

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **15 May 2024**

**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 *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-  
EDOUARD NGAÏSSONA***

**Public**

**Public redacted version of "Prosecution's Response to the "Yekatom Defence Request for Leave to Add 3 Items to its List of Evidence" (ICC-01/14-01/18-2462-Conf) ", ICC-01/14-01/18-2481-Conf, 3 May 2024**

**Source:** Office of the Prosecutor

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

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## I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) defers to Trial Chamber V’s (“Chamber”) discretion regarding two items in the Yekatom Defence Request for Leave to add three items to its List of Evidence<sup>1</sup> (“Request”), namely: the [REDACTED] BBC News Afrique media article (“BBC article”)<sup>2</sup> and D29-P-5013’s [REDACTED].<sup>3</sup> The Prosecution does not object to the proposed addition of the 4 April 2014 [REDACTED].

2. The Prosecution notes that the Defence should have diligently sought P-5013’s [REDACTED] and the BBC article prior to filing its final List of Evidence (“LoE”),<sup>4</sup> as they concern the [REDACTED]. In this regard, it is of concern that the Defence’s summary of P-5013’s anticipated testimony<sup>5</sup> makes no mention of the date on which the [REDACTED], nor the circumstances in which this occurred. It is only now, at the eleventh hour that the Defence reveals that P-5013 actually [REDACTED].<sup>6</sup>

## II. CONFIDENTIALITY

3. Pursuant to regulation 23bis(2) of the Regulations of the Court (“RoC”), this document is filed as “Confidential”, as it responds to a filing of the same designation. A public redacted version will be filed as soon as practicable.

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<sup>1</sup> ICC-01/14-01/18-2462-Conf.

<sup>2</sup> CAR-D29-0002-0696.

<sup>3</sup> CAR-D29-0013-0276-R01

<sup>4</sup> ICC-01/14-01/18-1892, para. 21 (i).

<sup>5</sup> ICC-01/14-01/18-2212-Conf-AnxC, pp. 14-17.

<sup>6</sup> ICC-01/14-01/18-2462-Conf, para. 15.

### III. SUBMISSIONS

#### A. The BBC press article and [REDACTED]

4. The Prosecution defers to the Chamber's discretion regarding the addition of the BBC article<sup>7</sup> and the [REDACTED]<sup>8</sup> to the Defence's LoE, subject to the following observations.

5. Contrary to the Defence's suggestion, the BBC article and [REDACTED] did not (only) become relevant as a result of the phone attribution in the relevant [REDACTED]<sup>9</sup> [REDACTED].<sup>10</sup> Evidence regarding the exact [REDACTED]<sup>11</sup> - sets the parameters for her testimony and is material to determining what events she could have witnessed. As such these items should have been diligently sought out by the Defence when it interviewed witness P-5013 or shortly thereafter, and included in its final LoE.

6. The Defence's summary of witness P-5013's anticipated testimony is silent in regards to her [REDACTED] and the specific circumstances in which this happened.<sup>12</sup> In any event, the Defence does not explain why this matter was not broached with the witness during its interviews, nor why it failed to request the witness' [REDACTED]<sup>13</sup> - especially given its asserted relevance to her evidence. In the same vein, it is also concerning that the Defence only recently discovered the open-source [REDACTED] BBC article, given its awareness of the witness's inability to recall the [REDACTED].<sup>14</sup> As it stands, the Prosecution still does not know whether witness P-5013 returned to [REDACTED] and if so, on what dates.

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<sup>7</sup> CAR-D29-0002-0696.

<sup>8</sup> CAR-D29-0013-0276-R01.

<sup>9</sup> ICC-01/14-01/18-2462-Conf, para. 13.

<sup>10</sup> [REDACTED].

<sup>11</sup> ICC-01/14-01/18-2462-Conf, para. 14, 15, and 17.

<sup>12</sup> ICC-01/14-01/18-2212-Conf-AnxC, pp. 14-17.

<sup>13</sup> ICC-01/14-01/18-2462-Conf, para. 15.

<sup>14</sup> ICC-01/14-01/18-2462-Conf, para. 14.

**B. The [REDACTED]**

7. As noted above, the Prosecution does not object to the proposed addition of the [REDACTED] <sup>15</sup>to the Defence's LoE.

**IV. RELIEF SOUGHT**

8. For the above reasons, the Prosecution defers to the Chamber's discretion regarding the addition of the BBC article and the [REDACTED], and does not object to the addition of the [REDACTED] to the Defence's LoE.

A handwritten signature in blue ink, appearing to read 'K.A.A.K.', with a horizontal line underneath it.

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**Karim A. A. Khan KC, Prosecutor**

Dated this 15<sup>th</sup> day of May 2024  
At The Hague, The Netherlands

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<sup>15</sup> CAR-D29-0013-0276-R01.