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No.: **ICC-01/14-01/18**
Date: **16 February 2026**

TRIAL CHAMBER V

Before: Judge Beti Hohler , Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

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

Public

**Public redacted version of "Corrected version of "Prosecution Submission on
Article 70 Investigation",
ICC-01/14-01/18-1139-Conf-Exp-Corr, 19 October 2021**

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

The Office of the Prosecutor

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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

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Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. Pursuant to the 1 October 2021 Order of Trial Chamber V (“Chamber”),¹ the Office of the Prosecutor (“Prosecution”) provides its submissions concerning its pending article 70 inquiry. The Prosecution considers that the nature of its investigation and the evidence collected must not be disclosed pending its completion and, in no event, before the end of this year.

2. The Chamber has correctly observed that a substantial period has elapsed since the Prosecution first signalled its intention to inquire into the possible breach of article 70 in this case. However, the continued non-disclosure of the investigation remains warranted for a number of reasons. *First*, the nature of the offences under investigation militates against disclosure to the Defence, which may come within its ambit. *Second*, the present circumstances concerning the conduct of the proceedings are not conducive to disclosure without serious risk to their integrity and that of the investigation. *Third*, the length of investigation is not unreasonable, particularly given the adverse impact that domestic health policies and restrictions related to the COVID-19 pandemic have had on international cooperation. *Fourth*, the continued non-disclosure is justified and does not cause any undue or unfair prejudice to the Accused.

II. CONFIDENTIALITY

3. Pursuant to regulation 23*bis*(1) of the Regulations of the Court (“RoC”), this document is filed as “Confidential, EX PARTE, available only to the Prosecution and the VWU”, as it refers to filings of the same classification.

¹ ICC-01/14-01/18-1127, para. 29

III. SUBMISSIONS

A. The nature of the investigation warrants non-disclosure

4. The nature of the conduct under investigation – offences against the administration of justice in this case, militates against disclosure to the Defence. As noted in its 8 June 2021 request for non-disclosure under rule 81(2),² the material acquired during the course of the Prosecution’s investigation tends to implicate the actions of persons closely associated with the NGAISSONA Defence. These comprise [REDACTED]. In such circumstances, the objective risk to the investigation is manifest, for the reasons stated in the Rule 81(2) Request, incorporated herein by reference.³

B. Disclosure in the current circumstances risks the integrity of the investigation and the case

5. The prevailing circumstances as the trial unfolds are not conducive to disclosure without a serious risk to its integrity and that of the investigation.

6. Since the Prosecution began its article 70 inquiry in early April 2021, [REDACTED] conduct tending to undermining the proceedings. The Chamber recently noted that it “has been informed of several incidents [REDACTED].⁴ These quintessential indicia of improper interference would only be heightened by premature disclosure of information critical to the focus and direction of the article 70 investigation.

7. In circumstances where the three Prosecution witnesses have unexpectedly absented themselves from these proceedings without any explanation, disclosing

² ICC-01/14-01/18-1016-Conf-Exp.

³ ICC-01/14-01/18-1016-Conf-Exp, paras. 7,8.

⁴ ICC-01/14-01/18-1136-Conf, para. 7.

material bearing on the pending investigation into possible witness interference would be imprudent at this stage.

C. The investigation is not unreasonably lengthy

8. The length of the pending investigation is not unreasonable. As noted, domestic health policies and restrictions related to the COVID-19 pandemic have had a direct impact on the celerity of international cooperation efforts. For instance, certain [REDACTED] records relevant to the pending investigation was only received September 2021, notwithstanding a Request for Assistance (“RFA”) issued on 8 June 2021. Other materials, such as [REDACTED] data – specifically relevant to information provided [REDACTED] promptly pursued with the relevant authorities — has yet to be received. The Prosecution understands this delay to be directly attributable to the implementation of COVID restrictions in [REDACTED], which affected the normal operation of its court system.

9. Notably, the Prosecution lacks any inherent enforcement power with respect to the rendition of state cooperation in the context of its investigations, including with regard to timely compliance with its RFAs. That is not to say that material evidence obtained during the course of an ongoing investigation may be withheld indefinitely. However, it is a clear factor which bears on the reasonableness in its conduct, as well as on the fairness in the timing of disclosure as balanced the objectively justifiable risks attendant to it.

D. Non-disclosure does not cause prejudice

10. The continued non-disclosure of the investigation and materials obtained during its course is not inconsistent with the Accused's rights, nor causes undue or unfair prejudice.

11. Consistent with the Chamber's previous directions, the Prosecution has assessed the necessity of disclosing the material and/or portions thereof identified in its Rule 81(2) Request. However, the continuation of *apparent* efforts to interfere with witnesses – whether or not associated with the Accused – militates against jeopardising the integrity of the investigation.

12. The Prosecution is aware of reported efforts to interfere with [REDACTED]. In addition, [REDACTED], [REDACTED].

13. Although the Prosecution does not propose to extend its inquiry to every questionable circumstance that may arise concerning witness security and possible interference, it considers that it should be afforded the opportunity to receive and reasonably develop information requested months ago before disclosure should take place. Indeed, the information developed (given the chance) may substantiate the Chamber's previous concern that [REDACTED].⁵

⁵ ICC-01/14-01/18-1063-Conf-Exp, para. 7.

IV. CONCLUSION

14. In view of the above, the Prosecution considers that the non-disclosure of information related to the ongoing article 70 investigation should remain in effect, and in no case, should disclosure proceed before the end of this year. At such time, the Prosecution hopes to be sufficiently advanced in its efforts to apprise the Chamber more precisely as to when disclosure may safely proceed, to the extent warranted.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 16th day of February 2026
At The Hague, The Netherlands