

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **28 March 2024**

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
with Confidential Annex**

Prosecution's Communication of the Disclosure of Evidence on 28 March 2024

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 KC
Mr Mame Mandiaye Niang
Mr Kweku Vanderpuye

Counsel for Alfred Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé
Ms Sarah Bafadhel

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 Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

I. NOTIFICATION

1. The Office of the Prosecutor (“Prosecution”) submits this Communication Report regarding the disclosure of evidence.

II. CONFIDENTIALITY

2. The Annex, appended to this filing, is classified as “Confidential” as it relates to evidence disclosed *inter partes* that should not be released to the public.

III. DISCLOSURE OF EVIDENCE

3. On 28 March 2024, the Prosecution disclosed to the Defence of Alfred YEKATOM and Patrice-Edouard NGAISSONA Trial Rule 77 Package 125 containing six items.

4. These items, listed in the Confidential Annex, include three transcripts of D30-4720’s interview with the Prosecution pursuant to the Contact Protocol. While the NGAISSONA Defence requested the transcripts from CSS, assessed, redacted, and transmitted them to the Prosecution, it failed to effect disclosure to the Parties and Participants as required,¹ notwithstanding the Chamber’s clarification of the Defence’s obligation² to disclose the ‘prior statements’ of *its* witnesses.³ The Defence has refused to do so, despite the Prosecution’s repeated invitations for it to abide by the Chamber’s express order. Accordingly, the Prosecution formally discloses these transcripts, pursuant to its *secondary* Rule 77 disclosure obligation.

¹ See Rule 78 and Rule 79(4) of the Rules of Procedure and Evidence.

² ICC-01/14-01/18-2242, paras. 8-10. Per the Chamber’s Decision, the Prosecution considers that the Defence has the primary responsibility to disclose to the Parties and Participants audio recorded statements or their transcripts of its witnesses.

³ ICC-01/14-01/18-2410-Conf, para. 21, noting that the audio recording of the Prosecution Interview constitutes a ‘prior recorded testimony’ of that witness. The same reasoning applies *mutatis mutandis* to the transcriptions of a Prosecution Interview, especially when they are disclosed instead of the audios and redactions are applied.

A handwritten signature in black ink, appearing to be 'KA', with a horizontal line underneath it. The signature is centered on the page.

Karim A. A. Khan KC, Prosecutor

Dated this 28th day of March 2024
At The Hague, The Netherlands