



Original: **English**

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

Date: **13 May 2019**

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public Redacted Version

**Public Redacted Version of " Prosecution's Response to ' *Demande de la Défense de
M Yekatom en reconsidération de l'Ordonnance portant reclassification rendue le
12 décembre 2018 (ICC-01/04-01/18-31-Conf) "* ", 6 May 2019,
ICC-01/14-01/18-188-Conf-Exp**

Source: Office of the Prosecutor

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

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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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Detention Section

**Victims Participation and Reparations
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Other

I. INTRODUCTION

1. The YEKATOM Defence's request¹ for reconsideration of Pre-Trial Chamber II's ("Chamber") 12 December 2018 "Order on Reclassification"² should be rejected. The Request advances no compelling reason for the Chamber to revisit the Order, which maintains the Under Seal, *EX PARTE* classification of the Prosecution's application for the issuance of a warrant of arrest for YEKATOM ("Warrant Application").³

2. *First*, the reasons justifying this classification remain applicable. Broadly, the classification is necessary to ensure the confidentiality and integrity of the Prosecution's ongoing investigation, and the security and wellbeing of witnesses.⁴ *Second*, the "Warrant of Arrest for Alfred Yekatom" ("Warrant of Arrest")⁵ fully informs the Defence of the nature and cause of the case alleged against YEKATOM, namely the charges and supporting evidence. *Third*, the Defence will also receive the Document Containing the Charges ("DCC") and the Prosecution's Pre-Confirmation Brief, further detailing the case against YEKATOM, well in advance of the confirmation hearing.

II. CONFIDENTIALITY

3. This Response is filed as "Confidential, *EX PARTE*, available only to the Prosecution" because it contains sensitive information pertaining to witness security and to confidential information about the Prosecution's ongoing investigation. A confidential redacted version of the Response will be filed contemporaneously.

¹ ICC-01/14-01/18-180-Conf ("Request").

² ICC-01/14-01/18-31-Conf ("Order").

³ ICC-01/14-18-US-Exp.

⁴ ICC-01/14-01/18-31-Conf, para.6.

⁵ ICC-01/14-01/18-1-US-Exp.

III. SUBMISSIONS

A. The current Warrant Application classification remains justified

a. The ongoing investigation requires protection

4. [REDACTED].⁶ [REDACTED].

5. [REDACTED].

6. [REDACTED].

7. According to the current regime, both Suspects receive private family visits “without any monitoring or the use of ‘sensitive listening devices’”⁷ and their non-privileged telephone conversations are “actively monitored at random”.⁸

8. Due to the highly sensitive nature of the information contained in the Warrant Application, it is imperative that its classification remains unchanged [REDACTED].

b. Victims and witnesses require protection

9. The Prosecution is in the process of disclosing the statements of witnesses it intends to rely on at the Confirmation Hearing on a rolling basis [REDACTED].

However, as previously stated, [REDACTED].⁹

10. [REDACTED].

⁶ [REDACTED].

⁷ ICC-01/14-01/18-52-Conf-Exp, para.18; ICC-01/14-01/18-176-Conf-Red, para.10.

⁸ ICC-01/14-01/18-176-Conf-Red, para.10.

⁹ [REDACTED].

B. YEKATOM is in possession of sufficient information concerning the charges against him at this stage

11. On 18 November 2018¹⁰ YEKATOM received the unredacted Warrant of Arrest issued against him.¹¹ The “Warrant of Arrest” fully informs the Defence of the nature and cause of the case alleged against YEKATOM, namely the charges and supporting evidence. It is clear, concise and comprehensive, and expressly refers to the underlying evidence used to support the charges. In addition, if the Chamber considers it essential in the circumstances, YEKATOM will receive the DCC by 17 May 2019, or as soon thereafter as practicable.¹²

C. The DCC and Pre-Confirmation Brief are forthcoming

12. The DCC will be followed by the Prosecution’s Pre-Confirmation Brief, which will further detail the legal and factual basis of the Prosecution’s case against YEKATOM. It will also reference the supporting evidence. These two documents, in addition to material being disclosed on an on-going basis, will provide the Defence with all relevant and up-to-date information on the charges and evidence that the Prosecution intends to rely on for the Confirmation Hearing.

¹⁰ ICC-01/14-01/18-29-Conf-Exp, para.8.

¹¹ ICC-01/14-01/18-1-Conf-Exp.

¹² ICC-01/14-01/18-186-Conf-Red, para.4.

IV. RELIEF SOUGHT

13. For the above reasons, the Chamber should reject the Request and maintain the Under Seal, *EX PARTE* classification of the Warrant Application.



Fatou Bensouda, Prosecutor

Dated this 13th day of May 2019
At The Hague, The Netherlands