

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 26 June 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 YEKATOM AND  
PATRICE-ÉDOUARD NGAÏSSONA**

**Public**

**Public Redacted Version of the “Response of the Common Legal Representative of the Former Child Soldiers to the ‘Prosecution’s Request for an order concerning the cooperation with [REDACTED]’”  
(ICC-01/14-01/18-1893-Conf, dated 29 May 2023)**

**Source:** Office of Public Counsel for Victims (CLR1)

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

Mr Karim A. A. Khan KC

Mr Kweku Vanderpuye

**Counsel for Alfred Yekatom**

Ms Mylène Dimitri

Ms Anta Guissé

**Counsel for Patrice-Édouard Ngaïssona**

Mr Geert-Jan Alexander Knoops

Ms Marie-Hélène Proulx

**Legal Representatives of the Victims**

Mr Dmytro Suprun

Mr Abdou Dangabo Moussa

Ms Marie Édith Douzima Lawson

Mr Yaré Fall

Ms Paolina Massidda

Ms Elisabeth Rabesandratana

**Legal Representatives of the Applicants****Unrepresented Victims****Unrepresented Applicants  
(Participation/Reparation)****The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

Mr Dmytro Suprun

Mr Orchlon Narantsetseg

**The Office of Public Counsel for the  
Defence****States' Representatives****Amicus Curiae****REGISTRY**

---

**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section****Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations  
Section Other**

## I. INTRODUCTION

1. The Common Legal Representative of the Former Child Soldiers (the “Legal Representative”) hereby files his response to the “Prosecution’s Request for an order concerning the cooperation with [REDACTED]” (the “Request”).<sup>1</sup>

2. The Legal Representative supports the Request insofar as it pertains to documents in possession and control of [REDACTED], the Central African Republic (the “CAR”), as further specified.<sup>2</sup> Acquiring these documents will provide additional evidence on [REDACTED] which is not otherwise available and thus, will significantly assist Trial Chamber V (the “Chamber”) in its truth seeking function. Furthermore, this course of conduct will also promote the right of Victims to fair and expeditious proceedings.

## II. PROCEDURAL BACKGROUND

3. On 26 August 2020, the Presiding Judge of the Chamber issued the “Initial Directions on the Conduct of the Proceedings”.<sup>3</sup>

4. On 8 May 2023, the Prosecution filed its Request.<sup>4</sup>

5. On 15 May 2023, following the exchange of email correspondence between the Yekatom Defence and the Prosecution,<sup>5</sup> the Single Judge instructed the Prosecution to file on an *ex parte* basis the requests for assistance sent to [REDACTED] and the latter’s responses thereto, by 16 May 2023 at 16:00. The Prosecution was further instructed to file a confidential redacted version of the relevant documentation by the same deadline. Finally, the Single Judge suspended the deadline for the participants to

---

<sup>1</sup> See the “Prosecution’s Request for an order concerning the cooperation with [REDACTED]”, [No. ICC-01/14-01/18-1859-Conf](#), 8 May 2022, dated 5 May 2023 (the “Request”).

<sup>2</sup> *Idem*, para. 1.

<sup>3</sup> See the “Initial Directions on the Conduct of the Proceedings” (Trial Chamber V, Presiding Judge), [No. ICC-01/14-01/18-631](#), 26 August 2020.

<sup>4</sup> See the Request, *supra* note 1.

<sup>5</sup> See the Email correspondence from the Yekatom Defence dated 10 May 2023 at 14:49; the Email correspondence from the Prosecution dated 11 May 2023 at 10:55; and the Email correspondence from the Yekatom Defence dated 11 May 2023 at 15:01.

respond to the Request until the additional documentation in question has been notified.<sup>6</sup>

6. On 16 May 2023, the Prosecution filed its notice of compliance with the Chamber's order regarding the Request.<sup>7</sup>

7. On 17 May 2023, following a request from the Yekatom Defence,<sup>8</sup> the Single Judge (i) ordered the Prosecution to justify by email the redactions in question in accordance with the applicable legal framework, by 19 May 2023 at 17:30; and (ii) suspended the deadline for participants to respond to the Request until further notice.<sup>9</sup>

8. On 19 May 2023, the Prosecution provided by email the reasons justifying the redactions in question.<sup>10</sup>

9. On 22 May 2023, the Yekatom Defence requested the Chamber to re-order the Prosecution to comply with the applicable procedure for redactions; or alternatively, to dismiss *in limine* the Request.<sup>11</sup>

10. On 23 May 2023, the Single Judge (i) rejected the Yekatom Defence request of 22 May 2023, and (ii) instructed the participants to file responses to the Request, if any, by 29 May 2023.<sup>12</sup>

---

<sup>6</sup> See the Email correspondence from the Chamber dated 15 May 2023 at 17:30.

<sup>7</sup> See the "Prosecution's Notice of Compliance with 'Order regarding Filing ICC-01/14-01/18-1859-Conf'", [No. ICC-01/14-01/18-1871-Conf](#), 16 May 2023; with a Confidential Redacted version of ICC-01/14-01/18-1871-Conf-Exp-Anx, [No. ICC-01/14-01/18-1871-Conf-Anx-Red](#), 16 May 2023.

<sup>8</sup> See the Email correspondence from the Yekatom Defence dated 17 May 2023 at 11:10.

<sup>9</sup> See the Email correspondence from the Chamber dated 17 May 2023 at 17:34.

<sup>10</sup> See the Email correspondence from the Chamber dated 19 May 2023 at 17:42.

<sup>11</sup> See the Email correspondence from the Yekatom Defence dated 22 May 2023 at 10:18.

<sup>12</sup> See the Email correspondence from the Chamber dated 23 May 2023 at 14:23.

### III. CLASSIFICATION

11. Pursuant to regulation 23*bis* (2) of the Regulations of the Court, the present submissions are filed confidential following the classification chosen by the Prosecution. A public redacted version will be filed in due course.

### IV. SUBMISSIONS

12. The Legal Representative recalls that any cooperation request under article 87(6) and Part 9 of the Rome Statute must satisfy three cumulative requirements, namely (i) relevance, (ii) specificity, and (iii) necessity.<sup>13</sup>

13. The Legal Representative supports the Request insofar as it pertains to documents in possession and control of [REDACTED] concerning its [REDACTED]. In particular, the Request concerns: [REDACTED].<sup>14</sup>

14. First, the Request is relevant to the case as the requested documents relate to [REDACTED].<sup>15</sup>

15. Second, the Request is specific enough as it identifies with sufficient precision, and clearly circumscribes, [REDACTED] that the Prosecution seeks to obtain from the [REDACTED]. In this sense, the Legal Representative concurs with the Prosecution that the process of identifying the requested documents would not be unduly onerous on the organisation.<sup>16</sup>

16. Third, the Request is necessary as the Prosecution previously attempted, unsuccessfully, to acquire these documents directly through requests for assistance

---

<sup>13</sup> See the “Decision on the Prosecution Request to Summon a Witness” (Trial Chamber V), [No. ICC-01/14-01/18-804-Conf](#), 8 January 2021, para. 15. See also, the “Decision on Second Mangenda Request for Cooperation” (Trial Chamber VII), [No. ICC-01/05-01/13-1768](#), 5 April 2016, para. 8, footnote 15 and jurisprudence referred therein.

<sup>14</sup> See the Request, *supra* note 1, para. 1.

<sup>15</sup> See the “Public redacted version of the decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-403-Red](#), 20 December 2019, [REDACTED].

<sup>16</sup> See the Request, *supra* note 1, para. 8.

addressed to [REDACTED].<sup>17</sup> It thus appears that the Prosecution cannot obtain the material without intervention of the Chamber.

17. Furthermore, the Legal Representative recalls his previous submissions regarding [REDACTED].<sup>18</sup> In addition, he reiterates that [REDACTED].<sup>19</sup> Accordingly, the Legal Representative concurs with the Prosecution that [REDACTED].<sup>20</sup>

18. Lastly, the Legal Representative submits that obtaining said documents from [REDACTED] will also promote the right of Victims to fair and expeditious proceedings. In fact, as constantly underlined in previous submissions,<sup>21</sup> Victims have been awaiting justice for many years, and are concerned with the prospect of a lengthy trial. Thus, any procedural steps that contribute to streamline and clear up the evidence also meet the right of Victims to speedy justice.

## V. CONCLUSION

19. For the foregoing reasons, the Legal Representative respectfully requests the Chamber to grant the Request.

---

<sup>17</sup> See the Email correspondence from the Prosecution dated 11 May 2023 at 10:55. See also the Annex, *supra* note 7, pp. 7-8, 11-12, and 16-17.

<sup>18</sup> See [REDACTED].

<sup>19</sup> See [REDACTED].

<sup>20</sup> See the Request, *supra* note 1, para. 10.

<sup>21</sup> See the "Common Legal Representatives' Joint and Consolidated Response to the Prosecution's Second and Third Request for the Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b)", [No. ICC-01/14-01/18-761-Conf](#), 10 December 2020, para. 19; and the "Common Legal Representatives' Joint Response to the "Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-1962 pursuant to Rule 68(3)", [No. ICC-01/14-01/18-779-Red](#), 17 December 2020, para. 17.

**RESPECTFULLY SUBMITTED,**

A handwritten signature in black ink, appearing to read 'Dmytro Suprun', with a period at the end.

Dmytro Suprun  
Common Legal Representative of the Former Child Soldiers

Dated this 26<sup>th</sup> day of June 2023  
At The Hague, The Netherlands