

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **5 February 2021**

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung

**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 the “Defence Notification Pursuant to Rule 79 of
the Rules of Procedure and Evidence”, 13 January 2021, ICC-01/14-01/18-818-
Conf**

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

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Legal Representatives of Victims

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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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Mr. Peter Lewis

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Mr. Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

INTRODUCTION

1. Counsel representing Mr. Alfred Rombhot Yekatom (“Defence” and “Mr. Yekatom”, respectively) hereby notify Trial Chamber V (the “Chamber”), the Office of the Prosecutor (the “Prosecution”), and the Legal Representatives for Victims¹ that the Defence intends to raise the existence of alibis for the attack at the BOEING market on 5 December 2013 and for crimes committed at the YANWARA SCHOOL base (the “Notice of Alibi”).

PROCEDURAL BACKGROUND

2. On 8 April 2020, in its submissions for the first status conference, the Defence informed the parties that it anticipated relying on an alibi defence for some charges and that it would provide the required notice pursuant to Rule 79 of the Rules of Procedure and Evidence (the “Rules”).²
3. On 9 July 2020, the Trial Chamber held a status conference.
4. On 16 July 2020, the Trial Chamber decided that the trial will commence on 9 February 2021 and that the evidence presentation will commence in March 2021.³

APPLICABLE LAW

Rule 79(1) and (2) of the Rules provides that:

1. The defence shall notify the Prosecutor of its intent to:

(a) Raise the existence of an alibi, in which case the notification shall specify the place or places at which the accused claims to have been present at the time of the alleged crime and the names of witnesses and any other evidence upon which the accused intends to rely to establish the alibi; or

¹ The Common Legal Representatives of the Victims of the other crimes and the Common Legal Representatives of the Former Child Soldiers.

² [ICC-01/14-01/18-472](#), para. 42.

³ [ICC-01/14-01/18-589](#), paras 24-25.

2. With due regard to time limits set forth in other rules, notification under sub-rule 1 shall be given sufficiently in advance to enable the Prosecutor to prepare adequately and to respond. The Chamber dealing with the matter may grant the Prosecutor an adjournment to address the issue raised by the defence.

SUBMISSIONS

5. As a preliminary remark, the Defence emphasizes the provisional nature of the Notice of Alibi regarding the names of the Defence witnesses. This Notice of Alibi could be subject to an amendment in the near future either by adding or removing certain witnesses' names depending on the outcome of our investigations. Due to the current pandemic, the Defence has been unable to complete its investigations in the field for the preparation of the Notice of Alibi. As an example, a specific trip for that purpose was planned in 2020 in order to meet potential witnesses essential to prepare and finalise the alibi notice. The trip was canceled on many occasions by the airlines, leaving the Defence with limited resources on the ground.
6. However, the Defence understands the importance of this notification for the Prosecution's case and decided not to wait until further investigations were conducted to confirm or remove the names mentioned below, or submit additional names. Consequently, the present Notice of Alibi should be taken into consideration through the prism of the abovementioned limitation; this notice reflects only what is currently in possession of Defence to this day.
7. The Defence therefore notifies the Chamber, the Prosecution, and the Legal Representatives for Victims that the Defence intends to raise the existence of alibis for the charges concerning the attack at the BOEING market on 5 December 2013 and for the crimes allegedly committed at the YANWARA SCHOOL base.

A. Alibi for the attack at the BOEING market on 5 December 2013

8. During the attack at the BOEING market on 5 December 2013, when at least six Muslim civilians [REDACTED] were allegedly killed, Mr. YEKATOM and the elements forming part of his sub-group had already passed the BOEING market from early morning and were moving towards the CATTIN crossroad. Mr. Yekatom was on foot, walking South *en route* to CATTIN crossroad. He remained in the close vicinity of the CATTIN crossroad at the time the Muslim civilians [REDACTED] were allegedly killed. At no time, on 5 December 2013, was Mr. YEKATOM present at the Boeing market when the six Muslim civilians [REDACTED] were allegedly killed.
9. [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] were present with Mr. YEKATOM on the road to CATTIN and eventually at the CATTIN crossroad before their retreat South-West of the CATTIN cross road and are potential Defence witnesses.
10. This Notice of Alibi concerns Counts 1, 2, and 3.

B. Alibi regarding [REDACTED] murder at YANWARA SCHOOL base

11. On [REDACTED] YANWARA SCHOOL base, Mr. YEKATOM was not present at the YANWARA SCHOOL base as he was with some of his elements conducting [REDACTED], about an hour away by foot from YANWARA SCHOOL. Mr. Yekatom did not return to YANWARA SCHOOL base until [REDACTED]. During [REDACTED], Mr. Yekatom was not present.
12. [REDACTED] was among the elements present with Mr. YEKATOM and is a potential Defence witness.
13. The Defence may, depending on the outcome of the investigations, support this alibi with call data records.

14. This Notice of Alibi concerns counts 11, 12, 13, 14, 15, and 16.

CONFIDENTIALITY

15. The Defence files this Notice of Alibi on a confidential basis due to the references to potential Defence witnesses and confidential details of the Prosecution case and to protect the ongoing investigations by the Defence. A public redacted version will be filed forthwith.

CONCLUSION

16. The Defence hereby notifies its intent to raise the existence of alibis for some of the counts linked to the 5 December 2013 attack and to crimes committed at the YANWARA SCHOOL Base.

RESPECTFULLY SUBMITTED ON THIS 5th DAY OF FEBRUARY 2021



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Mr. Thomas Hannis
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