

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **2 July 2024**

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung
Judge Beti Hohler, Alternate Judge

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

Public

**Public redacted version of "Prosecution's Notification of possible self-
incrimination of a Defence witness pursuant to rule 74",
ICC-01/14-01/18-2538-Conf, 20 June 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

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I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) notifies Trial Chamber V (“Chamber”) of potential issues regarding self-incrimination which may arise during the testimony of Defence witness D30-4848, pursuant to rule 74(8) of the Rules of Procedure and Evidence (“Rules”).¹ The Chamber should thus direct the Registry to identify and appoint qualified counsel to advise witness D30-4848 on matters of self-incrimination, pursuant to rule 74.

II. CONFIDENTIALITY

2. Pursuant to regulation 23*bis*(1) of the Regulations of the Court (“RoC”), this submission and its Annexes are filed as “Confidential”, as they contain sensitive information pertaining to witness security that should not be made public. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

3. The Prosecution expects that D30-4848’s prospective testimony² may raise issues of self-incrimination and advises the Chamber accordingly.³

4. The Prosecution is in possession of information that D30-4848 [REDACTED]. As D30-4848 may be appropriately questioned regarding such conduct, his prospective truthful testimony may directly implicate him in [REDACTED]. In addition, the Witness may also be liable to potential [REDACTED].⁴

¹ See also ICC-01/14-01/18-631, para. 38 (“Initial Directions”).

² Currently scheduled for 4-8 July 2024, as indicated in the e-mail from the Ngaissona Defence sent on 3 June 2024 at 13:07.

³ See rule 74(8) (“[w]here the Prosecutor is aware that the testimony of any witness may raise issues with respect to self-incrimination, he or she shall ... advise the Chamber of this, in advance of the testimony of the witness”).

⁴ See [REDACTED].

D30-4848's Alleged Criminal Conduct

5. As described in the Investigation Report attached at Annex A, [REDACTED].⁵
6. [REDACTED].⁶ [REDACTED].⁷
7. Appointing D30-4848 with a rule 74 duty counsel at this stage will avoid any potential disruptions or delays that may otherwise arise during the course of his testimony.⁸ It will also ensure that the Witness can testify without undermining his fundamental rights against self-incrimination, and may be conducive to his more complete and truthful testimony.

IV. CONCLUSIONS

8. For the above reasons, the Chamber should consider directing the Registry to identify and appoint, as necessary, qualified counsel to advise witness D30-4848 on self-incrimination, pursuant to rule 74.



Karim A. A. Khan KC, Prosecutor

Dated this 2nd day of July 2024
At The Hague, The Netherlands

⁵ See Annex A, [REDACTED].

⁶ See Annex B, [REDACTED]; *see also* Annex A, [REDACTED].

⁷ See Annex B, [REDACTED].

⁸ See rule 74(10) (“[i]f an issue of self-incrimination arises in the course of the proceedings, the Chamber shall suspend the taking of the testimony and provide the witness with an opportunity to obtain legal advice if he or she so requests for the purpose of the application of the rule”).