

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **14 July 2023**

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

Second Public Redacted Version of the “Yekatom Defence Response to ‘Mokom Defence Request for Access to Materials in the Prosecutor v. Yekatom & Ngaïssona Case’, 19 June 2023, ICC-01/14-01/18-1932-Conf”, 30 June 2023, ICC-01/14-01/18-1951-Conf

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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Other

Pre-Trial Chamber II

INTRODUCTION

1. The Defence for Mr. Yekatom ('Defence') hereby responds to the 'Mokom Defence Request for Access to Materials in *the Prosecutor v. Yekatom & Ngaiissona Case*' ('Request').¹
2. The Defence does not oppose the Request of the Defence for Mr. Mokom and defers to the discretion of the Trial Chamber V ('Chamber'). However, the Defence notes that this is not the first time that a decision to which the Defence does not have access to has been used to support a request in *the Prosecutor v. Yekatom & Ngaiissona* case which considerably limits the Defence ability to understand and assess the relevant information.

PROCEDURAL HISTORY

3. On 12 April 2023, following an order from the Single Judge, the Registry filed additional submissions in relation to the 'Prosecution's Request for leave to add one item to the List of Evidence'² (the 'Second Registry Report').³ The Second Registry Report quotes [REDACTED] (the 'Other Decision'), which is inaccessible to the Defence.⁴
4. On 7 June 2023, Trial Chamber V rejected the 'Prosecution Request for Leave to Add One Item to its List of Evidence'⁵ based on the Registry's observations which quoted the Other Decision.⁶

¹ ICC-01/14-01/18-1932-Conf.

² ICC-01/14-01/18-1702-Conf.

³ Registry's further Observations on the Prosecution's "Request for leave to add one item to the List of Evidence (ICC-01/14-01/18-1702-Conf)", ICC-01/14-01/18-1837-Conf.

⁴ [REDACTED].

⁵ ICC-01/14-01/18-1702-Conf.

⁶ ICC-01/14-01/18-1908-Conf, para. 14-15.

5. On 16 June 2023, the Defence of Mr. Mokom filed the Request which is premised on a confidential decision issued by Pre-Trial Chamber II⁷ to which the Defence does not have access to (the 'Second Other Decision').⁸

SUBMISSIONS

6. The Defence does not oppose the request of the Defence for Mr. Mokom. However, the Defence notes that the Request is based on the Second Other Decision which remains unavailable to the Defence.
7. Indeed, it is not the first time that a motion is filed in relation to a decision issued by the Pre-Trial Chamber II for which the Defence has no access to.⁹ On the first occasion, the Other Decision was the primary reason underpinning the rejection of the request.¹⁰
8. Therefore, provided that there is not additional and relevant information contained in the Second Other Decision that would change the Defence's position regarding this Request, the Defence does not oppose the Request of M. Mokom's Defence and defers to the discretion of the Chamber.

CONFIDENTIALITY

9. The present response is filed on a confidential basis corresponding to the classification of the Request it responds to. The Defence does not oppose the reclassification as public.

⁷ *Prosecutor v. Mokom*, Pre-Trial Chamber II: Decision on the Defence's request for disclosure and rectification of disclosure metadata, ICC-01/14-01/22-219-Conf, 5 June 2023.

⁸ ICC-01/14-01/18-1932-Conf, para. 10, fn. 10.

⁹ ICC-01/14-01/18-1908-Conf, para. 14-15 ; ICC-01/14-01/18-1837-Conf, para. 19, fn. 22 ;, ICC-01/14-01/18-1932-Conf, , para. 10, fn 10.

¹⁰ ICC-01/14-01/18-1908-Conf, para. 14-15.

RESPECTFULLY SUBMITTED ON THIS 14th DAY OF JULY 2023¹¹



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¹¹ The Defence is thankful to legal intern Ms Cassandra Oboussier for her precious assistance in the drafting of this filing.