

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 07 July 2022

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 ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

Public Redacted Version of 'Yekatom Defence Request for Leave to Reply to the 'Response of the Common Legal Representative of the Former Child Soldiers to the "Yekatom Defence Request for the Amendment of the Victim Application Procedure"', 4 July 2022, ICC-01/14-01/18-1498-Conf-Exp', 7 July 2022

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

Mr Karim Asad Ahmad Khan
Mr Kweku Vanderpuye

Counsel for Mr. Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé
Ms Yousra Lamqaddam

Counsel for Mr. Ngaïssona

Mr Geert-Jan Alexander Knoops
Mr Richard Omissé-Namkeamaï
Ms Marie-Hélène Proulx

Legal Representatives of Victims

Mr Dmytro Suprun

Legal Representatives of Applicants

Mr Abdou Dangabo Moussa
Ms Elisabeth Rabesandratana
Mr Yaré Fall
Ms Marie-Edith Douzima-Lawson
Ms Paolina Massidda

Unrepresented Victims

**Unrepresented Applicants
(Participation / Reparation)**

**The Office of Public Counsel for
Victims**

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

Mr Xavier-Jean Keïta

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

INTRODUCTION

1. Pursuant to Regulation 24(5) of the Regulations of the Court, the Defence for Mr Alfred Rombhot Yekatom ('Defence') hereby respectfully seeks leave to reply to the '*Response of the Common Legal Representative of the Former Child Soldiers to the "Yekatom Defence Request for the Amendment of the Victim Application Procedure"*' ('Response').¹
2. The Defence respectfully submits a reply is warranted to address three issues contested by the Defence that are demonstrably new and could not have been foreseen in the '*Yekatom Defence Request for the Amendment of the Victim Application Procedure*' ('Request')²; specifically, the Common Legal Representative of the Former Child Soldiers' ('CLR1') position on inconsistencies related to identification documents in CAR since 2013;³ its characterisation of [REDACTED];⁴ as well as its reliance on numbers related to victims admitted to participate in the proceedings, which had been unavailable to the Defence.⁵

PROCEDURAL HISTORY

3. On 23 June 2022, the Defence submitted the Request, seeking amendment of the victim application procedure to allow the transmission to the Defence of Group A victims applications of alleged former child soldiers admitted to participate in the proceedings.
4. On 4 July 2022, the CLR1 submitted the Response, seeking denial of the Request.

APPLICABLE LAW

¹ [ICC-01/14-01/18-1498-Conf-Exp.](#)

² [ICC-01/14-01/18-1478-Conf-Exp.](#)

³ [ICC-01/14-01/18-1498-Conf-Exp.](#), paras. 37-41.

⁴ [ICC-01/14-01/18-1498-Conf-Exp.](#), paras. 34-36, 41.

⁵ [ICC-01/14-01/18-1498-Conf-Exp.](#), para. 27.

5. Regulation 24(5) of the Regulations of the Court states:

Participants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations. Unless otherwise permitted by the Chamber, a reply must be limited to new issues raised in the response which the replying participant could not reasonably have anticipated.

SUBMISSIONS

6. First, the purported 'issues with ID documents in the CAR since the 2013 conflict'⁶ raised in support of the CLR1's argument that the Defence has failed to demonstrate the existence of any compelling or exceptional reasons warranting the sought amendment, comprises a 'new issue' that could not have been reasonably anticipated in the Request.
7. The Defence therefore seeks leave to reply to the arguments raised by CLR1 on this new issue, especially given that they are based on a mischaracterisation of the Defence's position with regard to the reason for the existence of fraudulent identity documents. More broadly, the CLR1 position regarding the manner in which identification documents ought to be assessed and weighed - and its position that CAR identification documents cannot be relied upon as a basis to challenge a victim's eligibility - raise further concerns as regards the integrity of the victim application procedure, and further militate in favour of granting leave to reply on this new issue.
8. Second, the Defence seeks leave to reply to the issue of the CLR1's characterisation of [REDACTED].⁷ To the extent that the Defence could not have reasonably anticipated that the CLR1 would deny outright any awareness of [REDACTED],⁸ [REDACTED] the CLR1's arguments in this regard comprise a

⁶ [ICC-01/14-01/18-1498-Conf-Exp](#), paras. 37-41.

⁷ [ICC-01/14-01/18-1498-Conf-Exp](#), para. 34.

⁸ [ICC-01/14-01/18-1498-Conf-Exp](#), para. 34.

'new issue'. In this regard, it is of importance that details [REDACTED] be set out on the record, via a reply – not only for the purposes of the Chamber's assessment of the Request, but more broadly, [REDACTED] in the context of these proceedings – given that the CLR1's claim of ignorance in this regard is simply incorrect and the suggestion that the Defence's allegation is 'speculative' misrepresents the facts.

9. Third, the CLR1's reliance on the number of alleged former child soldiers admitted to participate in the proceedings, which was higher than the number disclosed in the latest public redacted version of the Registry Report,⁹ is a new issue that could not have been anticipated by the Defence. The CLR1 referred to a number of participating victims that is not available to the Defence.¹⁰
10. The Defence respectfully submits that out of fairness, it should be granted the opportunity to set out on the record its limited access to information regarding victims admitted to participate in the proceedings at the time of the submission of the Request.

CONCLUSION

11. In light of the above, the Defence respectfully submits that it should be granted the opportunity to provide further clarifications on the three issues set above and raised by the CLR1 that it could not have reasonably anticipated in the Request.

CONFIDENTIALITY

12. This current request is filed on a confidential *ex parte* basis corresponding to the classification of the Request and the Response. A public redacted version will be filed forthwith.

⁹ [ICC-01/14-01/18-1356-Red](#), para. 18.

¹⁰ [ICC-01/14-01/18-1498-Conf-Exp](#), para. 27.

RELIEF SOUGHT

13. In light of the above, the Defence respectfully requests the Trial Chamber V to:
- GRANT** leave to reply to the Response.

RESPECTFULLY SUBMITTED ON THIS 7th DAY OF JULY 2022

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

Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands