



Original: English

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

Date: 19 November 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 *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public

**Public redacted version of “Prosecution’s Response to “Second Yekatom Defence
Request to Present Additional Evidence for Potential Sentencing”
(ICC-01/14-01/18-2718-Conf)”, ICC-01/14-01/18-2727-Conf, 15 October 2024**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Mr Karim A. A. Khan KC
Mr Mame Mandiaye Niang
Mr Kweku Vanderpuye

Counsel for Alfred Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé
Ms Sarah Bafadhel

Counsel for Patrice-Edouard Ngaïssona

Mr Geert-Jan Alexander Knoops
Ms Marie-Hélène Proulx
Ms Lauriane Vandeler

Legal Representatives of Victims

Mr Dmytro Suprun
Mr Abdou Dangabo Moussa
Ms Elisabeth Rabesandratana
Mr Yaré Fall
Ms Marie-Edith Douzima-Lawson
Ms Paolina Massidda

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Prosecution defers to Trial Chamber V (“Chamber”) regarding the disposition of the Second Yekatom Defence Request to Present Additional Evidence for Potential Sentencing, in part.¹ Specifically, the Prosecution objects to the introduction of D29-8025’s proposed statement for the reasons set out below.

2. Separately, the Prosecution observes that, to the extent that none of the four proposed statements have been duly certified in accordance with the express criteria required for their introduction pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence (“Rules”), they may not be received as ‘prior recorded testimony’. This, of course, does not preclude the Chamber’s receipt of the statements under alternative provisions of the Statute, including article 69(3) as it may deem appropriate, or as a Defence ‘submission’ under article 76(1).

II. CONFIDENTIALITY

3. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this submission is filed as “Confidential”, as it responds to a filing of the same designation. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

A. D29-8025’s Proposed Statement Should be Rejected

a. D29-8025

4. The Chamber should reject the proposed statement of D29-8025. The statement, *inter alia*, characterises the purported mission of YEKATOM’s elements who, the Request asserts, “reassured him that they came to free the country” and that [REDACTED] “tell the population to get out of the forest and come back to [PISSA].”²

¹ See ICC-01/14-01/18-2718-Conf (“Request”).

² ICC-01/14-01/18-2718-Conf, para. 44

Such proposed evidence is patently not relevant to the limited purpose of determining YEKATOM's prospective sentence. Similarly, the witness's characterisation of the Seleka's arrival and actions in PISSA³ have no bearing on any sentencing factor. While an interesting observation, the witness's further claim that YEKATOM's "men were getting along well with the population"⁴ is both ambiguous and conclusory to be of any value. More importantly, it too is irrelevant.

5. Although the Prosecution has no quarrel with the introduction of D29-8025's characterisation of YEKATOM's actions and statements bearing on his character or reputation in the community — *i.e.*, PISSA (a locality in which YEKATOM's Anti-Balaka group was headquartered), the trial record is replete with such evidence. It is thus unnecessarily cumulative.

6. Finally, the Request asserts that the statement reflects, *inter alia*, that "Mr Yekatom was doing what was in his power to assist and help the population of the area."⁵ While the Defence is free to characterise the import of the proposed statement even if overborne by the weight of the evidence adduced at trial, the Chamber is not obliged to accept such characterisations in determining whether and to what extent to receive what is otherwise irrelevant and/or cumulative evidence for sentencing purposes.

7. For these reasons, the Prosecution opposes the introduction of D29-8025's proposed testimony. The Prosecution defers to the Chamber's discretion in respect of the remaining three proposed witness statements, namely of D29-8023, D29-8024, and D29-8026.

³ ICC-01/14-01/18-2718-Conf, para. 44 (stating that "the arrival of Seleka in PISSA made the population of his village flee to the forest, his family included. They feared being beaten and pillaged by the Seleka men and only went back to their village after the arrival of Mr Yekatom's group in SEKIA")

⁴ ICC-01/14-01/18-2718-Conf, para. 44

⁵ ICC-01/14-01/18-2718-Conf, para. 46.

IV. CONCLUSION

8. For the reasons above, the Prosecution requests that the Chamber reject D29-8025's proposed statement, and defers to the Chamber's discretion in respect of the submission of the statements of the remaining three witnesses.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a dot.

Karim A. A. Khan KC, Prosecutor

Dated this 19th of November 2024
At The Hague, The Netherlands