

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 July 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 YEKATOM AND PATRICE-EDOUARD
NGAÏSSONA**

Public

Public redacted version of “Registry’s Observations on the ‘Yekatom Defence Request for Amendment of the ‘Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial’ (ICC-01/14-01/18-677-Anx1) and related matters’ (ICC-01/14-01/18-1451)”, 22 June 2022, ICC-01/14-01/18-1473-Conf

Source: Registry

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

The Office of the Prosecutor

Karim A. A. Khan
James Stewart
Kweku Vanderpuye

Counsel for Alfred Yekatom

Mylene Dimitri
Thomas Hannis

Counsel for Patrice-Edouard Ngaïssona

Geert-Jan Alexander Knoop
Richard Omissse-Namkeamai

Legal Representatives of the Victims

Abdou Dangabo Moussa
Elisabeth Rabesandratana
Yare Fall
Marie-Edith Douzima-Lawson
Paolina Massidda
Dmytro Suprun

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. The Victims and Witnesses Unit (“VWU” or “Unit”) submits these observations pursuant to Trial Chamber V’s (“Chamber”) instruction, communicated by way of email dated 16 June 2022.¹

II. Classification

2. In accordance with regulation 23bis(1) of the Regulations of the Court, the present report is classified as confidential, as it contains information on the internal workings of the Registry.

III. Procedural History

3. On 2 June 2022, following information provided to the Chamber by P-2475 (“Witness”) during his testimony on 30 May 2022 with regard to his witness familiarisation, the Chamber instructed the VWU to provide its comments regarding the compliance with the applicable witness familiarisation protocol (ICC-01/14-01/18-677-Anx1)² (“Familiarisation Protocol”).
4. The VWU complied with that instruction on 3 June 2022.³
5. On 6 June 2022, the Chamber, *inter alia*, instructed the VWU to “review its internal workings, in order to ensure strict adherence with the Protocol in place and to improve its communication with the Chamber.”⁴
6. On 10 June 2022, the Defence for Mr Yekatom submitted the “Yekatom Defence Request for Amendment of the ‘Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial’ (ICC-01/14-01/18-677-Anx1) and related matters” (“Request”)⁵. In the Request, the Defence, *inter alia*, requests the Chamber to “order the VWU to review records of provision of statement to witnesses and report any deviation from the Witness

¹ Trial Chamber V Communications, email sent on 16 June 2022 at 14:51.

² Trial Chamber V Communications, email sent on 02 June 2022 at 14:02.

³ Email sent by VWU to Trial Chamber V Communications, 03 June 2022 at 11:33.

⁴ Trial Chamber V Communications, email sent on 06 June 2022 at 10:27.

⁵ ICC-01/14-01/18-1451.

Familiarisation Protocol”⁶ and submits that “amendment of paragraph 88 of the Witness Familiarisation Protocol is necessary.”⁷

7. On 15 June 2022, the VWU submitted observations on the Request to the Chamber by way of e-mail.⁸
8. On 16 June 2022, the Chamber instructed the VWU to file its observations on the record.⁹

IV. Submissions

9. On 24 May 2022, the Defence team inquired into the incident in question, in which [REDACTED].¹⁰
10. In response to the above inquiry, the Registry immediately acknowledged, on both 25 May 2022¹¹ and 30 May 2022¹², that the incident described in the Request was an unapproved deviation from the Familiarisation Protocol.¹³
11. In those same communications, in addition to acknowledging that the deviation had occurred, the VWU was fully transparent with the parties regarding the surrounding circumstances and provided the relevant information as soon as it was available from the individual who conducted the statement reading.¹⁴ The VWU subsequently acknowledged that the Chamber should have been informed and/or copied to the communication to the parties and apologized to the judges for not having done so.¹⁵
12. Regarding the request of the Defence to amend the Familiarisation Protocol,¹⁶ the VWU is not opposed to amending paragraph 88 of the Familiarisation

⁶ Request, para. 27.

⁷ Request, para. 2.

⁸ Email sent by VWU to Trial Chamber V Communications, 15 June 2022 at 18:29.

⁹ Trial Chamber V Communications, email sent on 16 June 2022 at 14:51,

¹⁰ Email from Yekatom Defence Team to VWU on 24 May 2022 at 19:00.

¹¹ Email sent by VWU to Yekatom Defence Team on 25 May 2022 at 14:40.

¹² Email sent by VWU to Yekatom Defence Team on 30 May 2022 at 11:22.

¹³ “Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial”, ICC-01/14-01/18-677-Anx1 (“Yekatom Familiarisation Protocol”).

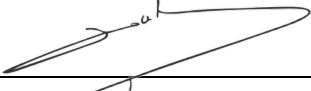
¹⁴ Email sent by VWU to Yekatom Defence Team on 30 May 2022 at 11:22.

¹⁵ Email sent by VWU to Trial Chamber V Communications, 6 June 2022 at 12:53.

¹⁶ Request, para. 2.

Protocol if the Chamber deems it necessary, but would propose replacing the reference to “parties” by “the calling party”. Paragraph 88 of the Familiarisation Protocol would then read as follows, in its entirety: “The VWU will keep the statement on its premises until the witness has finished testimony. The VWU will keep record of the dates when the statements were provided to the Unit, made available to the witness and, if applicable, returned to the party. The VWU will transmit this record to the calling party before the testimony of the witness. The VWU will not be in a position to ascertain the content of the provided statement or to ensure that the witness comprehends all of the provided material.” The calling party would thereafter be in a position to transmit the record to the other party. This would be in line with the VWU practice of considering the calling party the main point of contact for witness-related matters.

13. Regarding the second issue raised by the Defence related to the review of the records of provision of statement to witnesses,¹⁷ the VWU would like to stress that to its knowledge, no anomalies were reported so far. Nonetheless, the VWU is currently reviewing the information available in relation to the witnesses who have already testified, and a lessons learned exercise is being conducted internally in order to avoid the recurrence of this type of situation.



 Marc Dubuisson, Director Division of Judicial Services
 on behalf of Peter Lewis, Registrar

Dated this 14 July 2022

At The Hague, the Netherlands

¹⁷ Request, para. 26.