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**International
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Court**

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Date: 13 June 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 *THE PROSECUTOR v.*
*ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Confidential

**Yekatom Defence Response to Ngaïssona Defence First Bar Table Motion
(ICC-01/14-01/18-2514-Conf)**

Source: Defence for Mr. Alfred Rombhot Yekatom

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

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INTRODUCTION

1. The Defence for Mr Alfred Rombhot Yekatom ('Defence') hereby responds to the 'Ngaïssona Defence's First Application for the Submission of Evidence from the Bar Table'¹ ('Application').

SUBMISSIONS

2. The Defence takes no position on the formal submission of items 4-13 in category I ('National government documents');² likewise, in respect of the items in category II ('Anti-Balaka documents'),³ category III ('Intergovernmental organisation documents'),⁴ and category IV ('FIFA documents').⁵
3. The Defence does not oppose the formal submission of the remaining three documents, and provides the following submissions as to their relevance and probative value.

A. Items 1-3 in Category I (National government documents)

i) Item 1: (CAR-OTP-2100-0582)

4. The Defence submits that this document goes to proof of the prevailing lack of security in the Central African Republic in February 2014.
5. It evidences the fact that Transitional President Catherine SAMBA-PANZA (P-0952) stated in a 27 February 2014 meeting of the Council of Ministers that the 'security question' remained a 'major preoccupation'; that despite the support of the international community, the security situation remained 'tense'; and that she deemed it necessary that her Transitional Government determine strategies

¹ ICC-01/14-01/18-2514-Conf.

² CAR-OTP-2101-3410, CAR-OTP-2008-0791, CAR-D30-0003-0030, CAR-D30-0003-0031, CAR-D30-0003-0029, CAR-D30-0003-0022, CAR-D30-0006-0004, CAR-D30-0003-0042, CAR-OTP-2113-0034, CAR-D30-0003-0213.

³ CAR-D30-0006-0332, CAR-OTP-2136-1366.

⁴ CAR-D30-0004-0383.

⁵ CAR-D30-0001-0039, CAR-OTP-2131-0186, CAR-OTP-2131-0271.

aimed at securing the entire territory of the CAR, as the country ought to be able to guarantee its own security.⁶ It was also suggested during the meeting that the UN-mandated 'confidence-building measures' (*mesures de confiance*) were 'penalising' the Transitional Government, to the extent that they entrusted presidential security not to the Presidential Guard but to international forces accompanied by unarmed FACA elements.⁷

6. The document is also probative of the extent to which the Seleka regime had destroyed the CAR government's institutional capacity to ensure security. For instance, in the meeting President SAMBA-PANZA insisted on the need to replace personnel from *inter alia* the police, gendarmerie, customs, and water and forestry services along the GAROUA-BOULAI / BELOKO – BANGUI axis; the need to 'reactivate' intelligence-gathering networks within the police, the gendarmerie, the Presidency and the Prime Ministerial office; and the need to restore state authority in the provinces through the rehabilitation of offices and residences of prefects and deputy-prefects, which had been 'completely pillaged'.⁸ The 'rehabilitation' of CAR armed forces bases CAMP KASSAI and CAMP GARDE (to 'usefully occupy' FACA elements) was also discussed during the meeting.⁹
7. In this regard, the document contextualises, and is corroborative of, the evidence of SAMBA-PANZA, who stated in a media interview that within one week of her having taken office, she realised that Sangaris and MISCA forces, to whom the responsibility of reestablishing order and security in CAR had been assigned (in place of the CAR armed forces), were insufficiently equipped to fulfil this task;¹⁰ and that she subsequently sought to renegotiate the

⁶ CAR-OTP-2100-0582, at 0583.

⁷ Ibid, at 0584.

⁸ Ibid, at 0584, 0585.

⁹ Ibid, at 0585.

