



Original: **English**

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

Date: **8 April 2022**

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 Request to grant Maxime Jeoffroy Eli Mokom Gawaka access to the
record of the *Yekatom and Ngaïssona* case**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Mr Karim A. A. Khan QC
Mr Mame Mandiaye Niang
Mr Kweku Vanderpuye

Counsel for Alfred Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis

Counsel for Patrice-Edouard Ngaïssona

Mr Geert-Jan Alexander Knoops
Mr Richard Landry Omissé-Namkeamaï
Ms Marie-Hélène Proulx

Legal Representatives of Victims

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

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) requests Trial Chamber V (“Chamber”) to direct the Registry to grant Maxime Jeoffroy Eli Mokom Gawaka (“MOKOM”) access to materials placed on the trial record of this case, namely: (i) all confidential, excluding *ex parte*, submissions of the Parties and Participants; (ii) all transcripts of testimonies, including private sessions; (iii) all confidential, excluding *ex parte*, decisions issued by this Chamber; (iv) all confidential exhibits deemed formally submitted into evidence; and (v) all witness statements, with the existing redactions applied (“Material”).¹

2. The Material is relevant to the MOKOM’s Defence due, *inter alia*, to the geographical, temporal, and material substantive overlap between the *Yekatom and Ngaissona* case and the *Mokom* case.²

II. SUBMISSIONS

3. *First*, as is evident from the Warrant and several factual findings in the 11 December 2019 Decision on the Confirmation of Charges,³ there is a substantial overlap between MOKOM’s alleged conduct and that underlying the charges against YEKATOM and NGAISSONA.⁴ The two proceedings further involve the same facts and circumstances concerning the conflict in the Central African Republic, the context,

¹ The Prosecution does not consider that the victim participation or reparations application forms in the *Yekatom and Ngaissona* case fall within the scope of the Material unless they were deemed formally submitted into evidence by the Chamber. *See also* ICC-01/04-02/06-879, para. 15.

² ICC-01/14-01/22-2-Red2, p. 36-37 (“Warrant”). *See also* *Prosecutor v. Hadžihasanović et al.*, Case No. IT-01-47-AR73, Decision on Appeal from Refusal to Grant Access to Confidential Material in Another Case, 23 April 2002, p. 3, (noting, “[...] in view of the geographical, temporal and substantive overlap between the present case and *Kupreškić* case, the material sought is likely to be of material assistance to the Defence’s case”); *see* *Prosecutor v. Blaškić*, Case No IT-95-14-A, Decision on Appellants Dario Kordić and Mario Čerkez’s Request for assistance of the Appeals Chamber in Gaining Access to Appellate Briefs and Non-Public Post Appeal Pleadings and Hearing Transcripts Filed in the Prosecutor v. Blaškić, 16 May 2002, para. 15, (noting, “The relevance of the material sought by a party may be determined by showing the existence of a nexus between the applicant’s case and the cases from which such material is sought, i.e. if the cases stem from events alleged to have occurred in the same geographic area and at the same time”).

³ *See* ICC-01/14-01/18-403-Conf-Corr; and ICC-01/14-01/22-2-Red2. *See also* ICC-01/14-01/18-1-Red; and ICC-01/14-01/18-89-Red.

⁴ ICC-01/14-01/18-403-Conf-Corr, paras.81-83, 101, 111-112, 169, and 174.

temporal period, and crimes committed by the Anti-Balaka, of which all three defendants were members.

4. *Second*, the Material is relevant to MOKOM's Defence. Access to the case record may therefore facilitate and importantly, expedite, MOKOM's pre-trial preparation.⁵

5. *Third*, access to the Material should be conditioned on the continuation of existing protective measures and redactions to ensure the safety and well-being of witnesses, victims, and other persons who may be at risk on account of the activities of the Court.⁶

III. CONCLUSION

6. For the foregoing reasons, the Prosecution requests the Chamber to direct the Registry to grant MOKOM access to the Material.



Karim A. A. Khan QC, Prosecutor

Dated this 8th day of April 2022
At The Hague, The Netherlands

⁵ *Prosecutor v. Blaškić*, Case No IT-95-14-A, Decision on Appellants Dario Kordić and Mario Čerkez's Request for assistance of the Appeals Chamber in Gaining Access to Appellate Briefs and Non-Public Post Appeal Pleadings and Hearing Transcripts Filed in the Prosecutor v. Blaškić, 16 May 2002, para. 14, (noting, "Access to confidential material may be granted whenever the Chamber is satisfied that the party seeking access has established that such material may be of material assistance to his case").

⁶ ICC-01/04-02/06-806, para. 6, (noting, "[...] The Chamber observes that requests at the Court for access to confidential information in another case have previously been authorised by several chambers on the condition of the continuation of existing protective measures in the second proceedings, rather than their variation, without recourse to Regulation 42(3)").