

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **3 September 2019**

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

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

Public

**Motion for Leave to Reply to Prosecution's Response to the Yekatom
Defence's Motion to Lift Redactions**

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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**Unrepresented Applicants
(Participation / Reparation)**

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**The Office of Public Counsel for the
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Amicus Curiae

REGISTRY

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Mr. Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr. Nigel Verrill

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**Victims Participation and Reparations
Section**

1. Counsel representing Mr. Alfred Rombhot Yekatom (“Defence” and “Mr. Yekatom”, respectively) respectfully move, pursuant to Regulation 24(5), for leave to reply to the *Prosecution’s Response to the Yekatom Defence’s Motion to Lift Redactions (“Response”)*.¹ A reply is necessary and appropriate in light of developments since the *Motion to Lift Redactions (“Motion”)*² was filed.

RELEVANT PROCEDURAL HISTORY

2. On 26 August 2019, the Defence filed its *Motion*.
3. On 27 August 2019, the Prosecution sent an e-mail to the Defence responding to 11 outstanding redaction requests.³
4. On 2 September 2019, the Prosecution filed its *Response*.

RELEVANT PROVISIONS

5. Regulation 24(5) provides:

Participants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations. Unless otherwise permitted by the Chamber, a reply must be limited to new issues raised in the response which the replying participant could not reasonably have anticipated.

ARGUMENT

6. In its *Response*, the Prosecution contends that “the Prosecution has now responded to at least 41 out of 58 letters” and urges that the Chamber to allow it the opportunity to respond to outstanding Defence letters requesting redactions as soon as practicably possible.⁴

¹ [ICC-01/14-01/18-310](#).

² [ICC-01/14-01/18-290](#).

³ A copy of this e-mail can be provided upon request.

⁴ *Response*, para. 12.

7. If granted leave to reply, the Defence can attach a chart showing that 11 of the 41 responses were made after the motion was filed, and in those 11 responses, the Prosecution represented that redactions had been lifted to 32 paragraphs/annexes of the disclosure material. However, when the Defence checked the material, the redactions in 22 of those paragraphs/annexes had not in fact been lifted. The chart will provide the document numbers that will allow the Chamber to verify that the Prosecution has not in fact lifted the redactions as it claims.

8. This issue could not have reasonably been anticipated when the Motion was filed, since the Prosecution's e-mail with these errors was only sent the day after the Motion was filed. Hence, the misstatement that is repeated in the Prosecution's Response that, for example, the Prosecution re-disclosed several documents⁵ and acted upon the Defence letters identified in Annex A⁶ could not have been addressed in the Motion.

9. The point made by this chart would be an important one to the resolution of the motion as it will demonstrate that the Prosecution cannot be counted on to adequately lift the many inappropriate redactions it has made throughout its disclosures and that the Chamber's judicial scrutiny of the redactions is necessary and warranted. The chart the Defence intends to file if leave to reply is granted will assist the Chamber in identifying the inaccuracies.

⁵ *Response*, para. 13.

⁶ *Response*, fns 15-16.

RESPECTFULLY SUBMITTED ON THIS 3RD DAY OF SEPTEMBER 2019 ⁷



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⁷ The contribution of Legal Intern Laurence Hortas-Laberge of Montreal, Canada to the research for this motion is gratefully acknowledged.