

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **26 September 2024**

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung
Judge Beti Hohler, Alternate Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *THE PROSECUTOR v.*
*ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

Public Redacted Version of the "Yekatom Response to "Request of the Common Legal Representative of the Former Child Soldiers for Leave to Reply to the "Response to 'Request of the Common Legal Representative of the Former Child Soldiers for leave to present evidence in rebuttal' (ICC-01/14-01/18-2654-Conf)""", 9 September 2024, ICC-01/14-01/18-2684-Conf

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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INTRODUCTION

1. The Defence for Mr. Yekatom ('Defence') opposes the Request of the Common Legal Representative of the Former Child Soldiers for Leave to Reply to the "Response to the 'Request of the Common Legal Representative of the Former Child Soldiers for leave to present evidence in rebuttal'".¹
2. The Request fails to meet the requirements of Regulation 24(5) of the Regulations of the Court ("RoC"). The Request should be dismissed, as no reply is warranted. Furthermore, the requested reply would not assist Trial Chamber V ("Chamber") in resolving the matter.

SUBMISSIONS

3. There is no new issue arising from the Defence Response² meriting a reply, nor does it raise any issue that it could not have reasonably anticipated. The Chamber, in its clarification of 7 February³, emphasized the importance of presenting the evidence as soon as practicable notwithstanding the Defence's objections.⁴ The CLRV1 should have reasonably anticipated the need to submit the proposed evidence earlier, rather than at the eleventh hour.
4. The second issue on which CLRV1 seeks leave to reply—his violation of the Contact Protocol by engaging with witnesses [REDACTED]—was also foreseeable. CLRV1 was fully aware of this issue, and its prohibition to contact and interview Defence witnesses as evidenced by the fact that each statement submitted in his Rebuttal Request includes a sentence asserting that the witness had no prior contact with the Yekatom Defence⁵. However, to avoid the issue of taking statements of Defence

¹ ICC-01/14-01/18-2681-Conf ('Request').

² ICC-01/14-01/18-2673-Conf.

³ Email from Trial Chamber V to Parties and Participants dated 7 February 2024 at 15:11.

⁴ Contra Request, para. 13.

⁵ Statement of V45-P-0003, CAR-V45-00000023 para. 11; Statement of V45-P-0004, CAR-V45-00000025; Statement of V45-P-0006, CAR-V45-00000028 para. 11; Statement of V45-P-0007, CAR-V45-00000035 para. 11; Statement of V45-P-0008, CAR-V45-00000039 para. 11; Statement of V45-P-0009, CAR-V45-00000045 para. 11; As for the Statement of V45-P-0005 is describe at CAR-V45-00000027 para. 40-41 the alleged circumstances under which the witness would have met with Yekatom Defence.

witnesses, for [REDACTED], CLRV1 instead instructed [REDACTED] to contact and interview the Defence witnesses. Indeed, CLRV1 explicitly instructed [REDACTED] to contact these witnesses, as evidenced in the latter's own statement: "[REDACTED]".⁶

5. Despite CLRV1's apparent attempt to limit the Contact Protocol's scope to a prohibition on revealing the identity of witnesses⁷, the Protocol clearly prohibits any party or participant from contacting or interviewing a witness from another party⁸. This is exactly what [REDACTED], at CLRV1's request, did.
6. CLRV1 cannot reasonably argue that compliance with the Protocol was an unforeseeable issue. Given the explicit terms of the Protocol, the contact with these witnesses should have been anticipated and avoided.
7. In any event, the Yekatom Defence respectfully submits that the Chamber would not benefit from further exposition of the matter. The CLRV1's Rebuttal Request and the Yekatom Response are sufficient for the Chamber to make its determination. Additional submissions would only serve to delay proceedings without providing any new or substantive insight.

CONFIDENTIALITY

8. This response is filed on a confidential basis as it responds to a filing of the same designation. The Yekatom Defence will file a public redacted version in due course.

RELIEF

9. For the foregoing reasons, the Defence respectfully requests that Trial Chamber V
REJECT the Request for Leave to Reply.

⁶ CAR-V45-00000045 para. 27.

⁷ Request, para. 16.

⁸ ICC-01/14-01/18-677-Anx5, para. 27: "a party or participant shall not contact or interview a witness of another party or participant"

RESPECTFULLY SUBMITTED ON THIS 26th DAY OF SEPTEMBER 2024

A handwritten signature in blue ink, appearing to read 'Mylène Dimitri'.

Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands