

**Cour
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**International
Criminal
Court**

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

Date: **28 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***

**Public
With Confidential Annex A**

**Yekatom Defence Request for the Formal Submission of Legal,
Governmental and Political Evidence from the Bar Table**

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 Yekatom (“Defence”) hereby requests the formal submission of 24 items of evidence submitted from the bar table, in accordance with articles 64(9)(a), 69(3) and 69(4) of the Rome Statute, rule 63(2) of the Rules of Procedure and Evidence, and the procedure established in Trial Chamber V’s (“Chamber”) Initial Directions on the Conduct of Proceedings.¹ These 24 items comprise (i) 16 items emanating from legal, governmental and political entities; (ii) 2 legal codes and; (iii) 6 cooperation requests (“Submitted Items”).²
2. The Submitted Items are *prima facie* relevant to and probative of material issues at trial, including but not limited to Mr YEKATOM’s military and political career, Mr YEKATOM’s compliance with voluntary disarmament, and Mr YEKATOM’s intention to assist the population and reestablish peace and security along the PK9 Axis in early 2014 and onwards while continuously collaborating with national authorities.
3. Further, the items are mutually corroborative and bear sufficient indicia of reliability and authenticity to be recognised as formally submitted by the Chamber. Nor are there any procedural bars to the submission of these items. Recognising their formal submission would assist the Chamber’s determination of the truth and would ensure an expeditious trial.

PROCEDURAL HISTORY

4. On 17 November 2023, the Defence filed its List of Evidence.³

¹ ICC-01/14-01/18-631, paras. 53-54, 61-62.

² The items are listed in the Confidential Annex.

³ ICC-01/14-01/18-2212-Conf-AnxD.

5. On 2 February 2024, the Chamber issued its “*Further Directions on the Conduct of the Proceedings (End of Defence Presentation of Evidence and Closure of Evidence)*”.⁴ The Chamber set the deadline for the Defence to submit evidence in writing one week after the testimony of the last witness called by the Defence while strongly encouraging requests to be filed on a rolling basis during its presentation of evidence.⁵
6. On 1 March 2024, the Defence filed its notice of information on prospective bar table applications.⁶ The Defence *inter alia* indicated that it intended to file a legal, governmental and political entities bar table motion through which it would request the submission of 38 items with the caveat that the number could vary “upon further assessment of the materials, the outcome of *inter partes* communications, pending the execution of outstanding requests for assistance, and following the development of the Defence case and its investigations”.⁷
7. On 14 June 2024, the Defence inquired with Parties and Participants as to their respective positions on the items to be tendered for submission pursuant to paragraph 62 of the Initial Directions on the Conduct of the Proceedings.⁸
8. On 22 May 2024, pursuant to a request made by the Defence, the Chamber authorised the latter to file its annexes to its bar table motions in A3 format.
9. On 26 June 2024, the Prosecution provided its position on the items, indicating its intention to object to the submission of nine items.⁹ For the remaining items, the Prosecution reserved its right to raise further objections regarding authenticity, reliability, and relevance.¹⁰

⁴ ICC-01/14-01/18-2342.

⁵ ICC-01/14-01/18-2342, para. 6.

⁶ ICC-01/14-01/18-2392.

⁷ ICC-01/14-01/18-2392, paras. 2-3.

⁸ Email sent by the Defence to Parties and Participants dated 14 June 2024 at 14:30 (available upon request).

⁹ CAR-D29-0001-0123; CAR-D29-0001-0306; CAR-OTP-2101-3025; CAR-D29-0007-0036-R01; CAR-D29-0007-0039; CAR-D29-0007-0041; CAR-D29-0007-0043; CAR-D29-0007-0047; CAR-D29-0007-0196-R01.

¹⁰ Email sent by the Prosecution to Parties and Participants dated 26 June 2024 at 17:15 (available upon request).

10. On 26 June 2024, the Ngaïssona Defence indicated that it did not identify any major procedural bars to the submission of the documents, but reserved its right to provide objections based on the criteria of authenticity, reliability and relevance of the items in the Defence's formal request before the Chamber.¹¹

SUBMISSIONS

11. With regard to the methodology adopted and a description of the columns utilised in Annex A, the Defence recalls its preliminary remarks set out in the "Yekatom Defence Request for the formal submission of Audio/Video and Photographic material".¹²
12. The Defence submits that the Submitted Items meet the criteria for the recognition of their formal submission, in accordance with the applicable law.¹³ Indeed, they are relevant to material issues at trial, have sufficient probative value and their submission does not unfairly prejudice the fairness of this trial.

A. The Submitted Items are *prima facie* relevant, reliable and authentic

13. The Submitted Items are *prima facie* relevant to material issues at trial and are significant in assisting the Chamber in its determination of the truth.
14. Indeed, they show that Mr YEKATOM followed a regular career path within the FACA from a *2ème classe* to a *caporal chef* in accordance with the regulations applicable to military personnel, until withdrawing from the army to run as a Member of Parliament in 2016. Even throughout the Seleka regime, Mr YEKATOM continued to work as a FACA. He did not benefit from an exceptional promotion like other liberators close to François BOZIZE did. His absence of closeness to the latter is consistent with the fact that Mr YEKATOM

¹¹ Email sent by the Ngaïssona Defence to Parties and Participants dated 26 June 2024 at 19:39 (available upon request).

¹² See ICC-01/14-01/18-2515-Conf, paras. 9-15.

¹³ ICC-01/14-01/18-1359, paras 10-12 referring to ICC-01/14-01/18-631, paras. 53-54, 62.

did not share any common plan for the return of constitutional order and wanted to oust DJOTODIA so that the population could exercise its democratic rights and choose their president.¹⁴

15. The items also exhibit Mr YEKATOM's continuous collaboration with national authorities and his intention to secure the country and assist local populations in order to restore peace and security. By way of example, CAR-D29-0013-0028 is a handwritten report addressed to the Defence Minister in which he is informed of Mr YEKATOM's missions conducted in the LOBAYE in April 2014. The report contains *inter alia* information about Mr YEKATOM having disarmed elements and brought their weapons to the MBAÏKI gendarmerie in the presence of a MISCA element, visiting the locality of BOBOUA to reassure the people who fled that there was security, and being asked by a MISCA colonel to intervene in BODA following a looting incident.¹⁵ The Defence also highlights CAR-D29-0013-0267, a *message porté* reporting that Mr YEKATOM arrested a suspected Seleka and brought him to the gendarmerie. This item shows that in August 2014, many months following DJOTODIA's resignation, individuals associated with the Seleka were still present in PK5 and along the axis, posing a threat to the local population.¹⁶ In the same vein, CAR-D29-0001-0138, a mission order dated March 2014 relating to the re-establishment of security at PK9, also reflects Mr YEKATOM's group's collaboration with national authorities to secure the MBAÏKI axis.¹⁷
16. The items are also relevant to show the intercommunal tensions between local Boda Muslims and non-Muslims who regarded each other with deep suspicion and hostility which persisted despite numerous government-supported reconciliation efforts.¹⁸

¹⁴ Items # 1-4.

¹⁵ Item # 6.

¹⁶ Item # 8.

¹⁷ Item # 16.

¹⁸ Items # 13 and 14.

17. Further, the items display sufficient indicia of reliability. Their authenticity is also corroborated by their general appearance, date, signature, stamp and logo of the entity generating the document.
18. The Submitted Items were drafted either contemporaneously or close in time to the events to which they pertain. At the time of their publication, the sources of the information had no interest in the present proceedings. None of the documents were created for the specific purpose of these proceedings.
19. Finally, these items are corroborative of other documentary evidence and testimonial evidence and advance the Chamber's inquiries.¹⁹ Where applicable, the Defence has provided reference to other evidence in this case file which corroborates the information therein and has detailed how each item relates to other such material.

B. The Submitted Items cause no prejudice to a fair trial

20. Recognizing the Submitted Items as formally submitted would not cause any prejudice to a fair trial pursuant to article 69(4) of the Statute. Indeed, all items are included in the Defence's List of Evidence and have been for several months, informing Parties of its intention to rely on them. The Defence also highlights that some of the items were initially disclosed by the Prosecution. In any event, the items' chain of custody and source identity clearly indicate the entity that provided the document. When applicable, the items bear a reference number enabling anyone to retrieve them.
21. The items are corroborative of other documentary and testimonial evidence that the Defence has already introduced as part of its case so far without being repetitive and burdening the case file. Parties were thus on notice of the

¹⁹ See Related Submitted Items column.

Defence's intended reliance and substantive arguments involving the larger themes in the case which these items relate to.

22. Finally, the Defence has detailed the relevance of the items to the charges as well as their veracity, authenticity and reliability in the present filing and its annex.

CONCLUSION

23. In light of the above, the Submitted Items meet the criteria for the recognition of their formal submission, in accordance with the applicable law. They are relevant to material issues at trial, mutually corroborative of other evidence in the case file, and bear sufficient indicia of reliability and authenticity. Recognising their formal submission will also enable the Chamber to better understand and contextualise the Defence's case, ultimately assisting the Chamber in its determination of the truth.

CONFIDENTIALITY

24. The Annex appended to this filing is classified as confidential as it refers to confidential evidence.

RELIEF SOUGHT

25. In light of the above, the Defence respectfully requests Trial Chamber V to:

RECOGNISE the Submitted Items listed in the Confidential Annex as formally submitted.

RESPECTFULLY SUBMITTED ON THIS 28th DAY OF JUNE 2024



Me Mylène Dimitri
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The Hague, the Netherlands