

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **24 December 2021**

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***

Confidential

**Submission regarding the Decision on the Yekatom Defence Motion for Finding of
Disclosure Violation and Additional Remedies (*ICC-01/14-01/18-1202-Conf*)**

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 James Stewart

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 Prosecution hereby notifies the Parties and Participants that it has completed the targeted review of material in its possession, in accordance with Trial Chamber V's ("Chamber") 7 December 2021 Decision.¹ As elaborated below, the Prosecution confirms that it has disclosed all material in its possession assessed as falling within its statutory obligations.

II. CONFIDENTIALITY

2. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this Submission is filed as "Confidential", as it refers to filings of the same designation. The Prosecution does not object to the reclassification of this Submission as Public, should the Chamber deem it appropriate.

III. SUBMISSIONS

3. As foreshadowed in its request to vary the applicable time limits for compliance with the 7 December 2021 Decision² which was granted without objection on 13 December 2021,³ the Prosecution has conducted and completed its re-review and re-examination of items assessed as immaterial in respect of specific areas of its collection. In particular, these comprise documents relating to trial witnesses and material outside of the digitized Ringtail collection.⁴ The Prosecution has thus identified an additional 44 items falling within its disclosure obligations.

4. These items have been submitted to the Prosecution's Information and Evidence Unit for processing. Their disclosure, normally facilitated by the Registry's eCourt

¹ ICC-01/14-01/18-1202-Conf, para. 22.

² ICC-01/14-01/18-1207-Conf ("Regulation 35 Request").

³ ICC-01/14-01/18-1208.

⁴ ICC-01/14-01/18-1207-Conf, para. 11.

Support team, is scheduled for 24 December 2021. A disclosure communication will be duly filed.

5. In conducting its targeted re-review, the Prosecution has ensured that its disclosure practice has been effective as applied in this case, and that it has appropriately and reasonably assessed, identified, and disclosed all items within its possession as required under the Court's Statute and Rules. The Prosecution thus reaffirms the efficacy of its disclosure procedures to date.⁵

6. No disclosure process is perfect. And one involving a collection likely of unprecedented size at the Court⁶ is clearly challenging. That said, the Prosecution is confident that it has, to the best of its ability, appropriately identified and disclosed all documents material to the proceedings within its possession.⁷

7. The Prosecution further acknowledges that its disclosure obligations are continuing, and it is fully disposed to discharge them. Likewise, the Prosecution remains amenable to reviewing its collection for specific information upon founded and properly motivated⁸ requests on an *inter partes* basis.



Karim A. A. Khan QC, Prosecutor

Dated this 24th day of December 2021

At The Hague, The Netherlands

⁵ See ICC-01/14-01/18-1149-Conf, para. 33 (noting that the Prosecution had disclosed 32,279 items comprising around 188,384 pages as of 27 October 2021).

⁶ ICC-01/14-01/18-1207-Conf, para. 11, (recalling, ICC-01/14-01/18-474-Conf, paras. 23-24).

⁷ See e.g., ICC-01/12-01/18-768-Red, paras. 13 and ICC-01/12-01/18-859-Red, paras. 9-10 (defining 'materiality'); see also ICC-01/04-01/06-2147, 23-24 (concerning the scope of rule 77 in terms of 'material effect').

⁸ See e.g. also ICC-01/12-01/18-768-Red, paras. 13; see also ,ICC-01/12-01/18-859-Red, paras. 9, 17, 22, 23.