

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **24 October 2025**

THE APPEALS CHAMBER

Before: Judge Solomy Balungi Bossa, Presiding
Judge Luz del Carmen Ibáñez Carranza
Judge Gocha Lordkipanidze
Judge Kimberly Prost
Judge Erdenebalsuren Damdin

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *THE PROSECUTOR v.*
*ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

Yekatom Defence Application to present additional evidence

Source: Defence for Mr. Alfred Rombhot Yekatom

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INTRODUCTION

1. Pursuant to regulation 62 of the RoC, the Defence for Mr Alfred Rombhot Yekatom ('Defence') hereby respectfully files this application to present additional evidence on appeal – specifically, the victim application form of P-1823 ('Victim Application Form').¹
2. In the Judgment, Trial Chamber V ('Trial Chamber') misstated P-1823's testimony in suggesting that his use of the term '*le nouvel an*' was not in fact referring to New Year's Day or Eve, contrary inter alia to the plain language understanding of this term. The Victim Application Form demonstrates that this was an error on the part of the Trial Chamber.
3. The Trial Chamber's misstatement of P-1823's testimony underpinned the Trial Chamber erroneous assessment of the reliability of his account, and is thus directly and indirectly relevant to multiple Defence grounds of appeal. In the circumstances, compelling reasons exist for the exercise of the Appeals Chamber's discretion to admit the Victim Application Form, in particular the fact that the Defence could not have anticipated that the Trial Chamber would interpret P-1823's testimony in a manner contrary to its plain language.
4. The Appeals Chamber is respectfully requested to rule on the admissibility of the additional evidence jointly with the issues raised in the pending Defence Appeal Brief, pursuant to regulation 62(2)(b) of the Regulations of the Court.

PROCEDURAL BACKGROUND

5. On 2 December 2022, P-1823 testified before Trial Chamber in the *Yekatom & Ngaïssona* proceedings.²

¹ CAR-OTP-00001790.

² ICC-01/14-01/18-T-183-Red2-FRA.

6. On 2 December 2022, the Common Legal Representatives of the Victims ('CLR1') requested that the Court's Victims Participation and Reparations Section be instructed to contact P-1823, to explain to him the process of applying as a victim in the proceedings ('CLR1 Request').³ On the same day, the Trial Chamber granted the CLR1 Request.⁴
7. On 23 January 2023, P-1823 completed the Victim Application Form.⁵
8. On 15 September 2023, the Prosecution disclosed the Victim Application Form.⁶
9. On 24 July 2025, the Trial Chamber issued the Judgment and Sentencing Decision ('Judgment and Sentencing Decision').⁷
10. On 26 September 2025, the Defence filed its Notice of Appeal ('Notice of Appeal').⁸

SUBMISSIONS

A. The Victim Application Form is relevant, probative, and will occasion no undue prejudice if admitted.

11. During his testimony, P-1823 gave an account of his voyage from Bangui to Mbaïki, whereby the vehicle he was travelling in was stopped by 'anti-balaka' at the checkpoint on the east side of the PK9 bridge and searched for Muslims; and he claimed to have seen Mr Yekatom among the 'anti-balaka' present.⁹
12. At trial, the Defence contested the reliability of P-1823's account on multiple bases, including on the basis of the timing of the alleged incident.¹⁰

³ ICC-01/14-01/18-1770-Anx24-Red, p. 2.

⁴ ICC-01/14-01/18-1770-Anx24-Red, p. 2.

⁵ According to metadata on Nuix; see also Form, p. 2.

⁶ According to metadata on Nuix.

⁷ ICC-01/14-01/18-2784.

⁸ ICC-01/14-01/18-2816.

⁹ See ICC-01/14-01/18-T-183-Red2-FRA, 10:25-14:16.

¹⁰ See Yekatom Defence Final Trial Brief, ICC-01/14-01/18-2737-Conf-Corr, 15 November 2024 ('Defence Final Trial Brief'), para. 489.

13. Specifically, the Defence argued that P-1823's account was materially incoherent, in that at the time of the alleged incident at the PK9 Bridge, the Seleka was still in control of PK9, whereas RFACPP members were based at the Yamwara School and had not yet begun their advance along the PK9-Mbaïki Axis.¹¹

14. In this regard, the Defence cited the fact that, whereas initially P-1823 suggested that the incident took place after the resignation of then-President Michel Djotodia (which took place on 10 January 2014),¹² he subsequently reversed this in cross-examination, stating that he did not spend New Year's (2014) in Bangui, but instead spent it in Mbaïki, with his family:

[DEFENCE] Q. [...] So if you said that you left Mbaïki -- rather, you left Bangui a couple of days after this incident, is it fair to say that, for example, you spent New Year's, you were in Mbaïki for New Year's; is that something that you might remember?

