

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **2 May 2022**

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 Response to 'Ngaïssona Defence Motion to obtain a
lesser-redacted version of document CAR-OTP-2110-0915'
(ICC-01/14-01/18-1381-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 Applicants

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

Unrepresented Victims

**Unrepresented Applicants
(Participation / Reparation)**

**The Office of Public Counsel for
Victims**

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

Mr 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**

1. The Defence for Mr Alfred Rombhot Yekatom ('Defence') hereby supports the 'Ngaïssona Defence Motion to obtain a lesser-redacted version of document CAR-OTP-2110-0915' ('Motion').¹
2. The Defence fully supports the Ngaïssona Defence argument that the Prosecution misinterprets its obligation of disclosure. In this regard, the Defence respectfully refers the Trial Chamber to its previous submissions regarding the Prosecution's repeated and misplaced reliance on Trial Chamber X's decision in the *Al Hassan* proceedings.²
3. The Defence also recalls that, as has been held by the Appeals Chamber: '[t]he overriding principle is that full disclosure should be made. It must always be borne in mind that the authorisation of non-disclosure of information is the exception to this general rule.'³
4. Lastly, the Defence recalls that, as held in *Ruto & Sang*, pursuant to the Prosecution's obligation to investigate incriminating and exonerating circumstances equally,⁴ 'should it be determined that there are reasonable grounds to believe that information not in the Prosecution's possession may be potentially exculpatory, Article 54(1)(a) of the Statute obligates the Prosecution to make reasonable efforts to obtain that information'.⁵ In this regard, the Defence notes that the information sought in the Motion clearly may affect the credibility of Prosecution evidence and is thus potentially exculpatory.⁶

¹ [ICC-01/14-01/18-1381-Conf](#).

² See, [ICC-01/14-01/18-1373-Conf](#), paras 2-4.

³ *Prosecutor v Katanga*, Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I entitled "First Decision on the Prosecution Request for Authorisation to Redact Witness Statements", [ICC-01/04-01/07-475](#), 13 May 2008, para. 70.

⁴ Article 54(1)(a).

⁵ *Prosecutor v. Ruto & Sang*, Lesser public redacted version of Decision on Joint Defence Application for Further Prosecution Investigation Concerning the Asylum Application Records of Certain Prosecution Witnesses, [ICC-01/09-01/11-1655-Red2](#), 11 December 2017, para. 32.

⁶ See, Article 67(2).

5. This Response is filed on a confidential basis corresponding to the classification of the Motion. The Defence would not oppose its reclassification as public.

RESPECTFULLY SUBMITTED ON THIS 2ND DAY OF MAY 2022



Me Mylène Dimitri
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The Hague, the Netherlands