

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **12 February 2024**

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

**Yekatom Defence Observations Pursuant to the “Decision on the
Ngaïssona Defence Request for Formal Submission of Expert Report and
Associated Items Pursuant to Rule 68(3) of the Rules”, ICC-01/14-01/18-2346**

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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SUBMISSIONS

1. Counsel for Mr Alfred Rombhot Yekatom (“Defence”) hereby provides its observations further to the Chamber’s instructions contained in its “Decision on the Ngaïssona Defence Request for Formal Submission of Expert Report and Associated Items Pursuant to Rule 68(3) of the Rules” notified on 5 February 2024 (“Decision”).¹
2. In its Decision the Chamber indicated as regard to item CAR-OTP-2126-2529 (“Report”) that :

the Chamber is considering introducing this item as an associated item to D30-4864’s prior recorded testimony, given the nature of the item and noting that the Prosecution decided not to call the analyst who authored it to testify, the Chamber considers it prudent to provide the participants with an opportunity to comment on the item’s introduction should they wish to do so. The Chamber therefore instructs the participants to provide any submissions in relation to this item’s introduction within one week of notification of this decision.²
3. Whilst the Defence defers to the Chamber’s discretion as to the opportunity of introducing this item as evidence in the case record, it nevertheless submits the present observations as regard to the limited probative value of the Report.
4. The Defence first underlines that the Report indicates that the analysis of telecommunication data was conducted without any knowledge of the details of the investigations,³ and faced multiple difficulties.⁴ Such issues affected the quality of the data provided by the Prosecution to the analysts, which did not allow for specific investigations to be conducted.⁵

¹ ICC-01/14-01/18-2346.

² ICC-01/14-01/18-2346, para. 15.

³ CAR-OTP-2126-2529 at 2561 : « le présent écrit a été rédigé sans aucune connaissance des détails de l'enquête en cours ».

⁴ CAR-OTP-2126-2529 at 2561.

⁵ CAR-OTP-2126-2529 at 2533 : « Ceci n'a pas été possible, car la qualité des données livrées ne permettait pas une attribution indiscutable de ces valeurs. Pour cette raison, une analyse de l'utilisation des appareils mobiles n'a pas été effectuée ».

5. The conclusion of the Report states clearly that the data analysis did not permit or result in usable answers and was limited to identifying certain leads to be investigated.⁶ As such, the Report should be assessed as having minimal probative value, if any, as it merely consists of the provision of leads for the Prosecution's investigations, to be explored for confirmation or information and evidently, is not a Report which provides definite or concrete conclusions that can be used as such in the deliberation phase of a criminal trial.
6. Consequently, the Defence submits that should the Chamber decide to introduce the Report in evidence, it is respectfully submitted that the above mentioned consideration be taken into account during its deliberations.

RESPECTFULLY SUBMITTED ON THIS 12th DAY OF FEBRUARY 2024



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

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⁶ CAR-OTP-2126-2529 at 2561 : « Les données disponibles n'ont pas toujours permis d'obtenir des réponses utilisables (par exemple, sur la géolocalisation des appareils de téléphonie mobile impliqués), mais en même temps elles ont permis de décortiquer les réseaux impliqués et fourrir des pistes de travail »