

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **7 June 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***

Public

**Public redacted version of 'Yekatom Defence Response to the
"Prosecution's Request for the Formal Submission of the Prior Recorded
Testimony of P-1838 pursuant to Rule 68(3)", 18 May 2022, ICC-01/14-01/18-
1412-Conf-Corr', 6 June 2022, ICC-01/14-01/18-1447-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

Mr Karim Asad Ahmad Khan
Mr Kweku Vanderpuye

Counsel for Mr. Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé
Ms Lena Casiez

Counsel for Mr. Ngaïssona

Mr Geert-Jan Alexander Knoops
Mr Richard Omissé-Namkeamaï
Ms Marie-Hélène Proulx

Legal Representatives of Victims

Mr Dmytro Suprun

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**

INTRODUCTION

1. The Defence for Mr. Alfred Rombhot Yekatom ("Defence") hereby responds to the "Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-1838 pursuant to Rule 68(3)" ("Request").¹
2. The Defence submits that the Request should be rejected in light of the numerous references to acts and conduct of Mr. Yekatom on core issues of the case made in P-1838's statement. The unreliability and uncorroborated nature of this statement also militates against its submission pursuant to Rule 68(3) of the Rules.

PROCEDURAL HISTORY

3. On 16 October 2020, Trial Chamber V ("Chamber") issued its "Decision on the Prosecution Extension Request and Initial Guidance on Rule 68 of the Rules" in which it *inter alia* recalled that *viva voce* testimony should be the default mode of testifying,² and held that Rule 68 (3) may not be used without limits, noting that when considered against the specific circumstance of a case, its use might be disproportionate.³
4. On 10 November 2020, the Prosecution added P-1838 to its Final List of Witnesses, indicating that he is expected to testify on the issues of the "Incident PK9-Mbaiki axis" and "Yekatom's contributions".⁴
5. On 17 May 2022, the Request was notified.⁵ A corrigendum of the Request was notified the next day.⁶

¹ [ICC-01/14-01/18-1412-Conf-Corr.](#)

² [ICC-01/14-01/18-685](#), para. 25.

³ *Ibid*, para. 31.

⁴ [ICC-01/14-01/18-724-Conf-AnxA](#), p. 41, witness #79.

⁵ [ICC-01/14-01/18-1412-Conf.](#)

⁶ [ICC-01/14-01/18-1412-Conf-Corr.](#)

APPLICABLE LAW

6. Rule 68(3) of the Rules of Procedure and Evidence (“Rules”) states:

If the witness who gave the previously recorded testimony is present before the Trial Chamber, the Chamber may allow the introduction of that previously recorded testimony if he or she does not object to the submission of the previously recorded testimony and the Prosecutor, the defence and the Chamber have the opportunity to examine the witness during the proceedings.

7. A Chamber’s assessment as to whether prior recorded testimony may be introduced under Rule 68(3) should be made on a case-by-case basis where the factors to be considered may vary per witness.⁷
8. A Chamber must carry out an individual assessment of the evidence sought to be introduced under Rule 68(3), based on the circumstances of each case, which includes analysing the importance of this evidence in light of the charges and other evidence presented or intended to be presented; this assessment is part and parcel of the analysis a Chamber must undertake in determining whether it is not prejudicial to or inconsistent with the rights of the accused or with the fairness of the trial generally, to allow for the evidence in question to be introduced under Rule 68(3).⁸
9. In conducting this analysis, a Chamber may take into account a number of factors, including the following: (i) whether the evidence relates to issues that are not materially in dispute; (ii) whether that evidence is not central to core issues in the case, but only provides relevant background information; and (iii) whether the evidence is corroborative of other evidence.⁹

⁷ *Prosecutor v Gbagbo and Blé Goudé*, Judgment on the appeals of Mr Laurent Gbagbo and Mr Charles Blé Goudé against the decision of Trial Chamber I of 9 June 2016 entitled “Decision on the Prosecutor’s application to introduce prior recorded testimony under Rules 68(2)(b) and 68(3)”, 1 November 2016, [ICC-02/11-01/15-744](#), para. 69.

⁸ *Ibid.*, para. 71.

⁹ *Prosecutor v. Jean-Pierre Bemba Gombo*, Judgment on the appeals of Mr Jean-Pierre Bemba Gombo and the Prosecutor against the decision of Trial Chamber III entitled “Decision on the admission into evidence of materials contained in the prosecution’s list of evidence”, [ICC-01/05-01/08-1386](#), 3 May 2011, para. 78.

SUBMISSIONS

10. P-1838 is a significant [REDACTED] in this case as he held the position of the [REDACTED], *i.e.* prior to and during the events.¹⁰ Given his role and activities before and during the events, P-1838 is one of the most important witnesses for the PK9-MBAIKI axis crime base, which relates to no less than five charges brought against Mr. Yekatom.¹¹ According to his statement P-1838 represented the [REDACTED], before the arrival of [REDACTED] (P-1813), because the “[REDACTED] left when the Seleka were about to come to MBAIKI”.¹² P-1838 was also [REDACTED].
11. His knowledge of this town is even more important in light of the fact that MBAIKI is highly relevant to the case. MBAIKI is the capital of the Lobaye prefecture, where Mr. Yekatom’s group allegedly “took over a number of villages” and “continued this pattern of crimes and threats”.¹³ MBAIKI is also the location where “nearly all Muslims [...] were evacuated by Chadian forces”.¹⁴
12. Beside the fact that it is in the interest of justice to hear P-1838’s testimony *viva voce* in full due to his alleged role and position of influence during the events, the Defence objects to the submission of P-1838’s prior recorded testimony pursuant to Rule 68(3) as its content extensively relates to core issues of the case and is uncorroborated and unreliable.

¹⁰ [CAR-OTP-2100-0252-R04](#), para. 12.

¹¹ Counts 24-28.

¹² [CAR-OTP-2100-0252-R04](#), para. 16.

¹³ [ICC-01/14-01/18-403-Conf-Corr](#), para. 139.

¹⁴ [ICC-01/14-01/18-403-Conf-Corr](#), para. 139.

I. On the content of P-1838's statement which is central to core issues of the case and materially disputed

13. As partly conceded in the Request,¹⁵ the Statement contains extensive, highly prejudicial allegations with regard to the alleged acts and conduct of Mr. Yekatom and his elements. This includes the targeting of Muslims, the murder of Deputy Mayor SALEH in MBAIKI, and the dislocation of the Muslim population along the PK9-MBAIKI axis.

i) Allegations regarding Mr. Yekatom's targeting of Muslims

14. The statement of P-1838 contains strong, speculative claims regarding Mr. Yekatom's alleged specific aim of targeting Muslims. P-1838 alleges that Mr. Yekatom "wanted to kill Muslims";¹⁶ that his actions "indicated his hatred of the Muslims";¹⁷ and that the "Anti-Balaka were mentioning threatening to kill Muslims as that seemed to be foremost in their minds".¹⁸ To support this allegation P-1838 states that "this was clearly evident in the behaviour of the Anti-Balaka youth who could not stand the sight of a Muslim".¹⁹ P-1838 specifically describes the attitude of the Anti-Balaka toward the Muslims: "as if they wanted to chase and kill snakes".²⁰ This suggestion of dehumanization of the Muslims by the Anti-Balaka goes directly to one of the most crucial issues of the case: the alleged Operational Common Plan "to violently target the Muslim population".²¹

¹⁵ [ICC-01/14-01/18-403-Conf-Corr](#), para. 11.

¹⁶ [CAR-OTP-2100-0252-R04](#), para. 66.

¹⁷ [CAR-OTP-2100-0252-R04](#), para. 79.

¹⁸ [CAR-OTP-2100-0252-R04](#), para. 98.

¹⁹ [CAR-OTP-2100-0252-R04](#), para. 66.

²⁰ [CAR-OTP-2100-0252-R04](#), para. 66.

²¹ [ICC-01/14-01/18-403-Conf-Corr](#), para. 56.

ii) *Allegations regarding the murder of Deputy Mayor SALEH in MBAIKI*

15. P-1838 asserts not only that “YEKATOM’s people killed DJIDO”,²² alleging that it was an Anti-Balaka woman who cut off his genitals,²³ but also that “YEKATOM came to see [him] the next day and told [him] the killing was an accident, which was nonsense”.²⁴ P-1838 also states that “DJIDO [was] summoned by COEUR DE LION and [...] was being interrogated”.²⁵ He also claims that “the Anti-Balaka were making life difficult for the Second Deputy Mayor”²⁶ and were “even posted around, DJIDO’s house in BAGUIRMI, by YEKATOM to keep an eye on his activities”.²⁷
16. The part of the statement where Mr. Yekatom came to see P-1838 following the killing of DJIDO could be read as a “confession” made by Mr. Yekatom to P-1838, and would be sufficient, on its own, to order that P-1838 provide his testimony fully *viva voce*, given the highly prejudicial nature of this claim. The fact that P-1838 is also the only witness alleging that Djido SALEH was being harassed by Mr. Yekatom’s group prior to his killing strengthens the necessity to hear P-1838 live in full.

iii) *The dislocation of the Muslim population along the PK9-MBAIKI axis*

17. P-1838 alleges that “YEKATOM sent his Anti-Balaka elements to kill a Muslim man living in BANGUI BOUCHIA”²⁸ and that the Muslims based their decision to leave on what had happened in BANGUI-BOUCHIA, and in other areas,²⁹ suggesting that this was the only possible causal link to explain the evacuation of the Muslims from the area. He insists multiple times – indeed, adding that

²² [CAR-OTP-2100-0252-R04](#), para. 99.

²³ [CAR-OTP-2100-0252-R04](#), para. 101.

²⁴ [CAR-OTP-2100-0252-R04](#), para. 99.

²⁵ [CAR-OTP-2100-0252-R04](#), para. 91.

²⁶ [CAR-OTP-2100-0252-R04](#), para. 91.

²⁷ [CAR-OTP-2100-0252-R04](#), para. 100.

²⁸ [CAR-OTP-2100-0252-R04](#), para. 47.

²⁹ [CAR-OTP-2100-0252-R04](#), para. 80.

he cannot “stress enough”³⁰ this claim – that “as the Anti-Balaka were progressing along the PK9 to MBAIKI axis all the Muslims from the villages from PK9 to MBAIKI came to MBAIKI to find security, because they feared for their lives at the hands of the Anti-Balaka”, and “YEKATOM's group in particular”.³¹

18. In addition, having said that “from PK9 to the outskirts of BODA, including the towns surrounding MBAIKI, the entire area came under the control of YEKATOM”³² and that “the Anti-Balaka were working for 'RAMBO', who they described as their boss”³³, P-1838 further claims that the “little mosques all along that road were burned and destroyed by the Anti-Balaka”³⁴, giving CAFÉ-BOSSONGO and PISSA as examples,³⁵ and that Muslims’ houses were destroyed too.³⁶
19. Finally, P-1838 also discusses roadblocks established between MBAIKI to BANGUI, where he claims to have been asked for money by the Anti-Balaka.³⁷ P-1838 goes further, claiming that Mr. Yekatom’s elements “caused many problems at the barriers, such as regular cases of rape of young girls and looting, stealing goats or killing them.”³⁸ He also alleges to have himself seen extorted sheep and goats attached to Mr. Yekatom motorbike.³⁹
20. These allegations cannot be considered as mere background information or information contextualising the events, but goes to core issues underlying the PK-9-MBAIKI Axis crime base charges, including highly prejudicial allegations regarding the acts and conduct of Mr. Yekatom. Therefore, the Defence is of the

³⁰ [CAR-OTP-2100-0252-R04](#), paras. 36, 53-56, 60, 94.

³¹ [CAR-OTP-2100-0252-R04](#), paras. 36, 53-56, 60, 94.

³² [CAR-OTP-2100-0252-R04](#), para. 47. See also para. 96.

³³ [CAR-OTP-2100-0252-R04](#), para. 96.

³⁴ [CAR-OTP-2100-0252-R04](#), para. 53.

³⁵ [CAR-OTP-2100-0252-R04](#), para. 94.

³⁶ [CAR-OTP-2100-0252-R04](#), paras. 53, 100.

³⁷ [CAR-OTP-2100-0252-R04](#), paras. 92, 106.

³⁸ [CAR-OTP-2100-0252-R04](#), para. 107.

³⁹ [CAR-OTP-2100-0252-R04](#), para. 109.

view that they should be elicited orally before the Chamber and under its oversight.

II. On the uncorroborated and unreliable nature of P-1838's statement

21. The statement of P-1838 is uncorroborated and unreliable. There are important contradictions between P-1838's statement and the evidence of other Prosecution witnesses, and there is a clear lack of coherence in the chronology of the events, which affects the witness's claims as to Mr. Yekatom's involvement therein. There are also strong signs of bias indicating that P-1838's evidence is tarnished by his personal animosity against Mr. Yekatom, which further militates in favour of hearing the testimony of P-1838 *viva voce* in full.

i) Important contradictions between P-1838's statement and other witnesses

22. First, P-1838 indicates that during the BANGUI-BOUCHIA incident, "one of YEKATOM's elements lost his identity card at the scene of the killing".⁴⁰ Critically, P-1838's highly prejudicial allegation is based on anonymous hearsay from "those who accompanied the injured";⁴¹ whereas ABOUBACAR Diakité, (P-1595) the Imam of MBAIKI, who himself was present at the scene and accompanied the injured to the hospital, testified that he did not see an "ID card or a card belonging to anybody or to the attackers" and that he did not hear anything of the sort.⁴² P-1666, also present at the scene, made no mention of finding an identity card at the scene.⁴³ Nor can it reasonably be claimed that those at the scene could have somehow remained unaware of a development so important as the finding of an identify card of an alleged perpetrator at the scene.

⁴⁰ [CAR-OTP-2100-0252-R04](#), para. 48.

⁴¹ [CAR-OTP-2100-0252-R04](#), para. 48.

⁴² P-1595: ICC-01/14-01/18-T-107-ENG, p. 5.

⁴³ [CAR-OTP-2059-0361-R04](#), paras. 22-25.

23. Second, when P-1838 refers to the crimes allegedly committed by Mr. Yekatom's elements at the roadblocks (including, as stated above, "regular cases of rape of young girls and looting"), he says that the different mayors of the area should be able to give more details about this, specifically naming [REDACTED].⁴⁴ Yet when he was asked about these roadblocks, [REDACTED] (P-2084), explained the reason why those roadblocks were established, *i.e.* that "the barricades had to be manned to prevent the enemy from coming back" and makes no mention whatsoever of such grave allegations against Mr. Yekatom's group.⁴⁵
24. Third, in the witness' view, the St. Jeanne d'Arc Church meeting took place following an attempt by [REDACTED] "to persuade YEKATOM not to attack MBAIKI, but to negotiate instead".⁴⁶ However, [REDACTED] himself says that Mr. Yekatom wanted to make contact with the Seleka to tell them to leave MBAIKI, instead of attacking MBAIKI.⁴⁷

ii) The unreliability of the witness statement's chronology

25. Although P-1838 recognizes that he is "not very good with recalling dates",⁴⁸ he claims that the incident in BANGUI-BOUCHIA occurred in 2014,⁴⁹ that the perpetrators were Mr. Yekatom's elements "because he controlled that area",⁵⁰ and that it was in fact a mission that had come from PISSA sent by Mr. Yekatom who, at that time, had established his base in PISSA.⁵¹ He also states that the decision to evacuate was taken after "the killing perpetrated by YEKATOM's Anti-Balaka in BANGUI-BOUCHIA",⁵² and in this regard, appears to place great emphasis on this incident – and, by extension, on the alleged conduct of

⁴⁴ [CAR-OTP-2100-0252-R04](#), para. 107.

⁴⁵ [CAR-OTP-2094-0968](#), para. 79.

⁴⁶ [CAR-OTP-2100-0252-R04](#), para. 66.

⁴⁷ [CAR-OTP-2069-0035](#), paras. 42-48.

⁴⁸ [CAR-OTP-2100-0252-R04](#), para. 47.

⁴⁹ [CAR-OTP-2100-0252-R04](#), para. 47.

⁵⁰ [CAR-OTP-2100-0252-R04](#), para. 48.

⁵¹ [CAR-OTP-2100-0252-R04](#), para. 49.

⁵² [CAR-OTP-2100-0252-R04](#), para. 64.

Mr. Yekatom's group – as the primary factor in the Muslims' decision to leave.⁵³ However, the evidence in the case locates the incident in BANGUI-BOUCHIA in October 2013,⁵⁴ when the Seleka were still in control of the area. P-1838 thus not only speculates when he attributes the killing to Mr. Yekatom, basing his conclusion on anonymous hearsay, as previously mentioned – he also relies on materially incorrect facts to draw unfounded conclusions regarding the incident. In this way, P-1838's confusion regarding the dates affects therefore his broader logic about attributing the BANGUI-BOUCHIA incident to Mr. Yekatom, as well as why the Muslims were evacuated from the area, and thus impacts the reliability of his claims in this regard.

iii) P-1838's statement is subject to bias

26. Referring to the decision to evacuate the Muslims taken because of the killing in BANGUI-BOUCHIA, P-1838 specifies that he has “not heard of any hostilities of the non-Muslim population towards the Muslims”.⁵⁵ This assertion is contradicted by multiple Prosecution witnesses, such as P-1595, who testified that Christians in MBAIKI were insulting Muslims and that at some point they even wanted the Muslims “out for good”.⁵⁶ As another example, P-2389 says that “the local Christians youths would stop and search Muslims walking from the market to the BAGUIRMI neighbourhood and harass them”.⁵⁷ P-1838 seems to minimize the fact that after the killing in BANGUI-BOUCHIA the relations within the population itself were violent, long before the arrival of Mr. Yekatom in MBAIKI.

⁵³ [CAR-OTP-2100-0252-R04](#), para. 80, while P-1838 also makes reference to unspecified incidents that occurred ‘in other areas’, the BANGUI-BOUCHIA incident, which he attributes to Mr. Yekatom's group, is the only one specifically referred to.

⁵⁴ [CAR-OTP-2088-2612](#); [CAR-D29-0016-0056](#).

⁵⁵ [CAR-OTP-2100-0252-R04](#), para. 64.

⁵⁶ P-1595: [CAR-OTP-2104-0274](#), para. 28; ICC-01/14-01/18-T-106-CONF-FRA, p. 34-35.

⁵⁷ P-2389: [CAR-OTP-2104-0033-R03](#), para. 62.

27. P-1838 states that after the killing of Djido SALEH, “there was a lot of MISCA activity, hunting for Anti-Balaka responsible for the killing”;⁵⁸ however, he apparently fails to inform the Prosecution that a number of people were arrested in connection to the killing as expressed by Adama DIENG, the Under Secretary-General Adviser on the Prevention of Genocide, in a statement⁵⁹ and the prefect Alexandre KOUROUPE-AWO [REDACTED] in a contemporary interview.⁶⁰ Considering his role and position during the events, it would appear unlikely that P-1838 would not have been aware of these arrests; and it remains unclear as to why he failed to bring them to the attention of the Prosecution, despite specifically blaming Mr. Yekatom’s elements for the killing.

iv) Animosity against Mr. Yekatom and the Anti-Balaka

28. P-1838 stated that Mr. Yekatom’s elements “did not take any action unless they were authorised to do so by YEKATOM himself”.⁶¹ He also says that Mr. Yekatom “appears to be instructing [his elements] to cause trouble”.⁶² This point of view, with no foundation, is speculative; P-1838 seems to deliberately exaggerate the power and influence of Mr. Yekatom, as a number of witnesses mentioned that Mr. Yekatom was not often in MBAIKI,⁶³ that he was not necessary always in charge of the elements,⁶⁴ and that Mr. Yekatom’s elements in fact “seemed to disregard completely” his orders not to cause disorder or not to harm Muslim civilians.⁶⁵

29. Regarding the meeting at the Saint Jeanne d’Arc church, P-1838 mentioned that Mr. Yekatom said he “wanted to act peacefully” but that “one cannot believe

⁵⁸ [CAR-OTP-2100-0252-R04](#), para. 102.

⁵⁹ [CAR-OTP-2083-0433](#).

⁶⁰ [CAR-OTP-2058-0573](#) [00:29:49 to 00:31:03].

⁶¹ [CAR-OTP-2100-0252-R04](#), para. 47.

⁶² [CAR-OTP-2100-0252-R04](#), para. 98.

⁶³ P-2353: [CAR-OTP-2100-0226-R03](#), para. 53.

⁶⁴ P-2354: [CAR-OTP-2105-0991-R03](#), para. 59.

⁶⁵ P-2353: [CAR-OTP-2100-0226-R03](#), para. 53.

the words of a rebel” and that “he did not believe him”.⁶⁶ However, at least two Muslim witnesses present at the meeting referred to this speech, saying that it reassured not only them, but other members of the Muslim population.⁶⁷ As the [REDACTED], P-1838 would have been in a position to know that some people had been reassured by Mr. Yekatom’s speech. Instead of objectively mentioning this, P-1838 speculates yet again by saying in relation to the Muslims that “maybe they were applauding out of fear”.⁶⁸

30. P-1838 also affirms that Mr. Yekatom wanted to kill [REDACTED], citing the latter as his source.⁶⁹ However, [REDACTED] (P-1813) never mentioned, in his Screening notes and two Statements, any intention, attempt, or attack on him by Mr. Yekatom.⁷⁰ Once again, P-1838 seems to attribute ill intentions to Mr. Yekatom without solid foundation.
31. Finally, in P-1838’s screening notes, mentions of Mr. Yekatom are limited: *i.e.* that while Mr. Yekatom was the brain and the “top-leader” of the Anti-Balaka, he suggests that COEUR DE LION was the leader in MBAIKI.⁷¹ This appears to contradict much of the specific mentions of Mr. Yekatom’s role in P-1838’s statement, and his speculation that ARY is responsible and gave orders. Concerning the meeting at the Saint Jeanne d’Arc church, whereas in the screening notes, Mr. Yekatom was simply ‘also present’, in the statement, the meeting is now called *for* Mr. Yekatom.⁷² It is notable that P-1838’s screening note is dated 2017, while his statement was taken after Mr. Yekatom’s arrest, which would appear to go some way to explain this change in focus and emphasis.

⁶⁶ [CAR-OTP-2100-0252-R04](#), para. 72.

⁶⁷ P-1595: ICC-01/14-01/18-T-106-CONF-ENG, p. 7-8; P-2354: [CAR-OTP-2105-0991-R03](#), para. 54.

⁶⁸ [CAR-OTP-2100-0252-R04](#), para. 78.

⁶⁹ [CAR-OTP-2061-0352](#), para. 51.

⁷⁰ P-1813: [CAR-OTP-2056-0493-R01](#); [CAR-OTP-2069-0035-R02](#); [CAR-OTP-2083-0279-R01](#).

⁷¹ [CAR-OTP-2061-0352](#).

⁷² [CAR-OTP-2100-0252-R04](#), para. 66.

32. As previously noted by the Defence,⁷³ only one witness from PK9-MBAIKI axis, P-1666, is currently scheduled to provide his testimony fully *viva voce*. It is therefore clear that greater caution should be exercised when assessing the testimony of P-1838. In sum, the fact that P-1838's statement (i) is contradicted by many witnesses; (ii) is unreliable in terms of chronology; (iii) contains signs of bias, and (iv) contains strong signs of animosity against Mr. Yekatom strongly militates in favour of ordering that P-1838 provide his testimony fully *viva voce*.

CONFIDENTIALITY

33. The present response is filed on a confidential basis corresponding to the classification of the Request and due to the presence of identifying information of P-1838. A public redacted version is being filed simultaneously.

RELIEF SOUGHT

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

REJECT the Prosecution's Request.

RESPECTFULLY SUBMITTED ON THIS 7th DAY OF JUNE 2022



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands

⁷³ [ICC-01/14-01/18-1272-Conf](#), para. 9. A public redacted version is also available: [ICC-01/14-01/18-1272-Red](#); [ICC-01/14-01/18-1376-Conf](#), para. 25. A public redacted version is also available: [ICC-01/14-01/18-1376-Red2](#). [ICC-01/14-01/18-1421-Conf](#), para. 10. A public redacted version is also available: [ICC-01/14-01/18-1421-Red](#). The Defence did not take into account witness P-2196, listed as a live witness, as his current participation in the trial remains unclear following the information provided by the Prosecution.