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No. ICC-01/14-01/18

Date: 8 May 2024

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD
NGAISSONA***

Public

**Decision on the Yekatom Defence Request for Leave to Add Three Items to its
List of Evidence**

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaiïssona*, having regard to Articles 64(2) and 67 of the Rome Statute, issues this ‘Decision on the Yekatom Defence Request for Leave to Add Three Items to its List of Evidence’.

1. On 17 November 2023, in accordance with the time limit set by the Chamber,¹ the Yekatom Defence (the ‘Defence’) filed its list of evidence.²
2. On 24 April 2024, the Defence requested the addition of three items to its list of evidence, consisting of (i) a press article by BBC News Afrique, (ii) D29-5013’s contract of employment, and (iii) an open-source contact list from the United Nations Office for the Coordination of Humanitarian Affairs in the Central African Republic (the ‘Contact List’, jointly the ‘Items’ and the ‘Request’).³
3. On 3 May 2024, the Office of the Prosecutor (the ‘Prosecution’) responded to the Request (the ‘Response’). It does not object to the addition of the Contact List, and defers to the Chamber’s discretion regarding the other items, subject to a number of observations, in particular regarding the timing of the Request.⁴
4. The Single Judge recalls the applicable law for requests to add items to the list of evidence, as set out in his previous decision.⁵
5. The Single Judge notes that the Request was filed five months after the Defence’s list of witnesses was due. However, he also notes the limited nature of the Items and the lack of opposition by the Prosecution. In light of these circumstances, and

¹ Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLRV and the Defence), 29 May 2023, ICC-01/14-01/18-1892, para. 21(i).

² See Yekatom Defence’s List of Witnesses and Evidence, ICC-01/14-01/18-2212-Conf (with confidential Annexes A, B, C and D).

³ Yekatom Defence Request for Leave to Add 3 Items to its List of Evidence, ICC-01/14-01/18-2462-Conf, paras 2, 12.

⁴ Prosecution’s Response to the “Yekatom Defence Request for Leave to Add 3 Items to its List of Evidence” (ICC-01/14-01/18-2462-Conf), ICC-01/14-01/18-2481-Conf, paras 1, 4, 7, 8.

⁵ See Decision on the Prosecution Request to Add Six Email Threads to its List of Evidence, 6 May 2021, ICC-01/14-01/18-989-Conf (public redacted version notified on 30 September 2022), paras 5-6. See also the jurisprudence referenced therein, nn. 15-20. See also Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on Defence Request to Add 14 Items to its List of Evidence, 24 July 2018, ICC-02/04-01/15-1314, para. 7.

bearing in mind the Items' prospective significance to the proceedings, he sees no impediment to adding them to the Defence's list of evidence. He therefore grants the Request.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request;

ORDERS the Defence to file an updated list of evidence within one week of notification of the this decision; and

ORDERS the Defence and the Prosecution to file public redacted versions of the Request, ICC-01/14-01/18-2462-Conf, and the Response, ICC-01/14-01/18-2481-Conf, respectively, within two weeks of notification of this decision.

Done in both English and French, the English version being authoritative.



Judge Bertram Schmitt

Single Judge

Dated this 8 May 2024

At The Hague, The Netherlands