

Public

Explanatory Note to the Corrected Version of “ICC-01/14-01/18-48-Red”

1. On 14 January 2019, the Defence filed the “*Public Redacted Version of ‘Defence’s Observations on the Registry French language proficiency assessment of Mr Yekatom (ICC-01/14-01/18-42-Conf-Anx) and response to the Prosecution’s 17 December 2018 Request for an Order on YEKATOM’s French Proficiency Level (ICC-01/14-01/18-34)’*”, 7 January 2019”.
2. The following changes are made in this corrected version so that the public redacted version accurately reflects the content of the original document:
 - 1) In the preamble, the last sentence is changed to “*Counsel representing Mr. Alfred Rombhot Yekatom (“Defence” or “Mr. Yekatom”,) hereby submit this*”;
 - 2) Paragraph 1 is changed to “*The Defence respectfully submits that in light of the Language Assessment Report, the Chamber should find Mr. Yekatom not proficient in French for the purpose of the Statute, Rules of Procedure and Evidence (“Rules”), and Regulations of the Court (“Regulations”). The Registry’s Language Assessment Report assessment conclusions have direct implications on the fairness of the proceedings. Mr. Yekatom’s inability to fully understand and speak the language has inevitable repercussions on the fairness and expeditiousness of the proceedings, the judicial economy and the disclosure of information, evidence and documents. Those interests are intertwined and underpin Mr. Yekatom’s fundamental rights. In order to safeguard his rights to a fair and expeditious trial, as well as in the interest of judicial economy, the Chamber should craft a framework providing – and facilitating the provision of – translation and interpretation assistance that can, in view of the peculiarities of Mr. Yekatom’s language ability, sufficiently accommodate his needs to effectively prepare his defence.*”
 - 3) Paragraph 7 is changed to “*On 4 January 2019, the Prosecution and the Defence conferred and agreed that in light of the assessment, disclosure could be done*

in the French subject to and Mr. Yekatom being provided with the permanent assistance of a French and Sango interpreter within the meaning of Article 67(1)(f)."

4) First sentence of paragraph 11 is changed to *"When given a text in French to read aloud, Mr. Yekatom was observed to have occasionally made some pronunciation errors, however, his reading was fluid and clear. Notably, however, the Panel noticed that [REDACTED]."*

5) Paragraph 15 of the confidential filing was missing from the original public redacted version and is now added: *"Sango is the language normally spoken by Mr. Yekatom in everyday life in the CAR unless he is interacting with a French Speaker."* Subsequent paragraph numbers increase by one as a result.

6) Paragraph 34 of the confidential filing, i.e. paragraph 33 of the original public redacted version is changed to *"The Prosecution also agreed to this accommodation during the consultationS."*

7) First sentence of paragraph 39 of the confidential filing, i.e. paragraph 38 of the original public redacted version is changed to *"During the consultation with the Prosecution on 4 January 2019, the Defence was informed that the prospective witnesses are Sango- and/or French-speaking but their signed statements are and will only be in either English or French."*

8) Paragraphs 39 and 40 of the original public redacted version are removed and replaced by paragraph 40 of the confidential filing, which reads: *"The information available concerning the language used during witness interviews conducted by the Prosecution – all be it limited – and not directly related to the issue at hand – raises serious issues concerning the examination and cross-examination of witnesses at trial, which, in turn have the potential to impact the fairness of the proceedings. The Defence intends to address these issues in subsequent filings, following additional consultations with the Prosecution. In this regard, any Decision or Order issued by the Pre-Trial Chamber in relation to the Prosecution Request*

should be without prejudice to future Defence applications or requests.”

9) The first relief is changed to “**DECLARE** that Mr. Yekatom is not proficient in French for purposes of the Article 67(1)(a) and (f) of the Statute and Rule 76 (3);”

10) The second relief is changed to “**ORDER** the Registry to appoint a French-Sango interpreter to assist Mr. Yekatom and the Defence team, on a permanent basis for the duration of the proceedings;”

11) The fourth and fifth relieves in the original public redacted version are removed.