

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **8 March 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***

Confidential

**Yekatom Defence Joinder to 'Ngaïssona Defence Motion to Limit the Scope
of P-2926's Evidence' (ICC-01/14-01/18-897)**

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. Thomas Hannis

Counsel for Mr. Ngaïssona

Me Geert-Jan Alexander Knoops

Mr. Richard Omissé-Namkeamaï

Me Marie-Hélène Proulx

Legal Representatives of Victims

Mr. Dmytro Suprun

Mr. Abdou Dangabo Moussa

Ms. 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

Registrar

Mr. Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr. Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

INTRODUCTION

1. Defence Counsel representing Mr. Alfred Rombhot Yekatom ('Defence') hereby file this Joinder to the 'Ngaïssona Defence Motion to Limit the Scope of P-2926's Evidence' (ICC-01/14-01/18-897-Conf), notified on 4 March 2021 ('Motion').
2. The Defence adopts in full the Ngaïssona Defence submissions and relief sought as set out in the Motion.
3. In addition and/or in the alternative, the Defence requests that references in P-2926's Report of October 2020 ('Report') to: (i) Mr Yekatom's alleged 'attacks on PK5' in paragraph 74; and (ii) Mr Yekatom's alleged 23 June 2014 'arrest' by 'international forces' in footnote 139, be excluded from the evidentiary record.¹

PROCEDURAL BACKGROUND/APPLICABLE LAW

4. In the interests of judicial economy, the Defence adopts herein the Ngaïssona Defence submissions on the Procedural Background and Applicable Law as set out in the Motion.²

SUBMISSIONS

5. At paragraph 74 of the Report, P-2926 states that '[Mr Yekatom's] Control of the southern road axis which has heavy traffic of trucks enabled him to finance himself easily and to launch attacks against PK5.'³
6. In support for this allegation, P-2926 cites to an International Peace Information Service ("IPIS") report entitled 'Mapping Conflict Motives: the

¹ [CAR-OTP-2127-4289](#).

² [ICC-01/14-01/18-897-Conf](#), paras 4-18 ; Public redacted version : [ICC-01/14-01/18-897-Red](#).

³ Per LSS draft translation; original sentence reads as follows: 'Ce contrôle de l'axe routier sud très fréquenté par les camions lui permettait de se financer aisément et de lancer des attaques contre le PK5.'

Central African Republic (2012-2014)', dated 21 November 2014 ('IPIS Report').⁴ No page or paragraph citation is provided in the relevant footnote.⁵ In the IPIS Report however, while mention is made of 'taxes' allegedly levied on trucks along the 'south axis',⁶ no reference is made to attacks launched by Mr. Yekatom on PK5.

7. Moreover, at footnote 139 of the Report, P-2926 claims that 'Alfred Yekatom was arrested by international forces on 23 June 2014 and then released. A report concluded that he earned \$200 a week from each roadblock.'⁷ Again however, there is no mention of any such arrest in the IPIS Report, cited in footnote 139.
8. These allegations are evidently highly prejudicial to Mr Yekatom.
9. In addition to Mr. Yekatom's charges of persecution and directing attacks against the civilian population, in Bangui starting on 5 December 2013, the Prosecution expressly alleges that Muslim-owned property was destroyed in PK5, which it seeks to rely on as evidence of the alleged organisational criminal policy; it also alleges that Muslims fled to PK5 after the 5 December 2013 attack and were forced to remain there.⁸
10. Similarly, the Prosecution alleges that Mr Yekatom 'ordered the erection of checkpoints to extort money' along the PK9-Mbaiki axis.⁹ In this context, the unsubstantiated allegation that Mr Yekatom was arrested and, as implied by

⁴ The Report cites to the French version of the IPIS Report, entitled: 'Cartographie des motivations derrière les conflits: la République centrafricaine'; accessible at <https://ipisresearch.be/publication/mapping-conflict-motives-central-african-republic-2/>, last accessed 5 March 2021.

⁵ [CAR-OTP-2127-4289](#), fn. 139.

⁶ See, IPIS Report, p. 60 (EN), p. 63 (FR).

⁷ Per LSS draft translation; original sentence reads as follows: 'Alfred Yekatom a été arrêté par les forces internationales le 23 juin 2014 puis libéré. Un rapport estime que chaque barrage lui rapportait 200\$ par semaine.'

⁸ [ICC-01/14-01/18-723-Conf](#), paras 197; 401-402 Public redacted version: [ICC-01/14-01/18-723-Red](#)

⁹ *Ibid*, para. 477.

P-2926, that this arrest was linked to alleged illegal levying of taxes, cannot but prejudice Mr Yekatom in the eyes of the Chamber.

11. These allegations have no probative value. Both allegations are unsupported in the Report and unsubstantiated. No support can be found for these allegations in the material relied on by P-2926 (i.e. the IPIS Report. Given P-2926's failure to provide clear references or accessible sources for these allegations, they should be treated as mere personal opinion evidence, as opposed to expert evidence.¹⁰
12. The prejudicial effect of these allegations therefore significantly outweighs their probative value; they should be excluded on that basis.¹¹ It is submitted that a ruling to this effect is required in order to ensure the fairness and expeditiousness of these proceedings.¹²

CONFIDENTIALITY

13. This Joinder is filed on a confidential basis corresponding to the classification of the Motion. The Defence does not oppose the reclassification as public.

RELIEF SOUGHT

14. In light of the above, the Defence respectfully requests Trial Chamber V to:

GRANT the Motion; or, in the alternative,

EXCLUDE from the evidentiary record the following words at paragraph 74 of the Report: 'et de lancer des attaques contre le PK5'; and, in any event,

EXCLUDE from the evidentiary record the following sentence at footnote 139 of the Report: 'Alfred Yekatom a été arrêté par les forces internationales le 23 juin 2014 puis libéré.'

¹⁰ *Prosecutor v. Milošević*, [Decision on Defence Expert Witnesses](#), 21 August 2007, IT-98-29/1-T, para. 7.

¹¹ *Prosecutor v. Ruto & Sang*, [Decision on Sang Defence Application to exclude Expert Report of Mr Hervé Maupéu](#), 7 August 2013, ICC-01/09-01/11-844, para. 14.

¹² [ICC-01/14-01/18-631](#), para. 59; see also, [ICC-01/14-01/18-881](#), para. 8.

RESPECTFULLY SUBMITTED ON THIS 8TH DAY OF MARCH 2021



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom



Mr. Thomas Hannis
Associate Counsel for Mr. Yekatom

The Hague, the Netherlands