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**No. ICC-01/14-01/18
Date: 7 November 2023**

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 YEKATOM AND PATRICE-EDOUARD
NGAISSONA***

Public

**Decision on the Yekatom Defence Request for Cooperation from the Special
Criminal Court in the Central African Republic**

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

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Trial Chamber V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Articles 57(3)(b), 64(2) and (6)(a), 86, 87, 93(1)(i), 96(2) and 99(1) of the Rome Statute and Rules 116(1) and 176(2) of the Rules of Procedure and Evidence, issues this ‘Decision on the Yekatom Defence Request for Cooperation from the Special Criminal Court in the Central African Republic’.

1. On 7 September 2023, the Yekatom Defence (the ‘Defence’) requested that the Chamber seek the cooperation of the Special Criminal Court in the Central African Republic (the ‘SCC’) to transmit a series of documents in its possession, as further specified in Annex A (the ‘Sought Items’ and the ‘Request’).¹
2. On 18 September 2023, the Office of the Prosecutor (the ‘Prosecution’) opposed the Request (the ‘Response’). It argues that the extent of the redactions does not allow it to adequately respond. Therefore, it requests that the Chamber stay its decision, order the Defence to file a lesser redacted version of the Request – including the Annexes A and B to the Request –, and that the deadline to respond be extended as of the date of receipt of said documents (the ‘Prosecution Request’).²
3. The Chamber recalls the applicable law concerning cooperation requests, notably that they must meet three cumulative requirements of relevance, specificity and necessity.³ With regard to the requirement of specificity, the Chamber agrees that a category of documents may be requested as long as it is ‘defined with sufficient

¹ Demande de la Défense de Monsieur Yekatom afin que soit rendue une Ordonnance relativement à la coopération de la Cour Pénale Spéciale, ICC-01/14-01/18-2078-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence and the Registry (with confidential *ex parte* Annexes A and B, ICC-01/14-01/18-2078-Conf-Exp-AnxA, ICC-01/14-01/18-2078-Conf-Exp-AnxB, only available to the Yekatom Defence and the Registry) (public redacted version notified the same day, ICC-01/14-01/18-2078-Red), paras 1-2, 23, p. 12.

² Réponse de l’Accusation à la « Version publique expurgée de la “Demande de la Défense de Monsieur Yekatom afin que soit rendue une Ordonnance relativement à la coopération de la Cour Pénale Spéciale” » (ICC-01/14-01/18-2078-Red), ICC-01/14-01/18-2102, paras 1-8.

³ See e.g. Decision on the Yekatom Defence Request for Cooperation from Ireland, 28 July 2022, ICC-01/14-01/18-1531-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence, the Registry and the Competent Authorities of Ireland (confidential redacted version notified on 10 August 2022, ICC-01/14-01/18-1531-Conf-Red), paras 3-4 and the references cited therein.

clarity to enable ready identification’. However, ‘broad categories of documents without any type of limitation’ do not meet the condition of specificity.⁴

4. The Defence submits that the Sought Items are sufficiently identified, given that the category of documents as mentioned in Annex A to the Request contain several temporal, geographical and material limitations.⁵ However, the Chamber is not persuaded that the requirement of specificity is met. The Defence is requesting the SCC to share ‘*tout élément de preuve* [in the latter’s possession] *ayant trait aux événements* [in question]’, further indicating that its request focuses ‘*essentiellement sur les archives et éléments officiels auxquels* [the Defence may have access] *concernant les faits*’.⁶ In the Chamber’s view, despite the limitations mentioned above, the description of the Sought Items would not enable the SCC to easily identify them.⁷ Furthermore, the Defence fails to identify specific categories of documents, rather it is seeking to obtain any available evidence regarding certain events.
5. Noting that the requirements are cumulative, the Chamber does not consider it necessary to address the arguments raised in relation to relevance and necessity.
6. In light of the above, the Chamber rejects the Request. It will therefore not entertain the Prosecution Request.

⁴ See Trial Chamber IV, *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, Decision on “Defence Application pursuant to Articles 57(3)(b) & 64(6)(a) of the Statute for an order for the preparation and transmission of a cooperation request to the African Union”, 1 July 2011, ICC-02/05-03/09-170, paras 16, 19-20.

⁵ Request, ICC-01/14-01/18-2078-Conf-Exp, paras 23-26. See also Annex A to the Request, ICC-01/14-01/18-2078-Conf-Exp-AnxA, p. 3.

⁶ Annex A to the Request, ICC-01/14-01/18-2078-Conf-Exp-AnxA, p. 3.

⁷ See also Annex B to the Request, ICC-01/14-01/18-2078-Conf-Exp-AnxB, p. 2.

FOR THESE REASONS, THE CHAMBER HEREBY

REJECTS the Request.

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



Judge Péter Kovács



Judge Bertram Schmitt

Presiding Judge



Judge Chang-ho Chung

Dated 7 November 2023

At The Hague, The Netherlands