[P-1823] R. Le nouvel an? Qui pouvait même passer le nouvel an avec cette situation? C'est pas ce qui est sorti de moi. Le nouvel an, je pouvais pas résister à Bangui, parce que là, il fallait partir rejoindre ma petite famille. Même s'il s'agissait de mourir, je mourais ensemble avec ma petite famille.¹³

15. In the Judgment and Sentencing Decision, the Trial Chamber gave less weight to P-1823's reversal under cross-examination, inter alia on the basis that, 'when asked whether he spent New Year's in Mbaïki, P-1823 seemed to make reference to not wanting to stay in Bangui in "the new year" rather than not spending New Year's in Bangui.'¹⁴

16. This is a misstatement of the evidence.

¹¹ See Defence Final Trial Brief, para. 489. See also, Judgment and Sentencing Decision, para. 3297 ('Following Michel Djotodia's resignation on 10 January 2014, Mr Yekatom and elements under his control left Yamwara and headed towards the Mbaïki road.')

¹² ICC-01/14-01/18-T-183-Red2-FRA, 11:17-28. See also Judgment and Sentencing Decision, para. 3297.

¹³ Given that P-1823 testified in French and the Defence questioned P-1823 in English and the Defence reproduces the above extract in both English and French, in the interests of accuracy. See, ICC-01/14-01/18-T-183-Red2-ENG WT, 57:16-19; ICC-01/14-01/18-T-183-Red2-FRA WT, 60:1-4

¹⁴ Judgment and Sentencing Decision, para. 3403. The remaining bases will also be challenged by the Defence in the Appeal Brief; see below, paras 29, 33-34.

17. On a plain language reading of the transcript, P-1823 was referring to 31 December and/or 1 January 2014. The term ‘New Year’s’, as specifically used by the Defence during its examination, is defined in the Oxford English Dictionary as ‘New Year’s Eve or New Year’s Day’.¹⁵ The term ‘*le nouvel an*’, as used by P-1823, is defined in multiple French dictionaries as 1 January 2014.¹⁶ The English to French interpretation by the Court’s Language Services Section reflects this plain language understanding: ‘New Year’s’ was duly interpreted as ‘*les fêtes du Nouvel An*’.¹⁷
18. This plain language understanding is duly mirrored in P-1823’s Victim Application Form, completed following his testimony, in which it is expressly written that ‘*J’ai donc décidé de rentrer à Mbaïki passer les fêtes de fin d’année 2013 en famille* [emphasis added]’.¹⁸
19. The Victim Application Form is thus relevant to establish that no reasonable trial chamber would have therefore interpreted P-1823’s reference to ‘*le nouvel an*’ as referring to anything other than New Year’s Eve or New Year’s Day; and the Trial Chamber erred in thus misstating P-1823’s evidence, as the Defence will argue in support of sub-ground A.3 of the Appeal Brief.¹⁹ It is relevant to demonstrate, by extension, that the cumulative effect of the Trial Chamber’s errors, and in particular, its extensive evidence-assessment errors, gives rise to the reasonable apprehension of bias, per sub-ground A.5.²⁰

¹⁵ See, Oxford Dictionaries entry for ‘New Year’s’ (see, <https://premium.oxforddictionaries.com/definition/english/new-year?q=new+year>).

¹⁶ The *Larousse Dictionnaire de Français* defines the term ‘*le Nouvel An*’ as ‘*le premier jour de l’année*’ (see <https://www.larousse.fr/dictionnaires/francais/an/3163#168293>), while the *LeRobert Dico en Ligne* the term as ‘*le 1^{er} janvier*’ (see <https://dictionnaire.lerobert.com/definition/an>).

¹⁷ See ICC-01/14-01/18-T-183-Red2-FRA WT, 59:26-28.

¹⁸ Victim Application Form, p. 5.

¹⁹ See Notice of Appeal, para. 22.

²⁰ See Notice of Appeal, para. 24. See also, *Prosecutor v. Ntaganda*, Decision on request for the admission of additional evidence on appeal of 22 October 2020 (ICC-01/04-02/06-2617-Conf), [ICC-01/04-02/06-2617-Red](#), 13 November 2020, para. 15(iii) (‘Ntaganda Decision on Additional Evidence’). See below, paras 35-37.

20. In turn, these sub-grounds underpin the Defence's broader challenge to the reliability of P-1823's account, which in turn underpins Trial Chamber's material factual finding that the purpose of RFACPP checkpoints was the search and identification of Muslims,²¹ and thus relate by extension to sub-grounds D.4, D.5, D.7, D.8 (errors in findings on the common plan; Mr Yekatom's control over the RFACPP and the crimes; and his *mens rea*); and sub-grounds G.4, G. 11, and G.12, in which the Defence will argue errors in relation to the specific crimes comprising Mr Yekatom's convictions on counts 24, 25, and 28.²²
21. The Victim Application Form is probative.²³ It comprises a standard ICC victim application form that was completed contemporaneous to his testimony (which would therefore have been fresh in his mind), and is dated and signed by P-1823; and it was duly provided by VPRS to the Prosecution.²⁴
22. Lastly, the admission of the Victim Application Form will not prejudice the fairness of the trial.²⁵ The Prosecution and the CLR1 have been in possession of the Victim Application Form since September 2023.²⁶ They have thus been fully cognisant of P-1823's statements therein for over two years, and will therefore long have been aware that the document reflected the plain language understanding of his reference to '*le nouvel an*' during his testimony. In any event, both parties will have ample time and opportunity to respond to the Defence's submissions (both here and in the pending Appeal Brief), noting that regulation 62 (2) of the RoC envisages the opportunity for both parties to respond to this application and to 'adduce any evidence in response'.²⁷

²¹ See Judgment and Sentencing Decision, paras 3383-3416. See also, Defence Final Trial Brief, para. 489.

²² See e.g. Judgment and Sentencing Decision, paras 117, 4302, 4310-4312, 4314, 4320, 4325, 4328, 4337, 4346, 4356-4357, and 4366. See Notice of Appeal, paras 40-41, 43-44, 70, 77-78.

²³ See Ntaganda Decision on Additional Evidence, para. 15(iii).

²⁴ Victim Application Form, p. 5. See, Chain of Custody information, available in Nuix.

²⁵ See Ntaganda Decision on Additional Evidence, para. 15(iii).

²⁶ See above.

²⁷ Regulation 62(2) of the RoC states that, 'The Appeals Chamber may: (a) Decide to first rule on the admissibility of the additional evidence, in which case it shall direct the participant affected by the application filed under sub-regulation 1 to address the issue of admissibility of the evidence in his or her response, and to adduce any evidence in response only after a decision on the admissibility of that evidence has been issued by the Appeals Chamber; or

23. Nor will its admission prejudice the fair evaluation of the testimony of a witness.²⁸ On the contrary, its admission will do the opposite: it will facilitate the proper and necessary execution of the Appeals Chamber's corrective powers in respect of the incorrect, and thus unfair, evaluation of P-1823's testimony. Moreover, ensuring that the Trial Chamber's manifest misstatement of his testimony is rectified so as to reflect his statements made in his Victim Application Form would also be in the interests of P-1823.

B. The Appeals Chamber should admit the Victim Application Form in the exercise of its discretion.

24. Recalling that regulation 62 applications must be considered in light of the distinct features of appellate proceedings, and in particular, their corrective nature; and further recalling that it remains within the Appeals Chamber's discretion to admit additional evidence on appeal despite the criteria not being met, the Defence submits that compelling reasons exist in favour of doing so.²⁹
25. Firstly, the Defence concedes that the Victim Application Form was not 'unavailable', nor could it 'not have been produced', at trial.³⁰
26. However, the Victim Application Form was not submitted at trial simply because the specific relevance of the Victim Application Form only became clear following the issuance of the Judgment and Sentencing Decision.
27. As noted above, the Defence emphasises that it does not purport to rely on the Victim Application Form for the truth of its content. In other words, it does not intend to rely on P-1823's statement therein – i.e. that he returned to Mbaiki for the 2013 end-of-year festivities – to factually establish the whereabouts of P-

(b) Decide to rule on the admissibility of the additional evidence jointly with the other issues raised in the appeal, in which case it shall direct the participant affected by the application filed under sub-regulation 1 to both file a response setting out arguments on that application and to adduce any evidence in response.'

²⁸ See Ntaganda Decision on Additional Evidence, para. 15(iii).

²⁹ See Ntaganda Decision on Additional Evidence, para. 15(iv).

³⁰ See Ntaganda Decision on Additional Evidence, para. 15(i).

1823 at that time. On the contrary, the Victim Application Form demonstrates what P-1823 meant when he referred to '*le nouvel an*' in answering the Defence's question as to whether he spent 'New Year's' in Mbaïki. By extension, the Victim Application Form is relied on to demonstrate i) that the Trial Chamber misstated P-1823's evidence in finding that he was not referring to New Year's Eve or New Year's Day in his testimony; and ii) that the effect of the Trial Chamber's myriad errors, cumulatively assessed, give rise to a reasonable apprehension of bias.

