

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: English

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

Date: 27 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 with Confidential Annexes A and B**

**Yekatom Defence Request for Public Redacted Versions of Decisions**

**Source:** Defence for Mr. Alfred Rombhot Yekatom

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

**The Office of the Prosecutor**

Ms. Fatou Bensouda  
Mr. James Stewart  
Mr. Kweku Vanderpuye

**Counsel for Mr. Yekatom**

Me Mylène Dimitri  
Mr. Peter Robinson

**Counsel for Mr. Ngaïssona**

Me Geert-Jan Alexander Knoops

**Legal Representatives of Victims**

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

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation / Reparation)**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

Me Xavier-Jean Keïta

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr. Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr. Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

1. Counsel representing Mr. Alfred Rombhot Yekatom (“Defence” and “Mr. Yekatom”, respectively) respectfully request that the Pre-Trial Chamber (“Chamber”) issue public redacted versions of the ten decisions listed in the attached Confidential Annex A. The parties can then file public redacted versions of their pleadings leading to those decisions that remain classified as confidential.
2. The Defence also requests that a decision communicated to the parties by e-mail during the confirmation hearing be made part of the public record.<sup>1</sup>
3. Finally, should the Chamber confirm the charges in Counts 11-16, the Defence requests that the facts underlying these counts should be made public in the Chamber’s confirmation decision.
4. The decisions issued by the Chamber involve important issues of law and procedure that ought to be part of this Court’s jurisprudence and accessible to the public and parties in other cases. The Defence appreciates the hard work by the Chamber and its staff that led to these decisions. Any portions of those decisions that must remain confidential can be redacted.
5. As to Counts 11-16, those charges have been completely redacted from the Document Containing the Charges.<sup>2</sup> During the confirmation hearing, the Chamber also redacted all references to the facts underlying these counts from the public broadcast and transcript. The Defence contends that any further effort to try Mr. Yekatom in secret for this event would be a violation of his right under Article 67(1) to a public trial.

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<sup>1</sup> The e-mail correspondence is attached as Confidential Annex B.

<sup>2</sup> [ICC-01/14-01/18-282-AnxB1-Red](#), para. 296-300.

6. A similar situation arose in the *Ongwen* case where Counts 50-60 were only heard in private session during the confirmation hearing. In its decision on the confirmation of charges, the Pre-Trial Chamber held that:

Committing Dominic Ongwen to trial on charges which are entirely withheld from the public would constitute a significant violation of his fair trial rights. At the same time, the Chamber has a duty, in accordance with article 68 of the Statute, to take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. The same provision explicitly mandates that “[t]hese measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial”. The Chamber is therefore called to strike the appropriate balance between these different interests.<sup>3</sup>

7. The Chamber in *Ongwen* decided that this balance was best struck by making the charges public in its confirmation decision. The Defence of Mr. Yekatom likewise requests that if this Chamber confirms any of the charges in Counts 11-16, its decision should include a public description of those events.
8. Therefore, the Chamber is respectfully requested to (1) issue public versions of the ten confidential decisions listed in Confidential Annex A; (2) make public its decision contained in Confidential Annex B; and (3) include a public description of Counts 11-16 in its decision on confirmation of charges, should the Chamber decide to confirm those counts.

**RESPECTFULLY SUBMITTED ON THIS 27<sup>TH</sup> DAY OF SEPTEMBER 2019**



Me Mylène Dimitri  
Lead Counsel for Mr. Yekatom



Peter Robinson  
Associate Counsel for Mr. Yekatom

The Hague, the Netherlands

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<sup>3</sup> *Prosecutor v. Ongwen*, [Decision on the Confirmation of Charges against Dominic Ongwen](#), 23 March 2016, ICC-02/04-01/15-422-Red, para. 25-28.