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**International
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Court**

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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 YEKATOM AND
PATRICE-ÉDOUARD NGAÏSSONA***

Public

**Common Legal Representatives' Joint Response to
the "Prosecution's renewed application for Notice to be Given under
Regulation 55(2) on Accused Yekatom's Individual Criminal Responsibility"**

Source: Common Legal Representatives of Victims

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

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I. INTRODUCTION

1. The Common Legal Representative of the Former Child Soldiers and the Common Legal Representatives of the Victims of Other Crimes (jointly the “Common Legal Representatives” or the “CLRV”) hereby file their joint response to the “Prosecution’s renewed application for Notice to be Given under Regulation 55(2) on Accused Yekatom’s Individual Criminal Responsibility” (the “Prosecution’s Renewed Application” or the “Renewed Application”).¹

2. The Common Legal Representatives submit that the Prosecution’s Renewed Application meets the legal criteria under regulations 55(1) and (2) of the Regulations of the Court (the “Regulations”). Indeed, the body of evidence adduced before the Trial Chamber since the commencement of the trial and the evidence to be introduced during trial support the re-characterisation of the modes of liability in relation to Mr Yekatom. Providing a regulation 55 notice is timely, in the interest of a fair and expeditious trial, consistent with the Accused’s rights under article 67(1)(a) to (c) of the Rome Statute (the “Statute”), and necessary for the realisation of the Victims’ right to truth and justice in an effective and efficient manner, since it will allow for an in-depth investigation during the trial of all possible forms of the Accused’s involvement in the commission of the crimes.

3. Finally, the Victims express their concern about the Prosecution’s choice to not also request a regulation 55 notice as regards the modes of liability of Mr Ngaïssona.

¹ See the “Prosecution’s renewed application for Notice to be Given under Regulation 55(2) on Accused Yekatom’s Individual Criminal Responsibility”, No. ICC-01/14-01/18-1345-Conf, 1 April 2022. A public redacted version was issued on 7 April 2022 as [No. ICC-01/14-01/18-1345-Red](#) (the Prosecution’s Renewed Application” or the “Renewed Application”).

II. PROCEDURAL BACKGROUND

4. On 11 November 2018, Pre-Trial Chamber II (the “Pre-Trial Chamber”) issued the “Warrant of Arrest for Alfred Yekatom”.²

5. On 11 December 2019, the Pre-Trial Chamber issued the “Decision on the confirmation of charges against Alfred Yekatom and Patrice-Édouard Ngaïssona” (the “Decision confirming the charges”).³

6. On 11 March 2020, the Pre-Trial Chamber issued the “Decision on the Prosecutor’s request for reconsideration or, in the alternative, leave to appeal the ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’”, rejecting the Prosecution’s request.⁴

7. On 16 March 2020, the Presidency constituted Trial Chamber V (the “Trial Chamber”) and referred the present case to it.⁵ On 17 March 2020, Judge Schmitt was elected Presiding and Single Judge.⁶

8. On 31 March 2020, the Prosecution filed before the Pre-Trial Chamber its “[...] Request to Amend Charges pursuant to Article 61(9) and for Correction of the Decision

² See the “Warrant of Arrest for Alfred Yekatom” (Pre-Trial Chamber II), No. ICC-01/14-01/18-1-US-Exp, 11 November 2018. A public redacted version was issued on 17 November 2018 as [No. ICC-01/14-01/18-1-Red](#).

³ See the “Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-403-Conf](#), 11 December 2019. A public redacted version was issued on 20 December 2019 as [No. ICC-01/14-01/18-403-Red](#) (the “Decision confirming the charges”).

⁴ See the “Decision on the Prosecutor’s request for reconsideration or, in the alternative, leave to appeal the ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-447](#), 11 March 2020.

⁵ See the “Decision constituting Trial Chamber V and referring to it the case of The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona” (Presidency), [No. ICC-01/14-01/18-451](#), 16 March 2020.

⁶ See the “Decision notifying the election of a Presiding Judge and Single Judge” (Trial Chamber V), [No. ICC-01/14-01/18-454](#), 17 March 2020.

on the Confirmation of Charges, and Notice of Intention to Add Additional Charges” (the “Prosecution’s Request to Amend Charges and Notice of Intention to Add Additional Charges”).⁷

9. On 14 April 2020, the Common Legal Representatives filed their joint response to the Prosecution’s Request to Amend Charges and Notice of Intention to Add Additional Charges.⁸ The Defence for Mr Yekatom filed its response the same day.⁹

10. On 30 April 2020, the Prosecution filed its “Prosecution’s Application for Notice to be given pursuant to Regulation 55(2) on Accused Yekatom’s Individual Criminal Responsibility” (the “Prosecution’s First Application” or the “First Application”).¹⁰

11. On 3 May 2020, the Defence for Mr Yekatom requested by email an extension of two days to respond to the Prosecution’s Application after the notification of the CLRV response, and reiterated its previous request for a standing order requiring the Common Legal Representatives to file any response to any Prosecution motions within five days of notification of the relevant motion.¹¹

⁷ See the “Prosecution’s Request to Amend Charges pursuant to Article 61(9) and for Correction of the Decision on the Confirmation of Charges, and Notice of Intention to Add Additional Charges”, [No. ICC-01/14-01/18-468-Conf](#), 31 March 2020. A public redacted version was issued on 31 March 2020 as [No. ICC-01/14-01/18-468-Red](#). On 16 April 2020, a corrected confidential version was issued as [No. ICC-01/14-01/18-480-Conf](#). On 17 April 2020 a public redacted version of the corrected version was issued as [No. ICC-01/14-01/18-480-Red](#).

⁸ See the “Common Legal Representatives’ Joint Response to the ‘Prosecution’s Request to Amend Charges pursuant to Article 61(9) and for Correction of the Decision on the Confirmation of Charges, and Notice of Intention to Add Additional Charges’”, [No. ICC-01/14-01/18-475](#), 14 April 2020.

⁹ See the “Defence Response to the Prosecution’s Request to Amend Charges pursuant to Article 61(9) (ICC-01/14-01/18-468-Conf)”, [No. ICC-01/14-01/18-477-Conf](#), 14 April 2020. A public redacted version was filed on 16 April 2020 as [No. ICC-01/14-01/18-477-Red](#).

¹⁰ See the “Prosecution’s Application for Notice to be given pursuant to Regulation 55(2) on Accused Yekatom’s Individual Criminal Responsibility”, [No. ICC-01/14-01/18-503-Conf](#), 1 May 2020. A public redacted version was filed on the same day as [No. ICC-01/14-01/18-503-Red](#) (the “First Application”).

¹¹ See the Email correspondence from the Yekatom Defence on 3 May 2020 at 19:25.

12. On 4 May 2020, the Prosecution¹² and the CLR¹³ responded by email opposing the Defence's request.

13. The same day, the Single Judge of the Trial Chamber rejected the Defence's request in its entirety.¹⁴

14. On 14 May 2020, the Pre-Trial Chamber rejected the Prosecution's Request to Amend Charges and Notice of Intention to Add Additional Charges.¹⁵

15. On the same day, the CLR responded to the Prosecution's First Application.¹⁶

16. On 2 June 2020, the Trial Chamber issued the "Decision on the Prosecution's Application for Notice to be given pursuant to Regulation 55(2) on Mr Yekatom's Individual Criminal Responsibility" (the "First Decision"),¹⁷ rejecting the Prosecution's First Application and emphasizing that the Trial Chamber's decision was "*without prejudice to provide notice at a later point in time*".¹⁸

17. On 1 April 2022, the Prosecution filed the Renewed Application.¹⁹

¹² See the Email correspondence from the Prosecution on 4 May 2020 at 9:45.

¹³ See the Email correspondence from the Common Legal Representatives on 4 May 2020 at 10:36.

¹⁴ See the Email correspondence from the Trial Chamber on 4 May 2020 at 16:20.

¹⁵ See the "Decision on the 'Prosecution's Request to Amend Charges pursuant to Article 61(9) and for Correction of the Decision on the Confirmation of Charges, and Notice of Intention to Add Additional Charges'" (Pre-Trial Chamber II), [No. ICC-01/14-01/18-517](#), 14 May 2020.

¹⁶ See the "Common Legal Representatives' Joint Response to the 'Prosecution's Application for Notice to be given pursuant to Regulation 55(2) on Accused Yekatom's Individual Criminal Responsibility'", [No. ICC-01/14-01/18-514](#), 14 May 2020.

