the current classification, under seal or confidential, *ex parte*, only available to the Registry and/or the Defence, remains warranted for the following documents, as they contain information on detention-related matters, and the accused's private life, or they refer to documents currently classified under seal or confidential *ex parte*:

- ICC-01/14-01/18-293-Conf-Exp;¹¹⁰
- Under seal or confidential *ex parte* Annexes 1 to 3 to ICC-01/14-01/18-449;
- Under seal or confidential *ex parte* Annexes 1 to 3 to ICC-01/14-01/18-455;
- Confidential *ex parte* Annexes I to VI to ICC-01/14-01/18-505;

¹⁰⁸ See email from the Registry to the Chamber, 21 January 2021, at 14:56.

¹⁰⁹ The Single Judge notes that an Annex II is also available, currently classified as confidential, *ex parte*, only available to the Defence and the Registry; see ICC-01/14-01/18-578-Conf-Exp-AnxII. The annex emanates originally from the Presidency and the Single Judge notes the Registry's submission that, according to the Presidency, the annex should retain its current classification; see email from the Registry to the Chamber, 21 January 2021, at 14:56.

¹¹⁰ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-293-Conf-Red2, and a public redacted version, ICC-01/14-01/18-293-Red, are available since 29 May 2020 and 6 September 2019 respectively.

- ICC-01/14-01/18-536-Conf-Exp;
- ICC-01/14-01/18-568-Conf-Exp and Annexes I and II;¹¹¹ and
- ICC-01/14-01/18-578-Conf-Exp-AnxII.

3. *Documents filed by the Prosecution*

67. The Single Judge finds that the current classification of the following documents remains warranted to protect witnesses and the Prosecution's ongoing investigations:

- ICC-01/14-01/18-14-US-Exp;¹¹²
- ICC-01/14-01/18-26-US-Exp;¹¹³
- ICC-01/14-01/18-188-Conf-Exp;¹¹⁴
- Annexes A to D to ICC-01/14-01/18-518-Conf;¹¹⁵
- ICC-01/14-01/18-326-US-Exp and Annexes 1 and 2;¹¹⁶ and
- ICC-01/14-01/18-553-Conf-Exp-AnxB.

4. *Documents filed by the Defence*

68. The Single Judge finds that the current classification remains warranted for the following documents:

¹¹¹ The Single Judge notes that a confidential redacted version of the main document, ICC-01/14-01/18-568-Conf-Red, is available since 6 July 2020.

¹¹² The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-14-Conf-Red, is available since 12 September 2019.

¹¹³ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-26-Conf-Red, and a public redacted version, ICC-01/14-01/18-26-Red2, are available since 16 September 2019 and 21 May 2020 respectively.

¹¹⁴ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-188-Conf-Red, and a public redacted version, ICC-01/14-01/18-188-Red2, are available since 6 and 13 May 2019 respectively.

¹¹⁵ The Single Judge notes that a public redacted version of the main document is available since 22 May 2020.

¹¹⁶ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-326-Conf-Red, and a public redacted version of the main document, ICC-01/14-01/18-326-Red2, are available since 9 September 2019 and 21 May 2020 respectively. A lesser redacted confidential version, ICC-01/14-01/18-326-Conf-Red3, was filed on 21 May 2020.

- ICC-01/14-01/18-473-Conf-Exp-Anx1;
- Confidential *ex parte* Annexes 1 to 5 to ICC-01/14-01/18-541-Conf;¹¹⁷
- ICC-01/14-01/18-556-Conf-Exp and its annex;¹¹⁸ and
- ICC-01/14-01/18-612-Conf-Exp-AnxA.¹¹⁹

69. The Single Judge observes that a number of the redactions applied to document ICC-01/14-01/18-263-Red are no longer warranted and orders the Yekatom Defence to file a lesser redacted public version or to request reclassification.

70. Going forward, the Single Judge reminds the participants to file their documents publicly, to the extent possible, or to file public redacted versions of their confidential documents as expeditiously as possible, preferably simultaneously, in order to give effect to the principle of publicity. Finally, the Single Judge recalls that the classification *ex parte* should only be used in exceptional circumstances. Most importantly, it should not be used to gain a procedural advantage by excluding the other party.¹²⁰

¹¹⁷ The Single Judge notes that a public redacted version of the main document, ICC-01/14-01/18-541-Red, is available since 3 June 2020.

¹¹⁸ The Single Judge notes that a public redacted version of the main document, ICC-01/14-01/18-556-Red, is available since 29 June 2020.

¹¹⁹ The Single Judge notes that a confidential redacted version, ICC-01/14-01/18-612-Conf-AnxA-Red, is available since 3 August 2020.

¹²⁰ Transcript of hearing, ICC-01/14-01/18-T-012-ENG, p. 6, line 23 to p. 7, line 12.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Registry to reclassify the documents mentioned in paragraphs 10, 12, 16, 17, 25, 27, 29, 30, 32, 36, 37, 40, 45, 48, 55, 58, 61, 63 and 64 of the present decision as provided therein;

INSTRUCTS the Defence to inform the Chamber, within two days of notification of the present decision, of any concerns regarding the reclassification of the documents mentioned in paragraph 36; and

DIRECTS the participants and the Registry to file redacted versions of their respective documents, or request reclassification, as provided in paragraphs 13, 24, 33, 49, 52, 56, 61, 65 and 69 of the present decision, within three weeks of notification of the decision, or, otherwise, as indicated in paragraph 44.

Done in both English and French, the English version being authoritative.



Judge Bertram Schmitt

Single Judge

Dated 28 January 2021

At The Hague, The Netherlands