



Original: English

No. ICC-01/14-01/18
Date: 5 April 2019

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

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

Confidential, *Ex Parte*, only available to the Prosecutor and the VWU

Order Seeking Observations from the Prosecutor and the Victims and Witnesses Unit

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

The Office of the Prosecutor
Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor

Counsel for Alfred Yekatom

Counsel for Patrice-Edouard Ngaïssona

Legal Representatives of Victims

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, Registrar

Counsel Support Section

Victims and Witnesses Unit
Nigel Verrill

Detention Section

**Victims Participation and
Reparations Section**

Other

PRE-TRIAL CHAMBER II of the International Criminal Court issues this order seeking observations from the Prosecutor and the Victims and Witnesses Unit (the 'VWU').

1. On 11 November 2018 and 7 December 2018, the Chamber issued warrants of arrest for Alfred Yekatom and Patrice-Edouard Ngaïssona for their alleged criminal responsibility for crimes against humanity and war crimes committed in various locations in the Central African Republic respectively.¹
2. On 23 January 2019, in the case of *The Prosecutor v. Alfred Yekatom*, the Single Judge issued the 'Decision on Disclosure and Related Matters'.²
3. On 20 February 2019, the Chamber issued the 'Decision on the joinder of the cases against Alfred Yekatom and Patrice-Edouard Ngaïssona and other related matters' thereby joining the cases against Yekatom and Ngaïssona and, *inter alia*, setting the date for the confirmation of charges hearing at 18 June 2019.³
4. On 14 March 2019, the Chamber issued the 'Decision setting a deadline for the submission of applications prior to the Confirmation Hearing' thereby ordering the Prosecutor to submit any applications for the authorisation of the non-disclosure of witnesses' identities and/or the non-disclosure of entire items of evidence by 29 March 2019 at the latest.⁴
5. On 29 March 2019, the Chamber received the 'Prosecution's Requests in Response to "Decision setting a deadline for the submission of applications prior to the Confirmation Hearing (ICC-01/14-01/18-148-Conf)"'.⁵ The Prosecutor, *inter alia*,

¹ ICC-01/14-01/18-1-US-Exp - a public redacted version is also available, see [ICC-01/14-01/18-1-Red](#); ICC-01/14-01/18-89-US-Exp - a public redacted version is also available, see [ICC-01/14-01/18-89-Red](#).

² ICC-01/14-01/18-64-Conf - a public redacted version is also available, see [ICC-01/14-01/18-64-Red](#).

³ [ICC-01/14-01/18-121](#); [ICC-01/14-01/18-87](#).

⁴ ICC-01/14-01/18-148-Conf, para. 12.

⁵ ICC-01/14-01/18-162-Conf-Exp with 6 confidential *ex parte* annexes, only available to the Prosecutor and VWU - a confidential redacted version is also available, see ICC-01/14-01/18-162-Conf-Red with 6 confidential *ex parte* annexes, only available to the Prosecutor and VWU.

sought an extension of three weeks to the 29 March 2019 deadline to request authorisation to withhold the identities of additional witnesses.⁶

6. On 4 April 2019, the Chamber issued the 'Second Decision on Disclosure and Related Matters' in which it, *inter alia*, ordered the Prosecutor to disclose, in addition to a list of evidence she intends to present at the confirmation of charges hearing within the meaning of rule 121(3) of the Rules of Procedure and Evidence (the 'Rules'), all evidence within the meaning of article 67(2) of the Rome Statute (the 'Statute') in her possession or control and all material referred to in rule 77 of the Rules in her possession or control by 17 May 2019 at the latest.⁷

7. The Chamber notes articles 61(3) and 67(2) of the Statute and rules 63(1), 77 and 121(2) of the Rules.

8. Noting the aforementioned deadline, the Chamber orders the Prosecutor to submit written observations on the following questions by 12 April 2019 at the latest:

- a. How many witnesses have been referred to the VWU for protection purposes at present? How many additional witnesses does the Prosecutor intend to refer to the VWU for protection purposes before the confirmation of charges hearing?
- b. Does the Prosecutor intend to submit further requests for non-standard redactions regarding any evidence she has to disclose? How many requests to withhold the identity of witnesses and/or to present summaries of items of evidence pursuant to articles 61(5) and 68(5) of the Statute does the Prosecutor intend to submit before the confirmation of charges hearing?
- c. Does the Prosecutor wish to bring any other relevant matters to the attention of the Chamber?

⁶ ICC-01/14-01/18-162-Conf-Exp, paras 16-20.

⁷ ICC-01/14-01/18-163.

9. The Chamber further orders the VWU to submit written observations on the following questions by 12 April 2019 at the latest:

- a. How many witnesses have been referred to the VWU for protection purposes at present? Has the VWU put all measures in place to protect these witnesses, if any, for the purposes of the confirmation of charges hearing? If not, how much time is required to put all required measures in place?
- b. In case additional witnesses are referred to the VWU, how much time would be required to put the necessary measures in place to protect such witnesses for the purposes of the confirmation of charges hearing?
- c. Does the VWU wish to bring any other relevant matters to the attention of the Chamber?

FOR THESE REASONS, THE CHAMBER HEREBY

ORDERS the Prosecutor and the VWU to provide observations, as set forth in paragraphs 8 and 9 of the present decision respectively, by 12 April 2019 at the latest.

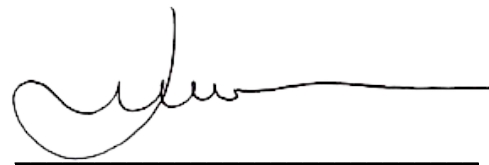
Done in both English and French, the English version being authoritative.



**Judge Antoine Kesia-Mbe Mindua,
Presiding Judge**



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Friday, 5 April 2019

At The Hague, The Netherlands