

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **26 April 2023**

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

Yekatom Defence Observations to the "First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules", ICC-01/14-01/18-1833-Conf-Corr, 17 April 2023

Source: Defence for Mr. Alfred Rombhot Yekatom

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

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**Unrepresented Applicants
(Participation / Reparation)**

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INTRODUCTION

1. The Defence for Mr Alfred Rombhot Yekatom (“Defence”) hereby provides its observations to the Prosecution’s disclosure of Annex A to P-1864’s statement, Annex A to P-1871’s statement, and Annexes 2 and 3 to P-2377’s statement,¹ pursuant to the Chamber’s order issued on 6 April 2023.²
2. The Defence does not have any observations as to the annexes of P-1864 and P-1871. However, the Defence submits that the Prosecution needs to provide further observations regarding the creation of Annexes 2 and 3 to P-2377’s statement.

PROCEDURAL HISTORY

3. Between 3 November 2020 and 11 January 2021, the Prosecution submitted eight requests for formal submission of prior recorded testimonies and their associated exhibits pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence (“Rules”) for 55 witnesses (collectively referred to as the “Requests”).
4. On 22 December 2020, the Prosecution filed its fifth request for the formal submission of the prior recorded testimony of six Prosecution Witnesses pursuant to rule 68(2)(b) (“Fifth Request”), among which P-2377.³
5. On 15 January 2021, the Defence responded to the Prosecution’s Fifth Request that, *inter alia*, it did not oppose the submission of the prior submitted testimony of P-2377 and its associated exhibits.⁴

¹ [CAR-OTP-2064-0873](#); [CAR-OTP-2064-0896](#); [CAR-OTP-2108-0661](#); [CAR-OTP-2108-0663](#).

² [ICC-01/14-01/18-1833-Conf-Corr](#). A public redacted version is also available : [ICC-01/14-01/18-1833-Corr-Red](#).

³ [ICC-01/14-01/18-795-Conf](#) (with confidential Annexes A and B). A lesser public redacted version is also available : [ICC-01/14-01/18-795-Red2](#).

⁴ [ICC-01/14-01/18-823-Conf](#), para. 2. A public redacted version is also available : [ICC-01/14-01/18-823-Red](#).

6. On 6 April 2023, the Chamber issued its “First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules” in which it ruled on the first five Prosecution Requests.⁵ With regards to P-2377, the Chamber granted the introduction of his statement and associated items pursuant to Rule 68(2)(b) of the Rules.⁶ Since Annexes 2 and 3 had not yet been disclosed to the Defence, the Chamber deferred its decision on these items and ordered the Prosecution to disclose them and the Defence to submit observations on the introduction of these items.⁷
7. On 14 April 2023, in accordance with the Chamber’s order, the Prosecution disclosed, *inter alia*, CAR-OTP-2108-0661 and CAR-OTP-2108-0663, respectively Annexes 2 and 3 of P-2377’s statement.⁸

SUBMISSIONS

8. The Defence wishes to express its concerns as to the absence of information relative to the provenance and creation of Annexes 2 and 3 of P-2377’s statement.
9. Annex 2 is a photo sheet CAR-OTP-2059-1707 containing 18 photographs on which the witness identified certain individuals, including Prosecution witness P-1819.⁹ Annex 3 is a photograph CAR-OTP-2014-0802 which was shown to P-2377 who identified a man as a possible colleague of P-1819 who also appears on Annex 2. P-2377 also commented that he thought the photograph was taken at a press conference at the President’s Office in Bangui and suggested that a comparison be made with his own footage.¹⁰

⁵ [ICC-01/14-01/18-1833-Conf-Corr](#), para. 12.

⁶ [ICC-01/14-01/18-1833-Conf-Corr](#), para. 364.

⁷ [ICC-01/14-01/18-1833-Conf-Corr](#), para. 365.

⁸ See Trial Other package 22 disclosed on 14 April 2023.

⁹ [CAR-OTP-2107-8810-R02](#), para. 66.

¹⁰ [CAR-OTP-2107-8810-R02](#), paras 51-56 and 67.

10. The Defence has no information regarding the source of the photographs shown to P-2377 and annexed to his statement. It is not clear whether they have been extracted from a video in the case record or from another unknown document. There is also no indication as to who provided these photographs or videos from which the screenshots were taken. Further, the annexes are undated.
11. In light of the absence of information as set out above, the Defence is unable to adequately conduct its assessment of Annexes 2 and 3. Therefore, the Defence respectfully requests the Chamber to order the disclosure of the original source of the photographs presented to the witness and attached to his statement as Annexes 2 and 3. Alternatively, should the screenshots have been taken from a document already disclosed, the Defence respectfully requests the Chamber to order the Prosecution to indicate from which document they originate.

RELIEF SOUGHT

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

ORDER the Prosecution to disclose the information set out in paragraph 11 of these observations.

RESPECTFULLY SUBMITTED ON THIS 26th DAY OF APRIL 2023



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands