

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **21 August 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

**Public Redacted Version of the “Request for Leave to Reply to
Prosecution’s Response to the ‘Yekatom Defense Request for the Formal
Submission of Open-source Evidence from the Bar Table’”, 21 June 2024,
ICC-01/14-01/18-2539-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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**Victims Participation and Reparations
Section**

1. Pursuant to regulation 24(5) of the Regulations of the Court ('RoC'), the Defence for Mr. Alfred Rombhot Yekatom ('Defence') hereby seeks leave to reply to the 'Prosecution's Response to 'Yekatom Defence Request for the Formal Submission of Open-source Evidence from the Bar Table' (ICC-01/14-01/18-2516)'.¹
2. The Defence seeks a limited reply in order to clarify the case record with respect to the Prosecution's inaccurate assertion that the Defence has 'disavowed' its alibi defence and that accordingly, CAR-D29-0002-0123 lacks sufficient relevance.² In doing so, the Prosecution misrepresents the Defence's position with respect to its alibi defence.
3. Rather, as indicated in its *inter partes* correspondence, the Defence had indicated to the Prosecution that **'[g]iven how the evidence unfolded in relation Counts 1 to 3 and 11 to 16, it did not intend to call any witnesses in support of a positive alibi defence (emphasis added).'**³ Accordingly, it is the Defence's position that a positive alibi is no longer warranted as the Prosecution has failed to discharge its burden in proving that Mr. Yekatom was actually present at the [REDACTED].⁴

¹ ICC-01/14-01/18-2534-Conf.

² ICC-01/14-01/18-2534-Conf, para. 7.

³ ICC-01/14-01/18-2534-Conf, fn. 11.

⁴ See ICC-01/14-01/18-723-Conf, para. 446-447 : [REDACTED].

See **P-1839** : ICC-01/14-01/18-T-173-CONF-FRA CT from [15:38:20] to [15:38:57], and at [15:41:39] : Q. [15:36:46] Donc, Madame le témoin, vous avez déjà... en fait, [REDACTED] cela ? Et là encore, pour vous rassurer, nous sommes... vous avez donc la... l'assurance de la règle 74 à cet égard. [REDACTED] R. [15:37:15] Comme je vous ai dit, là-bas, c'est... c'est... [REDACTED] Q. [15:37:53] Donc, alors... donc, devons-nous comprendre que personne ne vous a spécifiquement [REDACTED] Est-ce ainsi qu'il faut comprendre ce que vous dites ? R. [15:38:07] Monsieur, parmi nous, il y a des incitations, il y a des groupuscules, des gens qui nous poussent à le faire, en fait, et on n'avait pas le choix de le faire. Q. [15:38:20] Oui. Et pour que les choses soient claires encore, est-ce que M. Yekatom était présent lorsque cela s'est passé ? R. [15:38:29] Non, Monsieur. M. LE JUGE PRÉSIDENT SCHMITT (interprétation) : [15:38:34] Veuillez avancer, s'il vous plaît. Me GUISSÉ : [15:38:37] Q. [15:38:39] C'est une, peut-être, question inutile par rapport à ce que vous avez... vous venez de répondre, mais on est d'accord que [REDACTED], M. Yekatom n'était pas présent ? R. [15:38:57] Non, il n'était pas là. Q. [15:40:55] Juste pour vous rappeler ma... ma question avant l'interruption de M. le Procureur, on est d'accord que, ce jour-là, [REDACTED] Fin de citation. On est d'accord que vous n'avez jamais assisté à une telle scène ? R. [15:41:26] Vous voulez parler de ce qui se passe au niveau de Coeur de Lion ? Q. [15:41:36] Oui, oui, ce... ce jour-là, avec le... ce groupe-là. R. [15:41:39] Ce jour-là, Madame, je dis et je redis : M. Yekatom n'était pas là, sur le fait.

See **P-1811** : ICC-01/14-01/18-T-114-CONF-FRA ET at [12:03:49] : [REDACTED].

See **P-1716** : ICC-01/14-01/18-T-148-CONF-FRA ET from [12:03:12] to [12:04:21] : [REDACTED].

See **P-0487** : ICC-01/14-01/18-T-201-CONF-FRA ET, from [15:20:55] to [15:21:15] : [REDACTED].

4. The Defence therefore maintains that CAR-D29-0002-0123 is of relevance to the Chamber's holistic assessment of P-1811's testimony as well as its assessment as the Prosecution's failure to establish its case against Mr. Yekatom with respect to Counts 1 to 3 and 11 to 16. A limited reply on this discrete point is therefore necessary for the Chamber's determination of the Defence's Request for the Formal Submission of Open-source Evidence from the Bar Table'.⁵
5. In accordance with regulation 23bis(1) of the RoC, this request is filed on a confidential basis as it concerns filings of the same designation. A public redacted version will be filed in due course.

RELIEF SOUGHT

6. For the foregoing reasons, the Defence respectfully requests Trial Chamber V to **GRANT** the present request for leave to reply to the Response.

RESPECTFULLY SUBMITTED ON THIS 21st DAY OF AUGUST 2024⁶



Me Mylène Dimitri
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⁵ ICC-01/14-01/18-2516-Conf.

⁶ The Defence is grateful for Legal Intern Ms Charlotte Floquet's assistance in the drafting of this filing.