

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **25 February 2026**

TRIAL CHAMBER V

Before: Judge Beti Hohler, Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

**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 “Yekatom Defence Response to ‘Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-2018 pursuant to Rule 68(3)’ (ICC-01/14-01/18-1416-Conf)”, 13 June 2022, ICC-01/14-01/18-1456-Conf

Source: Defence for Mr. Alfred Rombhot Yekatom

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INTRODUCTION

1. The Defence for Mr Alfred Rombhot Yekatom ('Defence') hereby responds to the 'Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-2018 pursuant to Rule 68(3)' ('Request').¹
2. The Defence respectfully submits that the Request should be denied.
3. As has recently been demonstrated, the child soldier demobilisation programme administrated by the NGO *Enfants Sans Frontières* ('ESF') was fraudulent: as [REDACTED] were aware, its participants were not in fact child soldiers, were not part of Mr Yekatom's group and/or were not under the age of 15 during the events.
4. As [REDACTED], P-2018 therefore has a compelling personal motivation to provide false evidence to maintain an appearance of validity as regards the [REDACTED], in order to avoid potential personal, professional and/or criminal liability. The fact that ESF [REDACTED], [REDACTED], appear to have themselves been involved in recruiting witnesses or procuring documentary evidence in the context of these proceedings is further reasons to deny the Request. Lastly, the 'corroborative' evidence cited by the Prosecution does not support the Request in any meaningful sense.
5. In the circumstances therefore, and given that the evidence of P-2018 goes directly to the material elements of Count 29, including the acts and conduct of Mr Yekatom as charged, the interests of justice would require that P-2018's statement and associated exhibits not be admitted via Rule 68(3), and instead, that he be called to testify *viva voce* in full.

APPLICABLE LAW

¹ [ICC-01/14-01/18-1416-Conf.](#)

6. Rule 68(3) of the Rules of Procedure and Evidence (“Rules”) states:

If the witness who gave the previously recorded testimony is present before the Trial Chamber, the Chamber may allow the introduction of that previously recorded testimony if he or she does not object to the submission of the previously recorded testimony and the Prosecutor, the defence and the Chamber have the opportunity to examine the witness during the proceedings.

7. Regulation 43 of the Regulations of the Court, in relation to the testimony of witnesses, states:

Subject to the Statute and the Rules, the Presiding Judge, in consultation with the other members of the Chamber, shall determine the mode and order of questioning witnesses and presenting evidence so as to:

- (a) Make the questioning of witnesses and the presentation of evidence fair and effective for the determination of the truth;
- (b) Avoid delays and ensure the effective use of time.

8. A Chamber must carry out an individual assessment of the evidence sought to be introduced under Rule 68(3), based on the circumstances of each case, which includes analysing the importance of this evidence in light of the charges and other evidence presented or intended to be presented; this assessment is part and parcel of the analysis a Chamber must undertake in determining whether it is not prejudicial to or inconsistent with the rights of the accused or with the fairness of the trial generally, to allow for the evidence in question to be introduced under Rule 68 (3).²

9. In conducting this analysis, a Chamber may take into account a number of factors, including the following: (i) whether the evidence relates to issues that are not materially in dispute; (ii) whether that evidence is not central to core

² *Prosecutor v. Gbagbo & Blé Goudé*, Judgment on the appeals of Mr Laurent Gbagbo and Mr Charles Blé Goudé against the decision of Trial Chamber I of 9 June 2016 entitled “Decision on the Prosecutor’s application to introduce prior recorded testimony under Rules 68(2)(b) and 68(3)”, [ICC-02/11-01/15-744](#), 1 November 2016, para. 71.

issues in the case, but only provides relevant background information; and (iii) whether the evidence is corroborative of other evidence.³

SUBMISSIONS

I. The ESF child soldier demobilisation programme was fraudulent.

10. As the Chamber will recall, the Defence has previously set out its position as regards the validity of the ESF child soldier demobilisation programme and lists:

[I]t is the Defence's case that the individuals on the lists were not child soldiers, were not part of Mr Yekatom's group, and/or were not under 15 years old at the time of the events; and that Mr Yekatom and ESF representatives, including [REDACTED], were aware of this fact, and participated in the 'demobilisation' project with the aim of securing financial support for these individuals and for ESF from relevant civil society actors.⁴

11. It is respectfully submitted that the evidence of P-2475, who recently testified before the Chamber and who himself participated in the ESF demobilisation programme in MBAIKI serves to further bear out the Defence's position in this regard.
12. P-2475 stated that of the estimated 60 individuals 'demobilised' and sent to the MBAIKI ESF center in August 2014, only ten or eleven were actually associated with the Anti-Balaka.⁵ [REDACTED].⁶ During its cross-examination of P-2475, the Defence produced documentary evidence demonstrating that participants were materially older than their ages as recorded on the demobilisation list provided by [REDACTED] to the Prosecution ('List').⁷ Notably, [REDACTED] (P-2082 ([REDACTED])), [REDACTED], recalled having met a programme

³ *Prosecutor v. Bemba Gombo*, Judgment on the appeals of Mr Jean-Pierre Bemba Gombo and the Prosecutor against the decision of Trial Chamber III entitled "Decision on the admission into evidence of materials contained in the prosecution's list of evidence", 3 May 2011, [ICC-01/05-01/08-1386](#), para 78.

⁴ [ICC-01/14-01/18-1237-Conf](#), paras 12-14, and references cited therein; see also, paras 15-22; see also, ICC-01/14-01/18-T-072-FRA, 62:3-69:8.

⁵ ICC-01/14-01/18-T-130-CONF-FRA, 63:23-24; ICC-01/14-01/18-T-131-CONF-FRA, 46:12-14.

⁶ ICC-01/14-01/18-T-131-CONF-FRA, 82:1-4.

⁷ ICC-01/14-01/18-T-131-CONF-FRA, 56:2-90:4; ICC-01/14-01/18-T-132-CONF-FRA, 4:7-6:2.

participant who claimed to be 17, but admitted to have ‘lied about his real age [estimated at ‘24/25 years old’] just to be able to participate in the programme of ESF’.⁸ Critically, P-2082 stated that ‘ESF knew about this but they let him stay in the programme’.⁹

13. Evidence regarding ESF’s ‘verification’ procedures appears to be consistent with this fraud. P-2475 stated that he was never asked for documentation to prove his age;¹⁰ nor was he aware of UNICEF personnel who came to meet or speak with the participants.¹¹ He also denied that ‘*certificat d’âge apparent*’ were produced for those participants without birth certificates.¹²
14. During his interview with the Prosecution, P-2018 does not appear to [REDACTED] any completed ‘verification forms’, [REDACTED] a blank form which the Prosecution now tenders in the Request.¹³ In this regard, it is notable that P-2083 ([REDACTED]), stated in relation to the ESF verification forms: ‘I never received any of these forms. I had seen and read some of them but the [REDACTED] refused to give them to me’.¹⁴ She stated specifically that [REDACTED] had refused to provide these forms [REDACTED], on the purported basis that UNICEF had instructed ESF to keep this information confidential – despite the fact that the [REDACTED] had been specifically tasked with ‘[REDACTED]’ [REDACTED].¹⁵
15. According to P-2475, the ESF [REDACTED] were aware that ‘demobilised’ participants were not in fact associated with armed groups; indeed, P-2475 claims to have confronted [REDACTED] regarding the issue.¹⁶ At least one of

⁸ [CAR-OTP-2109-0452-R02](#), para. 45.

⁹ [CAR-OTP-2109-0452-R02](#), para. 45.

¹⁰ ICC-01/14-01/18-T-132-CONF-FRA, 14:11-18; cf. [CAR-OTP-2071-0259-R04](#), para 59.

¹¹ ICC-01/14-01/18-T-132-CONF-FRA, 14:24-27; cf. [CAR-OTP-2071-0259-R04](#), paras 47-48.

¹² ICC-01/14-01/18-T-132-CONF-FRA, 14:19-23; cf. [CAR-OTP-2071-0259-R04](#), paras 59-61.

¹³ [CAR-OTP-2071-0259-R04](#), para. 79; the blank form with ERN [CAR-OTP-2071-0278](#) is annexed to the statement and tendered in the Request.

¹⁴ [CAR-OTP-2110-0222-R01](#), paras 47-49.

¹⁵ [CAR-OTP-2110-0222-R01](#), paras 20-26, 49.

¹⁶ ICC-01/14-01/18-T-131-CONF-FRA, 45:2-21; see also, 21:18-21.

the ESF [REDACTED] – Prosecution intermediary and ESF [REDACTED] – enrolled [REDACTED] in the ESF Programme.¹⁷ Moreover, P-2475 directly accused [REDACTED] of ‘falsifying documents’ with the aim of having children ‘join the NGO in MBAIKI’.¹⁸

16. Local administrative officials appear to have been in the loop as regards the fraudulent nature of the ESF programme. P-2475 identified a number of participants who were children of local village or neighbourhood chiefs;¹⁹ he described the latter as ‘[REDACTED]’ and ‘[REDACTED]’ who sought to gain undue benefits from the programme through their children.²⁰
17. Further, according to stated claims by [REDACTED] of P-2582 ([REDACTED]), made to Prosecution investigators immediately following the Prosecution’s interview with P-2582, P-2084 (Roger OKOA-PENGUIA), the mayor of PISSA, was involved in procuring a ‘duplicate’ birth certificate that indicates a materially different date of birth (i.e. [REDACTED] 2001) to that on P-2582’s baptism certificate (i.e. [REDACTED] 1992).²¹ In this regard, it is notable that in his statement to the Prosecution, which substantially predates the Prosecution’s interview with P-2582 and the subsequent production of P-2582’s ‘duplicate’ birth certificate, P-2084 stated that P-2582 was [REDACTED] at the time of the events.²²
18. P-2475 further alleged that ESF embezzled the funding it received from partnerships, through the ‘demobilisation programme’:

Quand je dis qu’ils nous ont utilisés, c’est qu’ils ont proposé une formation d’enfants soldats, il y a des partenaires qui savent qu’il y a des enfants soldats qui sont pris en charge dans une

¹⁷ ICC-01/14-01/18-T-131-CONF-FRA, 38:2-11.

¹⁸ ICC-01/14-01/18-T-133-CONF-FRA, 75:13-15.

¹⁹ ICC-01/14-01/18-T-131-CONF-FRA, 8:10-14; 18:24; 19:28-20:1;

²⁰ ICC-01/14-01/18-T-131-CONF-FRA, 52:9-17; see also, 58:18-28.

²¹ [CAR-OTP-2126-0385-R02](#), at 0385; compare, [CAR-D29-0013-0100](#), at 0101.

²² [REDACTED]; P-2582 was interviewed by the Prosecution in [REDACTED] (see, [CAR-OTP-2117-0605-R05](#)); and the ‘duplicate’ birth certificate was provided to the Prosecution [REDACTED] (see, [CAR-OTP-2126-0385-R02](#)).

*ONG, ils reçoivent des financements, des subventions, mais ils ne le font pas correctement. [...] [J]'estime que nous ne servions que de monnaie d'échange, que des gens essaient de tirer bénéfice de... de notre situation.*²³

19. P-2475's description of the ESF programme would appear to be consistent with the alleged misuse of funds. He stated that participants were provided with one set of clothing, for the entirety of the programme's duration.²⁴ When participants went on strike after not being properly fed, they were told that the Programme had insufficient funds to feed them.²⁵ He repeatedly stated that ESF failed to keep its promise to provide professional training for participants.²⁶ P-2475 later learned by chance that certain of the participants were in fact offered professional training by ESF following the conclusion of the programme – among them, P-2582, [REDACTED].²⁷ P-2083 also informed Prosecution investigators that programme participants did not receive the 'settlement kits', aimed at allowing them a degree of professional self-sufficiency following the programme, 'due to mismanagement of funds'.²⁸
20. The fraudulent nature of the ESF programme, and the apparent involvement of ESF [REDACTED], including [REDACTED] in this scheme, strongly militates against the admission of P-2018's prior recorded testimony. Should this fraud come to light, those who unduly benefitted therefrom – i.e. P-2018 and [REDACTED] ESF [REDACTED], and certain local administrative officials – would potentially be at risk of grave personal, [REDACTED], and criminal consequences. It is therefore self-evident that P-2018 would be strongly motivated to provide false evidence in an attempt to [REDACTED] of the programme – which, in the circumstances, doubles as highly prejudicial

²³ ICC-01/14-01/18-T-132-CONF-FRA, 24:-11.

²⁴ ICC-01/14-01/18-T-131-CONF-FRA, 24:6-8.

²⁵ ICC-01/14-01/18-T-132-CONF-FRA, 18:7-10.

²⁶ ICC-01/14-01/18-T-131-CONF-FRA, 23:27-28; ICC-01/14-01/18-T-132-CONF-FRA, 14:28-15:19, 18:4-9.

²⁷ ICC-01/14-01/18-T-132-CONF-FRA, 21:8-24; 23:16-24:5.

²⁸ [CAR-OTP-2110-0333-R01](#), para. 23.

evidence going directly to the material elements of Count 29 against Mr Yekatom, including to his acts and conduct as charged.

21. For the same reasons, the associated exhibits tendered with P-2018's statement are insufficiently reliable for admission via Rule 68. For instance, the tendered reports on the ESF programme would have been drafted with the aim of falsely depicting that the programme was valid, and in this respect, should also be understood as fraudulent documents.²⁹ In the same vein, the above-mentioned List (CAR-OTP-2071-0279) is demonstrably inaccurate, as the evidence of P-2475 has shown.³⁰ Given P-2475's evidence regarding fraudulent nature of the ESF programme, the tendered 'identification', 'verification', and post-release profiling' forms have no probative value – especially given that the only forms [REDACTED] were blank.³¹ The evidence of P-2082 regarding ESF documentation, as detailed below, further bears out the fraudulent and unreliable nature of the tendered associate exhibits.³²
22. Lastly, in light of the above, it is highly relevant that according to his statement, P-2018 is not prepared to give evidence in court in relation to the information he provided, despite being informed of protective measures that may apply should he be called to testify.³³

II. ESF [REDACTED] have been involved in procuring witnesses and fabricating evidence.

23. The involvement of ESF [REDACTED] in procuring witnesses and evidence – including apparently falsified documents procured on behalf of the Prosecution – in the context of these proceedings also strongly militates against allowing the

²⁹ [REDACTED].

³⁰ *Supra*, para. 12.

³¹ See, Annex 1 ([CAR-OTP-2071-0277](#)); Annex 2 ([CAR-OTP-2071-0278](#)); Annex 5 ([CAR-OTP-2071-0285](#)).

³² *Infra*, para. 32.

³³ [CAR-OTP-2071-0259-R04](#), paras 109, 111-112.

admission into evidence of P-2018's statement and associated exhibits via Rule 68(3).

24. According to P-2475, he learned that P-2018 had been inquiring after him in PISSA; and at a subsequent chance meeting in BANGUI, P-2018 informed him that he was urgently needed at the headquarters of ESF, as there were unnamed people who wished to meet him there; P-2018 then paid him 500 CFA.³⁴ P-2475 did not ultimately attend this meeting; and subsequently, when P-2475 met another participant in the programme, the latter informed him that according to P-2018, investigators were looking for programme participants to come and 'defend' Mr Yekatom and to testify on his behalf.³⁵ The Defence here clarifies for the record that at no time was P-2018 acting on behalf of Mr Yekatom – he thus appears to have been recruiting witnesses 'for Mr Yekatom' under false pretences.
25. Further, [REDACTED] appears to have been involved in providing falsified documents to the Prosecution, and misleading Prosecution investigators, in relation to the real age of ESF programme participant P-2475.
26. According to a Prosecution Investigator's Note, [REDACTED] provided the Prosecution with P-2475's baptism certificate, in which P-2475's date of birth is recorded as [REDACTED] 1999.³⁶ [REDACTED] informed Prosecution investigators that the certificate was created 'based on the information found in the church [baptism] registry' of the *Paroisse* [REDACTED]; and further, claimed to have seen himself the information in the baptism registry, and confirmed that the certificate duly reflected the latter.³⁷

³⁴ ICC-01/14-01/18-T-131-CONF-FRA, 38:28-40:23.

³⁵ ICC-01/14-01/18-T-131-CONF-FRA, 40:24-42 :14.

³⁶ [CAR-OTP-2128-1197](#), at 1198.

³⁷ [CAR-OTP-2128-1203-R03](#), at 1206.

27. As the Chamber will recall however, during the Defence's examination of P-2475, multiple documents indicating that P-2475 was born in 1994 – and not in 1999, as he claimed – were put to him.³⁸ Among these documents were a photograph of the entry in the *Paroisse* [REDACTED] baptism registry pertaining to P-2475's baptism ceremony; a baptism certificate created on the basis of the baptism registry; and a receipt for the latter³⁹ – all of which appear to indicate that [REDACTED] has been involved in falsifying documents in his capacity as Prosecution intermediary, and providing misleading information to Prosecution investigators in this regard.
28. [REDACTED] also provided the Prosecution with an *Attestation de Frequentation Scolaire* from the *Lycée* [REDACTED], purportedly certifying P-2485's attendance at [REDACTED], and setting out P-2475's (disputed) date of birth, signed by the principal of the school, [REDACTED].⁴⁰ Yet not only did [REDACTED] tenure as principal end in 2016 (i.e. four years before the certificate was obtained); P-2475 stated that he stopped attending school when the Seleka arrived, and did not recommence after the events.⁴¹
29. The full extent of the involvement of ESF [REDACTED] and P-2018 in procuring evidence and witnesses in the context of these proceedings is not currently known to the Defence. However, the Chamber will also recall P-2475's claim that [REDACTED]'s son – himself also an ESF programme participant – was contacted by ESF for the purposes of securing his testimony in the context of these proceedings.⁴² It is also noted that [REDACTED] appears to have

³⁸ ICC-01/14-01/18-T-133-CONF-FRA, 66:26-74:4.

³⁹ See, ICC-01/14-01/18-T-133-CONF-FRA, 68:14-73:12; see also, [REDACTED] (photograph of baptism registry; [REDACTED]); [CAR-D29-0013-0004](#) (baptism certificate obtained by the Defence); and [CAR-D29-0013-0096](#) (receipt for baptism certificate).

⁴⁰ See, [CAR-OTP-2128-1203-R03](#), at 1205; see also, 'Attestation de Frequentation Scolaire' at [CAR-OTP-2128-1201](#).

⁴¹ See, ICC-01/14-01/18-T-133-CONF-FRA, 65:9-66:24; see especially, [CAR-D29-0014-0071](#), establishing that, in 2020, [REDACTED].

⁴² ICC-01/14-01/18-T-131-CONF-FRA, 42:28-43:18; in the same vein as set out in paragraph 24 above, the Defence clarifies that [REDACTED] has never been contacted as a potential Defence witness.

contacted P-2582 via Facebook [REDACTED] P-2475's testimony, with the message [REDACTED]⁴³ Further, P-2018 and ESF [REDACTED] both appear to be Facebook 'friends' with P-2582.⁴⁴

III. The 'corroborating' evidence cited by the Prosecution does not meaningfully support the Request.

30. In the Request, the Prosecution claims that P-2018's evidence is corroborated by P-1974, P-2475, and P-2082.⁴⁵
31. The Prosecution's reliance on P-1974 is misplaced. P-1974 was [REDACTED] and was thus ultimately [REDACTED]. He would therefore have an identical – indeed, if not more compelling – interest in falsely portraying [REDACTED].
32. Likewise, the Prosecution's reliance on P-2082. As in the case of P-2083,⁴⁶ the information that was provided or otherwise available to P-2082 appears to have been limited. For instance, she mentions the existence of a list of all children involved in ESF, but states that while [REDACTED] instructed to work with ESF, she never did.⁴⁷ She also stated that she did not know how the programme participants were identified and assessed, as [REDACTED] was not involved at this initial stage.⁴⁸ She stated that the age range of the programme participants was 11-17; however she twice specified that this estimate was based on the ages as documented by ESF, and is thus demonstrably unreliable.⁴⁹ She stated that 'much of the standard documentation for the project was [REDACTED] or kept', adding that she '[did] not think that there was much documentation [REDACTED]'.⁵⁰ Further, while 'normally' [REDACTED], 'in this case ESF

⁴³ [CAR-D29-0016-0078](#).

⁴⁴ [CAR-D29-0016-0004](#), at 0005; [CAR-D29-0016-0061](#).

⁴⁵ [ICC-01/14-01/18-1416-Conf](#), para. 12.

⁴⁶ *Supra*, para. 14.

⁴⁷ [CAR-OTP-2109-0452-R02](#), para. 35.

⁴⁸ [CAR-OTP-2109-0452-R02](#), para. 34; see also, paras 80-81.

⁴⁹ [CAR-OTP-2109-0452-R02](#), paras 45, 50.

⁵⁰ [CAR-OTP-2109-0452-R02](#), para. 58.

wrote a report'; further, she did not know if [REDACTED].⁵¹ When shown a photograph of P-2082, P-2475 stated that he could not recall [REDACTED].⁵²

33. Lastly, as set out above, given that P-2475 provided extensive evidence regarding the fraudulent nature of the programme, and given that during his examination, the Defence established that ESF programme participants – including P-2475 himself – systematically understated their ages to gain entry into the programme, P-2475 cannot be considered to 'corroborate' the evidence of P-2018 in any sense that would support the Request.

CONFIDENTIALITY

34. This Response is filed on a confidential basis corresponding to the classification of the Request. A public redacted version will be filed forthwith.

RELIEF SOUGHT

35. In light of the above, the Defence respectfully requests that Trial Chamber V:
DENY the Request.

RESPECTFULLY SUBMITTED ON THIS 25TH DAY OF FEBRUARY 2026



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⁵¹ [CAR-OTP-2109-0452-R02](#), para. 61.

⁵² ICC-01/14-01/18-T-132-CONF-FRA, 20:6-15.