¹⁰ See, CAR-OTP-2014-0755, 02:05-03:15 (transcript at CAR-OTP-2122-7370, 7372, l. 18-29; see also, T-252 FRA CT, 72:7-73:7.

confidence-building measures to increase the number of Sangaris and MISCA troops deployed, and to rearm the CAR armed forces and integrate them in security operations alongside the international forces.¹¹ Representatives of the Muslim community shared her desire to see the FACA re-armed, so as to enable the FACA to protect them.¹² As President SAMBA-PANZA notably stated during her evidence: « un pays ne peut pas vivre sans son armée ».¹³

8. It also corroborates evidence on the trial record of the Seleka's systematic targeting and destruction of the CAR state authorities and institutions – and in particular, the state security apparatus – and the security vacuum that ensued.¹⁴

ii) Item 2 (CAR-OTP-2100-1680)

9. This document is probative of the fact that even following the resignation of DJOTODIA in early January 2014, the Seleka remained a threat to the safety and security of the CAR civilian population; and of the presence of foreign Chadian elements and commanders within Seleka groups based in the western and north-western CAR.¹⁵ Specifically, it documents atrocities committed by Seleka elements fleeing towards the border of Chad, from towns to the west of MBAIKI – including NOLA, BERBERATI, and GAMBOULA.¹⁶ These atrocities consisted of killings of civilians – including of children, and of local administrative and religious leaders – abductions, pillaging, and burning of homes, and were committed by multiple waves of fleeing Seleka groups, including one led by a Chadian Seleka chief, in towns near or on the Chadian border, such as BANG, MBERE, and NGAOUNDAYE.¹⁷

¹¹ See, CAR-OTP-2014-0755, 03:28-06:11 (transcript at CAR-OTP-2122-7370, 7372-7373, l. 31-60).

¹² T-257 RED2 FRA, 38:15-39:23.

¹³ T-250 FRA CR, 23:8-9.

¹⁴ See e.g., (P-0291) T-051 RED FRA, 18:8-19:3; T-052 FRA ET, 3:19-27; (P-0952) T-249 FRA CT, 8:15-9:7, 15:5-9; T-250 FRA CT 23:3-9; (P-2841) T-029 RED2 FRA CT, 64:5-17; (P-1595) T-106 RED FRA, 24:10-16; (P-1666) T-230 RED FRA CT, 30:19-31:2; (P-1647) CAR-OTP-2050-0654-R02, para. 17; T-195 FRA ET, 7:6-9:2.

¹⁵ CAR-OTP-2100-1680, 1680-1681.

¹⁶ Ibid.

¹⁷ Ibid, 1681.

10. In respect of the ongoing threat posed by the Seleka following DJOTODIA's resignation, the document is corroborative of *inter alia* the evidence of Prosecution witness P-1813, who testified regarding the MBAIKI-based Seleka's attacks on civilians celebrating the resignation of DJOTODIA in the MBATA area of Lobaye province.¹⁸ It is also corroborative of the extensive evidence heard to date as regards the significant presence of foreign mercenaries and commanders within the Seleka.¹⁹

iii) Item 3 (CAR-OTP-2100-0638)

11. This document goes to proof of the 'confidence-building measures' imposed upon the transitional government by the United Nations. Specifically it demonstrates that in accordance with these measures, the CAR government mandated the effective disarmament and billeting of the CAR security forces;²⁰ and relieved the latter of their function vis-à-vis ensuring security to civilians (with the exception of certain designated 'civilian sites') and instead reassigned it to Sangaris and MISCA forces.²¹ In this regard, the document corroborates and contextualised the above-cited evidence of SAMBA-PANZA.²²

CONFIDENTIALITY

12. This Response is filed on a confidential basis corresponding to the classification of the Application. The Defence does not oppose the reclassification as public.

RESPECTFULLY SUBMITTED ON THIS 13th DAY OF JUNE 2024

¹⁸ See, CAR-OTP-2069-0035-R02, para. 41 ('On the day that DJOTODIA stepped down or the day thereafter, there was a celebration in MBATA town. The Muslims in town contacted the Seleka and asked them to come to the town. I believe on the same day, the Seleka travelled to MBATA and killed 6 people.');

¹⁹ See e.g. (P-0475) T-090 RED2 FRA, 17:6-17; (P-0291) T-051 RED FRA, 73:28-74:7; (P-0952) T-249 FRA CT, 7:25-8:14; (P-2841) T-029 RED2 FRA CT, 64:18-65:1; and CAR-OTP-2001-2564, at 2573, 2576-2577.

²⁰ CAR-OTP-2100-0638, 0638-0639.

²¹ Ibid., 0639.

²² See *supra*, para. 7.



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