

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



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

Date: 07 October 2022

**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  
THE PROSECUTOR *v.* ALFRED ROMBHOT YEKATOM &  
PATRICE-EDOUARD NGAÏSSONA**

**Confidential  
With Confidential Annex I**

**Victims and Witnesses Unit's Observations on the "Urgent Yekatom Defence  
Request for Reports from Victims and Witnesses Unit regarding Statement  
Corrections" (ICC-01/14-01/18-1584-Conf)**

**Source:** Registry

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

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## **I. Introduction**

1. On 27 September 2022, the Defence for Mr Alfred Rombhot Yekatom submitted the "Urgent Yekatom Defence Request for Reports from Victims and Witnesses Unit regarding Statement Corrections" ("Defence Request").<sup>1</sup>
2. The Victims and Witnesses Unit ("VWU" or "Unit") submits these observations on the Defence Request, pursuant to Trial Chamber V's ("Chamber") instruction communicated by way of email on 27 September 2022 and after internal consultation with the Language Services Section of the Registry ("LSS").<sup>2</sup>

## **II. Classification**

3. In accordance with regulation 23*bis* (2) of the Regulations of the Court, the present observations are classified as confidential as they refer to the Defence Request with that same level of classification.

## **III. Background**

4. On 25 and 26 August 2022, as part of the familiarisation process for witness P-1339 ("Witness"), the LSS at the request of the VWU assisted the Witness with the reading of his statement as the witness was not fluent enough in French.
5. On 2 September 2022, during the Witness's testimony, it became apparent that there was some confusion regarding handwritten corrections made to the statement. The Presiding Judge therefore ordered the VWU to clarify the circumstances surrounding the corrections.<sup>3</sup>
6. That same day, the VWU informed the Chamber that the witness had been assisted by two different interpreters and that corrections had been made by one of them on the first day of the familiarisation upon witness' instruction as

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<sup>1</sup> ICC-01/14-01/18-1584-Conf.

<sup>2</sup> Email from Trial Chamber V Communications, 27 September 2022 at 17:15.

<sup>3</sup> Transcript of 2 September 2022, ICC-01/14-01/18-T-152-ENG (RT), p. 53, lines 7-11.

per the usual practice.<sup>4</sup> The VWU also committed to gather more details on the incident and to report back to the Chamber. On 5 September further information was provided by the VWU to the Chamber, parties and participants.<sup>5</sup> In this report the VWU confirmed that on 25 August 2022, the Witness had been assisted by an interpreter who provided sight translation of his statement (from French to Sango) and made some corrections at his request. The VWU therefore indicated that the handwriting at the beginning of the statement was his (the interpreter's). Concerning the second handwriting on the document, the VWU indicated that on 26 August the Witness made a correction to his statement himself which explained the different handwriting visible on the document.

#### IV. Submissions

7. Following the circumstances described above, the VWU has been working together with LSS to ensure that corrections made by interpreters are clearly indicated as such. VWU and LSS agreed on formalizing their professional practice in detailed guidelines in order to ensure a harmonised process for all staff members involved in statement reading assistance.
8. Those guidelines take into account the need for corrections made by interpreters to be clearly signalled as such in order to avoid any confusion and loss of time in the Courtroom as per the Defence "first request"<sup>6</sup> while applying a basic security principle according to which the full names of interpreters and VWU operators are not to be known to witnesses.
9. Concerning the "second request"<sup>7</sup> of the Defence, the Registry does consider that it should not be necessary to ask witnesses to affix their signature to each correction (also considering that assistance with corrections is limited to

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<sup>4</sup> Email from VWU to Parties and Participants dated 2 September 2022 at 17:20 (See Annex A to the Defence Request).

<sup>5</sup> Email from VWU to Parties and Participants dated 5 September 2022 at 12:14 (See Annex A to the Defence Request).

<sup>6</sup> See ICC-01/14-01/18-1584-Conf, Para. 9.

<sup>7</sup> See ICC-01/14-01/18-1584-Conf, Para. 10.

illiterate witnesses) and refers to information the Registry suggests to include in the "explanatory note" that would be provided along with the correction.<sup>8</sup> The Registry trusts that having one VWU staff and one accredited interpreter confirming that the corrections were made on behalf of the witness, after recording the witness's own confirmation, should provide sufficient reassurance to the Chamber, parties and participants.

10. Regarding the Defence "third request" that "any comments made by a witness to the interpreter relative to corrections made to their statement that cannot be directly reflected by the correction be noted in the report"<sup>9</sup>, the Registry submits the following observations:

- 1) The interpreter is a neutral service provider with no agency to act on his/her own initiative. ICC field interpreters are advised during their training not to engage in discussion with witnesses and would therefore not engage in "side comments" and certainly would not record such comments. Interpreters would rather state explicitly that they are not permitted to engage in such conversations. When a comment is made "directly" related to the correction this comment is duly marked down by the interpreter on the statement or in a document attached to the statement.
- 2) Similarly the VWU will never engage with a witness in any discussion in relation to the content of his statement or testimony and would instead invite the witness to address any such issues/comments directly with the Chamber at the beginning or in the course of his or her testimony.<sup>10</sup>
- 3) All other scenarios are in the opinion of the Registry sufficiently covered by the "Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial" ("Familiarisation Protocol") and especially by the duty of the VWU to report to the entity calling the witness, the Chamber and the legal adviser of the witness any "exceptional event"

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<sup>8</sup> See Annex 1 to the present submission.

<sup>9</sup> See ICC-01/14-01/18-1584-Conf, para. 11.

<sup>10</sup> Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial", 8 October 2020, ICC-01/14-01/18-677-Anx1, para. 89

occurring "during the statement reading process [that would] come to the attention of VWU staff".<sup>11</sup>

11. The Registry hereby submits, as Annex I, the "Guidelines for Corrections of Witness Statements by a Third Party" ("Guidelines"). The Guidelines are an addendum to the Familiarisation Protocol. Specifically, they should be read in conjunction with section 2.6 of the Familiarisation Protocol, which concerns the "reading and provision of statement"<sup>12</sup>.



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Marc Dubuisson, Director Division of Judicial Services  
on behalf of Peter Lewis, Registrar

Dated this 07 October 2022

At The Hague, the Netherlands

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<sup>11</sup> *Ibid.*, para. 90.

<sup>12</sup> *Ibid.*, para.83.