

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **4 November 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 Request for Leave to Reply to the 'Common Legal Representatives' Joint Response to the "Defence Request for Further Directions on the 'Protocol on the Handling of Confidential Information during Investigations and Contact between a Party or Participant and Witnesses of the Opposing Party or of a Participant' (ICC-01/14- 01/18-156-AnxA and ICC-01/14-01/18-677-Anx5)"" , 31 October 2022, ICC-01/14-01/18-1642-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 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. Pursuant to Regulation 24(5) of the Regulations of the Court, the Defence for Mr Alfred Rombhot Yekatom ('Defence') hereby respectfully seeks leave to reply to the '*Common Legal Representatives' Joint Response to the "Defence Request for Further Directions on the 'Protocol on the Handling of Confidential Information during Investigations and Contact between a Party or Participant and Witnesses of the Opposing Party or of a Participant'*' (ICC-01/14- 01/18-156-AnxA and ICC-01/14-01/18-677-Anx5)'' ('Response').¹
2. The Defence respectfully submits a reply is warranted to provide additional information on an issue raised by the Common Legal Representatives of the Victims of Other Crimes and the Common Legal Representative of the Victims Former Child Soldiers ("CLRV") that could not reasonably have been anticipated by the Defence.
3. The CLRV submit that without a final or provisional list of the Defence witnesses and "if the [NGAISSONA] Defence's interpretation of paragraph 27 of the Protocol is adopted, all parties or participants will be prevented from properly leading their investigation and be unduly burdened in their engagement with any persons that they might - or might not – call to testify at the end."²
4. The Defence could not have reasonably anticipated that the CLRV would take a position which appears to be at odds to *inter partes* communications between the Defence and the CLRV regarding the modus operandi to be adopted by the Defence in field investigations, given that the CLRV are yet to provide their final or provisional list of witnesses.

¹ ICC-01/14-01/18-1642-Conf

² ICC-01/14-01/18-1642-Conf, para. 15.

5. If the sought leave is granted, the Defence would provide a limited argumentation based on *inter partes* communications and an annex including the relevant emails between the Defence and the CLRV on field investigations conducted by the Defence since the beginning of this trial to highlight the vulnerable situation in which the Defence is placed where both the Prosecution and the CLRV are likely to contact its witnesses without any insurance that mere verification of their link to the Defence would be conducted.
6. The Defence submits that information on the position adopted by the CLRV from the start of the trial, and the conduct of the Defence in this regard, would assist the Trial Chamber in its determination on the initial Request.
7. The current request is filed on a confidential basis corresponding to the classification of the Response. A public redacted version will be filed forthwith.

RELIEF SOUGHT

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

GRANT leave to reply to the Response.

RESPECTFULLY SUBMITTED ON THIS 4th DAY OF NOVEMBER 2022



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands