

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **2 August 2019**

**PRE-TRIAL CHAMBER II**

**Before:** Judge Antoine Kesia-Mbe Mindua, Presiding Judge  
Judge Tomoko Akane  
Judge Rosario Salvatore Aitala

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

**Confidential – *EX PARTE* – Only available to Pre-Trial Chamber II**

**Request seeking leave to withdraw as Counsel  
for Mr. Alfred Rombhot Yekatom**

**Source:** Counsel 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**

**Counsel for Mr. Yekatom**

Me Stéphane Bourgon *Ad.E.*

Me Mylène Dimitri

Me Peter Robinson

**Counsel for Mr. Ngaïssona**

**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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**Registrar**

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Counsel assigned to represent Mr. Alfred Rombhot Yekatom in Case No. ICC-01/14-01/18, *Prosecutor v. Alfred Rombhot Yekatom & Patrice-Edouard Ngaiissona* (“Counsel” or “Me Bourgon”), hereby submits this:

**Request seeking leave to withdraw as  
Counsel for Mr. Alfred Rombhot Yekatom**

**“Request to Withdraw”**

**INTRODUCTION**

1. Further to the Trial Judgement rendered by Trial Chamber VI on 8 July 2019 in the case of *Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06, Me Bourgon, currently assigned to represent both Mr. Alfred Rombhot Yekatom (“Mr. Yekatom”) in these proceedings as well as Mr. Bosco Ntaganda, hereby seeks leave to withdraw as Counsel representing Mr. Yekatom, as of 9 August 2019.

**PROCEDURAL BACKGROUND**

2. On 11 November 2018, Pre-Trial Chamber II (“Chamber”) issued the “Warrant of Arrest for Alfred Yekatom” for his alleged criminal responsibility pursuant to articles 25(3)(a), (b) and (c) and 28(a) of the Statute of the International Criminal Court (“Statute” and “Court”) for crimes against humanity and war crimes committed in various locations in the Central African Republic between 5 December 2013 and August 2014.<sup>1</sup>
3. Mr. Yekatom was transferred in the custody of the International Criminal Court Detention Centre (“ICC DC”) on 18 November 2018.

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<sup>1</sup> Warrant of Arrest for Alfred Yekatom, 11 November 2018, ICC-01/14-01/18-1-US-Exp.

4. On 20 November 2019, the Single Judge of Pre-Trial Chamber II (“Single Judge” and “Chamber”) appointed the Office of the Public Counsel for the Defence (“OPCD”) to represent Mr. Yekatom in replacement of Mr. Morouba – whose appointment was suspended by the Single Judge on the same day – until otherwise ordered by the Chamber.<sup>2</sup>
5. On 22 November 2018, the Registry transmitted a document obtained from Mr. Yekatom informing the Chamber of (i) the withdrawal of his request to be represented by Mr. Morouba; and (ii) his request to be represented by Me Stéphane Bourgon *Ad.E.*<sup>3</sup>
6. On 23 November 2018, the initial appearance of Mr. Alfred Rombhot Yekatom was held before the Chamber.<sup>4</sup>
7. On 26 November 2018, Me Bourgon accepted to represent Mr. Yekatom as Counsel in the proceedings before the International Criminal Court.<sup>5</sup>
8. On 29 November 2018, the Chamber granted Mr. Morouba’s request to withdraw and – having been informed that Me Bourgon had accepted to represent Mr. Yekatom as counsel in the proceedings before the Court – terminated the appointment of the OPCD.<sup>6</sup>

### APPLICABLE LAW

9. Pursuant to Regulation 78(1) of the Regulations of the Court (“RoC”) – Withdrawal of defence counsel, “[p]rior to withdrawal, defence counsel shall seek the leave of the Chamber”.

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<sup>2</sup> Decision concerning the legal representation of Alfred Yekatom, 20 November 2018, ICC-01/14-01/18-16.

<sup>3</sup> Transmission by the Registry of a document received from Mr Alfred Yekatom, 22 November 2018, ICC-01/14-01/18-18.

<sup>4</sup> ICC-01/14-01/18-T-1.

<sup>5</sup> Transmission by the Registry of the Acceptance of Appointment by Mr Stéphane Bourgon as Counsel for Alfred Yekatom before the International Criminal Court, 27 November 2018, ICC-01/14-01/18-20.

<sup>6</sup> Decision on Withdrawal of Counsel, 29 November 2018, ICC-01/04-02/06-21.