¹⁷ See the "Decision on the Prosecution's Application for Notice to be given pursuant to Regulation 55(2) on Mr Yekatom's Individual Criminal Responsibility" (Trial Chamber V), [No. ICC-01/14-01/18-542](#), 2 June 2020 (the "First Decision").

¹⁸ *Idem*, para. 16.

¹⁹ See the Renewed Application, *supra* note 1.

III. SUBMISSIONS

1. Applicable law

18. Regulation 55(1) and (2) of the Regulations reads as follows:

“1. In its decision under article 74, the Chamber may change the legal characterisation of facts to accord with the crimes under articles 6, 7 or 8, or to accord with the form of participation of the accused under articles 25 and 28, without exceeding the facts and circumstances described in the charges and any amendments to the charges.

2. If, at any time during the trial, it appears to the Chamber that the legal characterisation of facts may be subject to change, the Chamber shall give notice to the participants of such a possibility and having heard the evidence, shall, at an appropriate stage of the proceedings, give the participants the opportunity to make oral or written submissions. The Chamber may suspend the hearing to ensure that the participants have adequate time and facilities for effective preparation or, if necessary, it may order a hearing to consider all matters relevant to the proposed change”.

19. In the *Bemba et al.* case Trial Chamber VII held that regulation 55 of the Regulations establishes a three-stage procedure to modify the legal characterisation of facts:

“(1) The Chamber decides whether it appears to it that the legal characterisation of facts may be subject to change and the Chamber gives notice to the participants of such a possibility;

(2) Having heard the evidence in the case, the Chamber shall, at an appropriate stage of the proceedings, give the participants the opportunity to make oral or written submissions as to the propriety of the actual legal recharacterisation; and

*(3) In its decision under Article 74 of the Statute, the Chamber may decide, pursuant to Regulation 55(1) of the Regulations, whether to make the proposed recharacterisation for which notice was given at the first stage”.*²⁰

²⁰ See the “Decision on Prosecution Application to Provide Notice pursuant to Regulation 55” (Trial Chamber VII), [No. ICC-01/05-01/13-1250](#), 15 September 2015, para. 8.

20. The Appeals Chamber further clarified that the purpose of regulation 55 is to “close accountability gaps”,²¹ and that if a trial chamber could not re-visit the legal characterisation of facts confirmed by the pre-trial chamber, there would be a “risk of acquittals that are merely the result of legal qualifications confirmed in the pre-trial phase that turn out to be incorrect [...]. This would be contrary to the aim of the Statute to ‘put an end to impunity’”.²²

21. The Appeals Chamber also found that notice under regulation 55(2) of the Regulations “should always be given as early as possible”.²³

22. Furthermore, there is “no legal impediment to a Trial Chamber re[-]characterising facts and circumstances to include a mode of liability that was considered, but not confirmed by [a] Pre-Trial Chamber, so long as the facts and circumstances that could potentially be re[-]characterised were confirmed by that Pre-Trial Chamber”.²⁴

²¹ See the “Judgment on the appeals of Mr Lubanga Dyilo and the Prosecutor against the Decision of Trial Chamber I of 14 July 2009 entitled ‘Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court’” (Appeals Chamber), [No. ICC-01/04-01/06-2205 OA 15 OA 16](#), 8 December 2009, para. 77. See also the “Judgment on the appeal of Mr Germain Katanga against the decision of Trial Chamber II of 21 November 2012 entitled ‘Decision on the implementation of regulation 55 of the Regulations of the Court and severing the charges against the accused persons’” (Appeals Chamber), [No. ICC-01/04-01/07-3363 OA 13](#), 27 March 2013, para. 22 and 104. See also the “Decision on Prosecution Application to Provide Notice pursuant to Regulation 55”, *supra* note 20, para. 7.

²² See the “Judgment on the appeal of Mr Laurent Gbagbo against the decision of Trial Chamber I entitled ‘Decision giving notice pursuant to Regulation 55(2) of the Regulations of the Court’” (Appeals Chamber), [No. ICC-02/11-01/15-369](#), 18 December 2015, para. 31. See also the “Judgment on the appeals of Mr Lubanga Dyilo and the Prosecutor against the Decision of Trial Chamber I of 14 July 2009 entitled ‘Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court’”, *supra* note 21, para. 77.

