

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **6 December 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 Response to 'Prosecution's Request for Submission of the Prior Recorded Testimony of P-1172 pursuant to Rule 68(2)(c)', 28 November 2022, ICC-01/14-01/18-1677-Conf", ICC-01/14-01/18-1689-Conf, 5 December 2022

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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**Victims Participation and Reparations
Section**

1. The Defence for Mr. Alfred Rombhot Yekatom ('Defence') hereby responds to the 'Prosecution's Request for Submission of the Prior Recorded Testimony of P-1172 pursuant to Rule 68(2)(c)'¹ filed on 28 November 2022 ('Request').
2. The Defence does not oppose the Request.²
3. However, the Defences stresses that P-1172's evidence contains a number of exonerating statements which, despite being highly relevant to the Chamber's function of establishing the truth, were not mentioned in the Request.
4. First, in his statement, P-1172 mentions that he arrived [REDACTED]³ and that Mr. YEKATOM arrived [REDACTED].⁴ P-1172's statement also indicates that Mr. YEKATOM spent only three or four days [REDACTED].⁵ This evidence contradicts P-1339's statement, which indicates that P-1339 arrived [REDACTED],⁶ stayed there [REDACTED],⁷ and that Mr. YEKATOM arrived [REDACTED].⁸
5. Second, in his statement, P-1172 points out that MOKOM [REDACTED] any contact with Mr. YEKATOM.⁹ This evidence contradicts the Prosecution's theory that there exist a link and "General Coordination" between MOKOM and Mr. YEKATOM. Is also corroborates other Prosecution Witnesses' testimonies:
 - P-2232 testified that he never saw MOKOM and Mr. YEKATOM discussing together [REDACTED];¹⁰

¹ ICC-01/14-01/18-1677-Conf.

² Without prejudice as to the matter of whether the Prosecution could not have anticipated the necessity of Article 56 measures; see ICC-01/14-01/18-1677-Conf, para 9.

³ See, CAR-OTP-2082-1058, para. 15 ([REDACTED]) and CAR-OTP-2046-1003, para. 74 ([REDACTED]).

⁴ See, CAR-OTP-2082-1058, para. 73 ([REDACTED]).

⁵ See, CAR-OTP-2082-1058, para. 73 ([REDACTED]).

⁶ ICC-01/14-01/18-T-151-CONF-FRA ET, page 16, lns. 7-9.

⁷ ICC-01/14-01/18-T-151-CONF-FRA ET, page 17, ln. 7.

⁸ ICC-01/14-01/18-T-151-CONF-FRA ET, page 18, lns. 8-15 and pages 19-20, lns. 28-4.

⁹ See, CAR-OTP-2082-1058, para. 73 ([REDACTED]).

¹⁰ ICC-01/14-01/18-T-079-CONF-FRA ET, pages 14-15, lns. 25-4.

- P-0889 testified that he never saw Mr. YEKATOM [REDACTED],¹¹ and that MOKOM didn't talk with Mr. YEKATOM [REDACTED]¹² nor did they communicate afterwards;¹³
 - P-0888 testified that Mr. YEKATOM was not present in the meetings held by MOKOM [REDACTED], which led the latter to accuse Mr. YEKATOM of treason.¹⁴ P-0888 also mentioned that MOKOM was partly responsible for the imprisonment of Mr. YEKATOM [REDACTED].¹⁵
6. Third, P-1172's statement contradicts the Prosecution's theory that MOKOM and Mr. YEKATOM were "Libérateurs".¹⁶ P-1172 refers to MOKOM as "a police officer, a 'Comandant' with the 'secret police'",¹⁷ which corroborates P-2027's statement in which the latter indicates that MOKOM was a police commander.¹⁸ P-2027 also testified before the Court that MOKOM was not a "Libérateur" after asking which MOKOM the Party referred to.¹⁹
7. Fourth, P-1172's statement supports the thesis that MOKOM's objective was to attack the SELEKA in elaborating military tactics, and not to target civilians. P-1172 indicates that [REDACTED].²⁰ P-1172 also indicates that the Anti-Balaka movement was established "so the people could defend themselves because the Seleka were doing harm even in the small villages."²¹ P-1172's statement also

¹¹ CAR-OTP-2122-7653-R02, page. 7659, lns. 205-207 ([REDACTED]).

¹² CAR-OTP-2122-7684-R02, page. 7692, lns. 277-280 ([REDACTED]).

¹³ See, CAR-OTP-2122-7626-R02, pages. 7630-7631 and CAR-OTP-2122-8002-R02, page. 8033.

¹⁴ ICC-01/14-01/18-T-121-FRA ET, page 30, lns 8-22.

¹⁵ ICC-01/14-01/18-T-120-CONF-FRA ET, page 23, lns 4-10.

¹⁶ ICC-01/14-01/18-723-Conf, para. 86.

¹⁷ See, CAR-OTP-2082-1058, para. 22 ('Maxim MOKOM was a police officer, a 'Comandant' with the 'secret police' [REDACTED].').

¹⁸ CAR-OTP-2078-0059, para. 149.

¹⁹ ICC-01/14-01/18-T-040-CONF-FRA ET, pages 52-53, lns. 13-12.

²⁰ See, CAR-OTP-2082-1058, para. 34 ([REDACTED]).

²¹ See, CAR-OTP-2082-1058, para. 35 ('From my observation, the movement was established so the people could defend themselves because the Seleka were doing harm even in the small villages.').

corroborates other Prosecution Witnesses in that the Seleka was targeting FACAs, torturing and killing them.²²

8. Fifth, the Prosecution does not give a completely accurate portrait of the evidence when stressing that MOKOM organised the BOSSANGOYA ambush. In his statement, P-1172 mentions [REDACTED].²³ By trying to find out who was behind the BOSSANGOYA ambush, it rules out his implication therein.
9. Finally, P-1172 mentions that he left [REDACTED].²⁴ This would place MOKOM's leaving around 1 February 2014, thus contradicting P-1858's statement that MOKOM was in BOY-RABE from end of December 2013.²⁵

CONFIDENTIALITY

10. This Response is filed on a confidential basis corresponding to the classification of the Request. A public redacted version will be filed forthwith.

RESPECTFULLY SUBMITTED ON THIS 6TH DAY OF DECEMBER 2022²⁶



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²² See, CAR-OTP-2046-1003, para. 26 ([REDACTED]); para. 27 ([REDACTED]); para. 31 ([REDACTED]); para. 32 ([REDACTED]); para. 33 ([REDACTED]).

²³ See, CAR-OTP-2082-1058, para. 29 ([REDACTED]).

²⁴ See, CAR-OTP-2082-1058, para. 45 ([REDACTED]).

²⁵ See, CAR-OTP-2063-0050, para. 63 ('MOKOM was based in BOY RABE and did not attend the two meetings that I mentioned above.'). ([REDACTED]).

²⁶ The Defence is grateful to Legal Intern Ms. Léa-Marie Gagnon for her precious assistance in the drafting of this filing.