

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **23 January 2019**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF
*THE PROSECUTOR v. ALFRED ROMBHOT YEKATOM***

Public

Request on behalf of Mr. Yekatom Seeking Leave to Reply to “Prosecution’s Response to the Defence’s Request Seeking Leave to Appeal the “Decision on Language Proficiency of Alfred Yekatom for the Purposes of the Proceedings” (ICC-01/14-01/18-57) and/or Clarification of the Impugned Decision

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

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation / Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

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Mr. Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Further to the “Decision on Language Proficiency of Alfred Yekatom for the Purposes of the Proceedings” issued by the Single Judge acting on behalf of Pre-Trial Chamber II (“Pre-Trial Chamber”) on 11 January 2019 (“Impugned Decision”), the Request on behalf of Mr. Yekatom seeking leave to appeal “Decision on Language Proficiency of Alfred Yekatom for the Purposes of the Proceedings” (“Defence Leave to Appeal Request”), to the Prosecution’s Response to the Defence Leave to appeal Request (“Prosecution’s Response”) Counsel representing Mr. Alfred Rombhot Yekatom (“Mr. Yekatom” or “Defence”) hereby submit this:

Request on behalf of Mr. Yekatom Seeking Leave to Reply to the Prosecution’s Response to the Defence’s Request Seeking Leave to Appeal the Decision on Language Proficiency of Alfred Yekatom for the Purposes of the Proceedings” (ICC-01/14-01/18-57) and/or Clarification of the Impugned Decision (“Defence Request for Leave to Reply and/or Clarification”).

INTRODUCTION

1. The Prosecution concedes that the Defence should be granted leave to appeal the first issue raised in the Defence Leave to Appeal Request but opposes leave being granted in respect of the second and third issues.
2. The Defence hereby seeks leave to reply to the Prosecution’s Response in respect of the second issue, which misunderstands both the Impugned Decision and the Defence Leave to Appeal Request.
3. In the alternative, the Defence seeks clarification of the Impugned Decision in relation to the second issue.

ARGUMENT

4. The Defence seeks leave to reply to the Prosecution’s Response which incorrectly states that the Defence argument in relation to the second issue misreads

the Impugned Decision as “[i]t appears based on an erroneous understanding that an interpreter will only be provided to enable the Suspect’s understanding of documents disclosed under rule 76(3).”¹

5. In light of paragraph 18, footnote 32 as well as the disposition of the Impugned Decision,² the Defence deems necessary to highlight the Prosecution’s misunderstanding thereof.

6. In the alternative the Defence respectfully requests the Single Judge to clarify whether Mr. Yekatom’s right to have, on an *ad hoc* basis, the assistance of a French-Sango interpreter applies beyond the reading of witness statements within the meaning of rule 76(3) of the Rules of Procedure and Evidence.³

7. The Defence otherwise maintains its request for Leave to Appeal the three appealable issues and underscores that the third appealable issue was directed at whether court records such as decisions rendered by the Pre-Trial Chamber must be translated into French – one of the two working language of the Court – considering that Mr. Yekatom neither speaks nor understands English, the other working language of the Court.

¹ Prosecution’s Response to the Defence’s Request Seeking Leave to Appeal the “Decision on Language Proficiency of Alfred Yekatom for the Purposes of the Proceedings” (ICC-01/14-01/18-57), ICC-01/14-01/18-59, 21 January 2019, para 10.

² Decision on Language Proficiency of Alfred Yekatom for the Purposes of the Proceedings, ICC-01/14-01/18-56-Red, 11 January 2019, para 18 (footnote omitted): “the Single Judge believes that [...] Yekatom has the right, on an *ad hoc* basis, to be assisted by a French-Sango interpreter when reading the witness statements (rule 76(3) of the Rules), if he so wishes”; disposition paragraph b): “DECIDES that Alfred Yekatom has the right to have, on an *ad hoc* basis, the assistance of a French-Sango interpreter when reading the witness statements (rule 76(3) of the Rules), if he so wishes”.

³ Rule 76(3): “The statements of prosecution witnesses shall be made available in original and in a language which the accused fully understands and speaks.”

CONCLUSION

8. Granting the Defence leave to reply to the Prosecution's Response and/or providing clarification of the Impugned Decision is in the interest of justice, and will neither prejudice the Prosecution nor the proceedings.

RELIEF SOUGHT

9. In light of the above submissions and arguments, the Defence respectfully requests the Single Judge to:

GRANT the Defence leave to reply to the Prosecution's Response; or, in the alternative

CLARIFY the Impugned Decision as set out above.

RESPECTFULLY SUBMITTED ON THIS 23rd DAY OF JANUARY 2019



**Me Stéphane Bourgon *Ad.E*,
Counsel for Alfred Rombhot Yekatom**

The Hague, the Netherlands