## SUBMISSIONS

10. Counsel is presently assigned to represent both Mr. Yekatom in the current proceedings as well as Mr. Bosco Ntaganda in Case No. ICC-01/04-02/06.
11. Although Counsel firmly believes that simultaneous representation of a suspect in pre-trial proceedings and a convicted person in sentencing/appeal proceedings should be, and is, a feasible undertaking in normal circumstances, the present situation is such that it is not possible to do so in this case.
12. Indeed, further to the Trial Judgement rendered by Trial Chamber VI on 8 July 2019 in *Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06, Counsel: (i) takes the view that it is no longer possible to effectively represent both Mr. Yekatom and Mr. Ntaganda simultaneously, in particular due to the time limits and filing dates set by the Chamber and the Appeals Chamber; and (ii) intends to invest all of his time and energy in representing Mr. Ntaganda to the best of his ability.
13. The submission of this Request to Withdraw was discussed in detail with Mr. Yekatom, who acknowledges and accepts that it is in his best interests to be represented by a counsel fully available and determined to invest all of his time and expertise focussing solely on the proceedings instituted against him.
14. The proposed measures to be taken by Counsel to ensure that Mr. Yekatom is not prejudiced in any way by his withdrawal have also been discussed at length with Mr. Yekatom. In particular, Mr. Yekatom is aware that the confirmation of charges hearing is scheduled for 19 September 2019. Mr. Yekatom is satisfied that the proposed measures are adequate to ensure that the confirmation of charges hearing will not be delayed and that he will be able to proceed on this occasion.

15. Furthermore, Counsel is well aware of his duties and responsibilities towards Mr. Yekatom as well as pursuant to the Code of professional conduct,<sup>7</sup> before and after his withdrawal, if the present Request for Withdrawal is granted by the Chamber.
16. Accordingly, Counsel has taken a number of measures to: (i) ease the transition to a different Counsel; (ii) ensure that Mr. Yekatom is not prejudiced in any way following his withdrawal; and (iii) avoid any delay in the proceedings as a result of his withdrawal.
17. Measures taken and/or proposed to be taken by Counsel in this regard include, *inter alia*: (i) immediate assignment as Counsel – at the request of Mr. Yekatom – of the current Associate Counsel who possesses more than 15 years of professional experience and who is entirely familiar with the proceedings against Mr. Alfred Rombhot Yekatom as well as with the Defence team organization and internal procedures; (ii) immediate assignment as Associate Counsel – the selection of whom was discussed and agreed to by Mr. Yekatom – of a highly experienced counsel possessing more than 30 years of professional experience practising before international courts and tribunals<sup>8</sup>; (iii) organization of a field investigations mission headed by Me Bourgon before his withdrawal to ensure a proper handover of investigation leads and investigation standard operating procedures; (iv) Counsel remaining with the team until Mr. Yekatom – and his newly assigned Counsel and Associate Counsel – are fully satisfied with the handover of all issues related to the legal representation of Mr. Yekatom, including preparations for the upcoming confirmation of charges hearing; and (v) Counsel remaining available to the newly assigned Counsel and Associate Counsel, on request, following his

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<sup>7</sup> Code of Professional Conduct for counsel, Adopted at the 3rd plenary meeting on 2 December 2005, by consensus, Resolution ICC-ASP/4/Res.1.

<sup>8</sup> Registration of the appointment of Mr Peter Robinson as Associate Counsel for Mr Alfred Yekatom, 1 August 2019, ICC-01/14-01/18-262.

withdrawal, with a view to ensuring that advice regarding the Defence team strategy presently in place is readily available at all times.

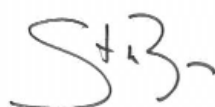
### CONFIDENTIALITY

18. The Request to Withdraw is filed confidential *ex parte* on the basis of the client-Counsel privileged information as well as information on defence related matters contained therein.

### CONCLUSION AND RELIEF SOUGHT

18. In light of the foregoing, Counsel presently assigned to represent Mr. Yekatom in the proceedings against him before the International Criminal Court, respectfully seeks leave from the Chamber to withdraw from his assignment, subject to any conditions the Chamber may deem necessary, as of 9 August 2019.

**RESPECTFULLY SUBMITTED ON THIS 2<sup>nd</sup> DAY OF AUGUST 2019**



Me Stéphane Bourgon *Ad.E*

Counsel representing Mr. Alfred Rombhot Yekatom