



Original: **English**

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

Date: **7 January 2019**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM***

Public

**Prosecution's Observations on the Registry's French Language Proficiency
Assessment of Alfred YEKATOM (ICC-01/14-01/18-42)**

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Prosecution requests that Pre-Trial Chamber II (“Chamber”) find YEKATOM sufficiently proficient in French¹ for purposes of article 67(1)(a) and (f) of the Statute, rule 76(3) of the Rules of Procedure and Evidence (“Rules”), and regulations 40(2)(b) and (6), and 93(1) and (2) of the Regulations of the Court.² Such a determination: (1) best preserves the fairness and expeditious conduct of the proceedings; and (2) balances the attendant practical constraints and competing interests.

2. As the Registry’s assessment of YEKATOM’s French language proficiency (“Registry Report”) demonstrates that YEKATOM’s ability to read and understand written French and Sango is effectively the same,³ providing French translations of disclosable material in these proceedings causes no procedural disadvantage. To the contrary, the provision of Sango translations in these circumstances would be counterproductive and wasteful.

II. SUBMISSIONS

A. The Registry Report and the Defence confirm that YEKATOM is proficient in French

3. The Registry Report confirms that YEKATOM’s proficiency in conversing and reading French is at a level higher than, or at least equivalent to, his comprehension of written Sango.⁴ The Registry Report notes, “Mr Yekatom indicated that Sango was not taught at school, which was why he found it difficult to read and understand the

¹ Subject to the possible provision of language assistance commensurate with any identified deficiency that the Chamber may determine interferes with the Suspect’s ability to effectively exercise his right to conduct his defence. *See further below*, para. 6 (noting the Registry’s possible assignment of an interpreter on an *ad hoc* basis for example).

² This filing is provided in accordance with the Chamber’s 19 December 2018 order: ICC-01/14-01/18-36-Corr.

³ *See* ICC-01/14-01/18-42-Conf-Anx, p. 3.

⁴ ICC-01/14-01/18-42-Conf-Anx.

[Sango] text.”⁵ In light of this assessment and the time and costs involved, providing written Sango translations⁶ of filings and disclosure would not advance the fair and expeditious conduct of the proceedings — but work against it. This is the case, even considering the impact of NGAISSONA’s prospective joinder as it will facilitate the Defence’s understanding of the evidence against YEKATOM.

4. During informal consultations with the Defence on 21 December 2018 concerning, *inter alia*, YEKATOM’s language proficiency and the related issues,⁷ the Defence agreed to receive all relevant disclosure, including rule 76(3) statements, in French.⁸ The Defence has acknowledged, as the Registry Report indicates,⁹ that YEKATOM’s comprehension of written French is potentially better than that of written Sango. As such, proceeding with disclosure in French, inclusive of rule 76(3) statements and, as necessary, material supporting the Prosecution’s Application for Arrest Warrants, would be the most expeditious way forward.

5. Although the Defence accepts disclosure in French, it has noted that the Registry’s timely provision of French translations of filings in the case would make it easier for Counsel to ensure the Suspect’s familiarity with the content of all material issues and decisions. Such an accommodation is not inconsistent with the findings of the Registry Report.¹⁰ Moreover, the prompt provision of French translations of filings and decisions relating to the nature, cause, and content of the charges against YEKATOM¹¹ is within the purview and capacity of the Registry’s Language Services Section (“LSS”), and may reasonably contribute to the expeditious conduct of the proceedings.

⁵ ICC-01/14-01/18-42-Conf-Anx, p. 2.

⁶ See ICC-01/14-01/18-40-Conf, p. 7; ICC-01/14-01/18-34, para. 18.

⁷ A further discussion was had with the Defence on 4 January 2019.

⁸ See also ICC-01/14-01/18-45-Conf, para. 38.

⁹ See ICC-01/14-01/18-42-Conf-Anx, pp. 2-3.

¹⁰ See ICC-01/14-01/18-42-Conf-Anx, p. 2.

¹¹ See ICC-01/14-01/18-34, para. 13.

B. Additional language support can be provided on an *ad hoc* basis

6. Should YEKATOM request language assistance in a given instance, the Registry may be engaged on an *ad hoc* basis either through direct consultation with the Defence or upon application to the Chamber, as appropriate.¹² In such instance, the Chamber could, for example, assign a Registry-appointed French/Sango interpreter to assist YEKATOM whenever he identifies, in good faith, material he cannot understand.¹³ Under the circumstances, such approach would be the most cost- and time-effective, given the Court's limited resources and practical constraints.

III. RELIEF SOUGHT

7. For the above reasons, the Chamber should find YEKATOM fully proficient in French for all statutory purposes.



Fatou Bensouda, Prosecutor

Dated this 7th day of January 2019
At The Hague, The Netherlands

¹² See ICC-01/14-01/18-34, para. 20.

¹³ See ICC-01/14-01/18-34, para. 21.