28. As such, the fact that the Victim Application Form was not tendered or admitted at trial was not the result of a failure of due diligence. Rather, it arises from the Trial Chamber's specific error concerning P-1823's testimony, which lacked a reasonable basis and was, by extension, not reasonably foreseeable. In these circumstances, the Defence could not reasonably be expected to have tendered the document in anticipation that the Trial Chamber would misstate the evidence of P-1823, contrary to the plain language understanding, not to mention the English and French dictionary definitions, of the relevant terms.
29. In this regard, this Application falls squarely within the parameters of the corrective nature of the appeal process, and entirely consistent with the principle that 'evidence should, as far as possible, be presented before the Trial Chamber, which has the primary responsibility for evaluating the evidence'.³¹
30. The Appeals Chamber's discretion should thus supersede the principle that 'generally'³² additional evidence will not be admitted unless it was unavailable or could have been produced at trial.
31. Secondly, the Victim Application Form could have led the Trial Chamber to enter a different verdict, had it not extensively committed factual and legal

³¹ See Ntaganda Decision on Additional Evidence, para. 15.

³² See Ntaganda Decision on Additional Evidence, para. 15(i), emphasis added.

errors in finding that P-1823's account was reliable, and that the purpose of RFACPP checkpoints was the search and identification of Muslims; and more broadly, in entering key findings underpinning Mr Yekatom's individual criminal responsibility.³³

32. In this regard, due consideration should be given to i) the complexity and size of this case, and in particular, its evidential record; and ii) the sheer scale and number of errors contained in the Judgment and Sentencing Decision.³⁴ As a structural function of these extraordinary circumstances – specifically, the manner in which the overwrought framework of factual and legal findings underpinning Mr Yekatom's convictions is permeated with extensive cascading errors – the Victim Application Form cannot in of itself, have led to a different verdict.
33. Further to the above, the circumstances at hand are thus appropriate for the exercise of the Appeals Chamber's discretion to admit the Victim Application Form, in spite of negative findings certain of the relevant criteria.
34. Mr Yekatom's recourse to regulation 62 of the RoC should not be nullified or otherwise limited simply on account of circumstances that are beyond his control. Indeed, it would be regrettable that the Appeals Chamber's ability and duty to exercise its corrective function would be undermined precisely as a consequence of the unreasonableness and sheer quantity of errors of the Trial Chamber's errors that the Appeals Chamber is called upon to correct.
35. Lastly, and in this vein, the Defence respectfully requests that the Appeals Chamber exercise its power to rule on the admissibility of the Victim

³³ See Ntaganda Decision on Additional Evidence, para. 15(ii).

³⁴ See ICC-01/14-01/18-T-312-ENG ET WT, 4:7-12; 21:20-21. See also ICC-01/14-01/18-2789, para. 12 and references therein; and see also generally, Notice of Appeal.

Application Form ‘jointly with the other issues raised in the appeal’ pursuant to regulation 62(2)(b) of the RoC.

36. The Defence submits that the complex interplay of relevant errors as well as their cumulative effect,³⁵ can only by their nature properly be demonstrated by the Defence, and appreciated by the Appeals Chamber, in the pending Defence Appeal Brief. As such, pursuant to articles 62(2) and 83(1) of the Rome Statute, and in the interests of due respect for Mr Yekatom’s fair trial rights including the principle of *audi alteram partem*, the Appeals Chamber should defer its decision on the admissibility of the Victim Application Form until it has been fully briefed on the various sub-grounds to which the evidence relates, as set out above.³⁶
37. No prejudice would be occasioned through this course of action, as the specific (and narrow) relevance of the Victim Application Form, i.e. that it assists to demonstrate that Trial Chamber misstated the evidence of P-1823 as set out above, will have thus been broadcast to the parties in its entirety, thus allowing ample time and opportunity to respond accordingly.

RELIEF SOUGHT

38. For the foregoing reasons, the Defence respectfully requests that the Appeals Chamber:

DECIDE to rule on the admissibility of the additional evidence jointly with the other issues raised in the appeal, pursuant to regulation 62(2)(b) of the RoC; and

ADMIT the Victim Application Form as additional evidence on appeal.

³⁵ See above, paras 19-20, 30-31.

³⁶ See *Prosecutor v. Lubanga*, Directions under regulation 62 of the Regulations of the Court, [ICC-01/04-01/06-2958](#), 21 December 2012, paras 6-8; and Decision and order in relation to the request of 23 December 2013 filed by Mr Thomas Lubanga Dyilo, [ICC-01/04-01/06-3057-Corr](#), 14 January 2014, para. 12; *Prosecutor v. Bemba*, Decision on Procedure for Mr Bemba’s Additional Evidence Request of 19 September 2016, [ICC-01/05-01/08-3446](#), 17 October 2016, para. 5.

RESPECTFULLY SUBMITTED ON THIS 24th DAY OF OCTOBER 2025



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