²³ See the “Judgment on the appeal of Mr Germain Katanga against the decision of Trial Chamber II of 21 November 2012 entitled ‘Decision on the implementation of regulation 55 of the Regulations of the Court and severing the charges against the accused persons’”, *supra* note 21, para. 24. See also the “Judgment on the appeal of Mr Laurent Gbagbo against the decision of Trial Chamber I entitled ‘Decision giving notice pursuant to Regulation 55(2) of the Regulations of the Court’”, *supra* note 22, para. 49; and the “Decision giving notice pursuant to Regulation 55(2) of the Regulations of the Court” (Trial Chamber I), [No. ICC-02/11-01/15-185](#), 19 August 2015, para. 11.

²⁴ See the “Judgment on the appeal of Mr Laurent Gbagbo against the decision of Trial Chamber I entitled ‘Decision giving notice pursuant to Regulation 55(2) of the Regulations of the Court’”, *supra* note 22, paras. 2, 32.

23. Moreover, “there is no additional requirement for a Trial Chamber to establish that the circumstances of the case are ‘special’ or ‘extraordinary’ in order to issue notice under that provision prior to the start of the presentation of evidence in the case”.²⁵ Rather, “regulation 55(2) of the Regulations of the court requires notice to be issued when it ‘appears’ to the Trial Chamber that the legal characterisation of facts may be subject to change”.²⁶

24. Finally, “notice of any legal re-characterisation essentially depends on whether and when it appears to the Chamber that legal re-characterisation may be possible in this case. [...] such an ‘appearance’ can arise from: (i) the ‘facts and circumstances’ described in the charges; and/or (ii) the evidence led at trial”.²⁷

25. The Common Legal Representatives note that the Prosecution’s Request for Reconsideration or Leave to Appeal²⁸ and the Prosecution’s Request to Amend Charges and Notice of Intention to Add Additional Charges²⁹ have been rejected by the Pre-Trial Chamber.³⁰

²⁵ *Idem*, para. 67.

²⁶ *Idem*, para. 51.

²⁷ See the “Public redacted version of ‘Decision on application for notice of possibility of variation of legal characterisation pursuant to Regulation 55(2) of the Regulations of the Court’” (Trial Chamber X), [No. ICC-01/12-01/18-1211-Red](#), 25 June 2021.

²⁸ See the “Prosecution’s Request for Reconsideration of, or alternatively Leave to Appeal, the ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’”, [No. ICC-01/14-01/18-437](#), 2 March 2020.

²⁹ See the “Prosecution’s Request to Amend Charges pursuant to Article 61(9) and for Correction of the Decision on the Confirmation of Charges, and Notice of Intention to Add Additional Charges”, *supra* note 7.

³⁰ See the “Decision on the Prosecutor’s request for reconsideration or, in the alternative, leave to appeal the ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’”, *supra* note 4; and the “Decision on the ‘Prosecution’s Request to Amend Charges pursuant to Article 61(9) and for Correction of the Decision on the Confirmation of Charges, and Notice of Intention to Add Additional Charges’”, *supra* note 15.

26. In this regard, they recall the Appeals Chamber's findings according to which *"resort to regulation 55 by the Trial Chamber is not contingent on whether the procedure under article 61(9) of the Statute for the amendment of charges was applied"*.³¹

2. Application of the legal criteria to the Prosecution's Renewed Application

27. The Common Legal Representatives submit that the Renewed Application fully meets the legal criteria under regulation 55(1) and (2) of the Regulations as developed by the Appeals Chamber, insofar as a notice has to be provided at the early stage of the proceedings, after the trial chamber has been seized of the case and regardless of the fact that the pre-trial chamber declined to confirm all the modes of liability.³²

28. Indeed, what is essential under said provision is that the notice is requested considering the facts and circumstances described in the charges confirmed by the pre-trial chamber and the evidence already called and submitted since the beginning of the trial.³³

29. In this regard, the Common Legal Representatives note that the Renewed Application does not request the Trial Chamber to "review" the Decision confirming the charges issued by the Pre-Trial Chamber,³⁴ but to consider the totality of the evidence already heard by the Trial Chamber, as well as prior recorded testimony to be introduced pursuant to rule 68(2) and (3) of the Rules of Procedure and Evidence.³⁵

³¹ See the "Judgment on the appeal of Mr Laurent Gbagbo against the decision of Trial Chamber I entitled 'Decision giving notice pursuant to Regulation 55(2) of the Regulations of the Court'", *supra* note 22, para. 32.

³² See the "Decision on the Prosecutor's request for reconsideration or, in the alternative, leave to appeal the 'Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona'", *supra* note 4, para. 20.

³³ See the Renewed Application, *supra* note 1, para. 9.

³⁴ See the First Decision, *supra* note 17, para. 15.

³⁵ See the Renewed Application, *supra* note 1, paras. 10-13, 22.

a) Regulation 55 notice is timely

30. The Common Legal Representatives emphasise that the Prosecution's Renewed Application is only the first step in the three-stage procedure to modify the legal characterisation under regulation 55 of the Regulations.³⁶ It is not an application for the *actual* legal re-characterisation of any facts under regulation 55(1), but rather for a notice of the *possibility* of such a re-characterisation under sub-regulation 2 of said provision.

31. Therefore, granting the Renewed Application and providing notice accordingly as early as possible is in the interest of the effectiveness and efficiency of the proceedings, will ensure Mr Yekatom's right to be informed promptly and in detail about the charges and avoid delays and the risk of having to recall witnesses if notice were to be given at a later stage of the proceedings.

b) The facts and circumstances 'appear' to support re-characterisation

32. The Common Legal Representatives will not duplicate the Prosecution's arguments on how the facts concerning Mr Yekatom's criminal responsibility may be re-characterised to accord with articles 28(a), and 25(3)(c) and (d) of the Statute in light of the evidence at hand, and refer to the relevant parts of the Renewed Application.³⁷ They submit additionally that the Prosecution has demonstrated that it 'appears' from the facts and circumstances referred to in the Renewed Application that the legal characterisation of facts may be subject to change as regards the modes of liability in relation to Mr Yekatom.

³⁶ See the "Decision on Prosecution Application to Provide Notice pursuant to Regulation 55", *supra* note 20, para. 8.

³⁷ See the Renewed Application, *supra* note 1, paras. 23-59.

33. In this regard, the Common Legal Representatives recall that the Pre-Trial Chamber in the Decision confirming the charges held that *“a Trial Chamber is better poised to fully assess the relevant circumstances and that, in light of regulation 55 of the Regulations, providing early notice as to the applicable legal qualifications is beneficial both for the rights of the Defence and judicial economy”*.³⁸

34. Furthermore, in citing examples of cases in which a regulation 55 notice was granted in its response to the Prosecution’s Request for Reconsideration or Leave to Appeal, the Defence also seemed to agree that the Trial Chamber is the appropriate entity to adjudicate on alternative modes of liability.³⁹

c) Giving a regulation 55 notice is consistent with Mr Yekatom’s rights

35. The Common Legal Representatives recall that one of the aims of regulation 55 of the Regulations is to ensure that the accused is informed of a possible change to the legal characterisation of facts.⁴⁰ This reading is consistent with the case law of the European Court of Human Rights⁴¹ and the Inter-American Court of Human Rights.⁴²

36. In particular, in accordance with the jurisprudence of the Court, *“when making a Regulation 55(2) Assessment, the Chamber must remain mindful of the rights of the accused. In particular, the Chamber must ensure that the accused: (i) receives the specific facts within*

³⁸ See the Decision confirming the charges, *supra* note 3, para. 121.

³⁹ See the “Yekatom Defence Opposition to Prosecution’s Request for Reconsideration or Leave to Appeal Confirmation Decision”, [No. ICC-01/14-01/18-443](#), 6 March 2020, paras. 17-21.

⁴⁰ See the “Judgment on the appeal of Mr Germain Katanga against the decision of Trial Chamber II of 21 November 2012 entitled ‘Decision on the implementation of regulation 55 of the Regulations of the Court and severing the charges against the accused persons’”, *supra* note 21, paras. 100.

⁴¹ See ECtHR, *Pélissier and Sassi v. France*, App. No. 25444/94, [Judgment](#), 25 March 1999; *Dallos v. Hungary*, App. No. 29082/95, [Judgment](#), 1 March 2001; *Sadak and others v. Turkey*, Apps. Nos. 29900/96, 29901/96, 29902/96 and 29903/96, [Judgment](#), 17 July 2001; *R.H. and others v. Austria*, App. No. 42780/98, [Judgment](#), 20 April 2006; *Miraux v. France*, App. No. 73529/01, [Arrêt](#), 26 September 2006; *Mattei v. France*, App. No. 34043/02, [Arrêt](#), 19 December 2006; *Abramyan v. Russia*, App. No. 10709/02, [Judgment](#), 9 October 2008.

⁴² See IACtHR, *Fermin Ramirez v. Guatemala*, [Judgment of 20 June 2005](#), Series C, No. 126.

the 'facts and circumstances described in the charges' which may be relied upon and (ii) the accused is given adequate time and facilities for the effective preparation of his or her defence".⁴³

37. Consequently, providing a regulation 55 notice at the present stage of the proceedings is consistent with Mr Yekatom's rights and is in his very interest, insofar as he will be informed promptly and in detail of the nature, cause and content of the charges he has to face at trial. This course of event is also consistent with the right of the Defence to adequately prepare its case, adapt its strategy in view of said notice and eventually request that safeguards be adopted as a consequence of the notice, including, but not limited to, those contained in regulation 55(2) and (3) of the Regulations.⁴⁴

38. In light of the above, the CLRV posit that notice of a possible re-characterisation of the facts as sought by the Prosecution is consistent with Mr Yekatom's rights under articles 67(1)(a) to (c) of the Statute and with the duty of the Trial Chamber under article 64(2) of the Statute to "*ensure that a trial is fair and expeditious and is conducted with full respect to the rights of the accused*".

IV. VIEWS AND CONCERNS OF THE VICTIMS

39. The Victims expect justice to be done in the most effective and efficient way, and without undue delay. Accordingly, they expressed their wish for a regulation 55 notice to be given as requested by the Prosecution at the present early stage of the proceedings. The Victims also expect the truth to be established to the fullest extent. Thus, they believe that giving a regulation 55 notice at this stage will allow for an in-

⁴³ See the "Decision on Applications for Notice of Possibility of Variation of Legal Characterisation" (Trial Chamber V(A)), [No. ICC-01/09-01/11-1122](#), 12 December 2013, para. 20. See also, the "Judgment on the appeal of Mr Germain Katanga against the decision of Trial Chamber II of 21 November 2012 entitled 'Decision on the implementation of regulation 55 of the Regulations of the Court and severing the charges against the accused persons'", *supra* note 21, paras. 100-101.

⁴⁴ See the "Decision on Applications for Notice of Possibility of Variation of Legal Characterisation", *supra* note 43, para. 43.

depth assessment of all possible forms of Mr Yekatom's involvement in the commission of the crimes during the trial.

40. In particular, the Victims Former Child Soldiers expressed their wish to see Mr Yekatom also being tried as a commander because that is the role he fulfilled in their lives. In this regard, since the Pre-Trial Chamber has recognised that "*the evidence shows the presence of children, including those under the age of 15, among Yekatom's elements*", that Mr Yekatom was one of the 'chiefs' and that children were present in several locations under Mr Yekatom's control,⁴⁵ the Victims Former Child Soldiers are of the view that Mr Yekatom's responsibility as commander should be considered at trial.

41. Finally, the Victims wish to reiterate their concern in relation to the choice by the Prosecution to not also request a regulation 55 notice with regards to the modes of liability under article 25(3)(c) and (d) in relation to Mr Ngaïssona.⁴⁶ In this regard, they reserve their right to eventually ask the Trial Chamber to proceed in accordance with said provision should it be necessary – having heard the evidence – to preserve and defend the interests of the Victims they represent.

⁴⁵ See the Decision confirming the charges, *supra* note 3, para. 145, 153.

⁴⁶ See the "Common Legal Representatives' Joint Response to the Prosecution's Request for Reconsideration or Leave to Appeal", [No. ICC-01/14-01/18-442](#), 6 March 2020, para. 36.

V. CONCLUSION

42. For the foregoing reasons, the Common Legal Representatives respectfully request the Trial Chamber to grant the Prosecution's Renewed Application.

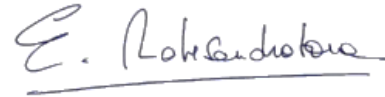


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Marie-Edith Douzima-Lawson

Common Legal Representatives
Victims of Other Crimes

Dated this 14th day of April 2022

At The Hague (The Netherlands), Bangui (Central African Republic), La Rochelle (France) and Saint Louis (Senegal)