



Original: English

No. ICC-01/14-01/18

Date: 6 August 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 *THE PROSECUTOR V. ALFRED YEKATOM AND
PATRICE-EDOUARD NGAÏSSONA***

Public

Decision on Mr Bourgon's Request to Withdraw as Counsel

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart

Counsel for Alfred Yekatom

Stéphane Bourgon
Mylène Dimitri
Peter Robinson

Counsel for Patrice-Edouard Ngaïssona

Geert-Jan Alexander Knoops

Legal Representatives of Victims

Abdou Danagbo Moussa
Yaré Fall
Elisabeth Rabesandratana
Paolina Massidda
Christine Priso Ouamballo
Marie Edith Douzima Lawson

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel
for the Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation
and Reparations Section**

Philipp Ambach

Other

PRE-TRIAL CHAMBER II of the International Criminal Court issues this Decision on Mr Bourgon's Request to Withdraw as Counsel.

1. On 11 November 2018, the Chamber issued the 'Warrant of Arrest for Alfred Yekatom'.¹ On 17 November 2018, Yekatom was surrendered to the Court by the authorities of the Central African Republic.²
2. On 19 November 2018, the Registry informed the Chamber that Yekatom had appointed Mathias Barthelemy Morouba as counsel to represent him in the proceedings before the Court.³
3. On 20 November 2018, the Single Judge⁴ temporarily suspended the appointment of Mr Morouba and appointed the Office of the Public Counsel for the Defence (the 'OPCD') to represent Yekatom, until otherwise ordered by the Chamber.⁵
4. On 22 November 2018, the Registry transmitted to the Chamber a document from Yekatom informing the Chamber that he withdrew his request to be represented by Mr Morouba, and requested instead to be represented by Stéphane Bourgon.⁶
5. On 27 November 2018, Mr Morouba filed a request seeking leave to withdraw as counsel for Yekatom in order to allow Yekatom to be represented by counsel located near the Court.⁷ On the same day, the Chamber was informed by the Registry that Mr Bourgon agreed to represent Yekatom as counsel in the proceedings before the Court.⁸
6. On 29 November 2018, noting that Mr Bourgon had agreed to represent Yekatom as counsel in the proceedings before the Court, the Chamber granted

¹ ICC-01/14-01/18-1-US-Exp. A public redacted version of the warrant of arrest is also available; see [ICC-01/14-01/18-1-Red](#).

² Registry, Rapport du Greffe sur l'Arrestation et la Remise de M. Alfred Yekatom, ICC-01/14-01/18-17-US-Exp, paras 19-24.

³ Notification of the Appointment of Mr Mathias Barthelemy Morouba as Counsel for Mr Alfred Yekatom, ICC-01/14-01/18-13, para. 1.

⁴ See Decision designating a Single Judge, 9 November 2018, ICC-01/04-01/18-10-US-Exp.

⁵ Decision concerning the legal representation of Alfred Yekatom, ICC-01/14-01/18-16.

⁶ Transmission by the Registry of a document received from Mr Alfred Yekatom, 22 November 2018, ICC-01/14-01/18-18.

⁷ Requête en désistement, ICC-01/14-01/18-19.

⁸ Transmission by the Registry of the Acceptance of Appointment by Mr Stéphane Bourgon as Counsel for Alfred Yekatom before the International Criminal Court, ICC-01/14-01/18-20.

Mr Morouba's request to withdraw as counsel, and terminated the appointment of the OPCD.⁹

7. On 7 December 2018, the Chamber issued the 'Warrant of Arrest for Patrice-Edouard Ngaïssona'.¹⁰ On 23 January 2019, Ngaïssona was surrendered to the Court by the authorities of the French Republic.¹¹

8. On 20 February 2019, the Chamber issued the 'Decision on the joinder of the cases against Alfred Yekatom and Patrice-Edouard Ngaïssona and other related matters', thereby joining the cases against Yekatom and Ngaïssona.¹²

9. On 1 August 2019, the Registry submitted the 'Registration of the appointment of Mr Peter Robinson as Associate Counsel for Mr Alfred Yekatom', indicating that on 24 July 2019, the Registry formalised the appointment of Mr Robinson as Associate Counsel for Yekatom.¹³

10. On 2 August 2019, the Chamber received the 'Request seeking leave to withdraw as Counsel for Mr. Alfred Rombhot Yekatom' (the 'Request') in which Mr Bourgon seeks the Chamber's leave to withdraw as counsel for Yekatom.¹⁴

11. The Chamber notes article 67(1)(d) of the Rome Statute, regulations 23*bis* and 78 of the Regulations of the Court and articles 8, 15(2), 17(2), 18(3) and 19 of the Code of Professional Conduct for counsel (the 'Code of Conduct').

12. In considering the Request, the Chamber notes Mr Bourgon's submission that the matter has been discussed in detail with Yekatom, and that Mr Bourgon has taken a number of measures to (i) ease the transition to different counsel, (ii) ensure that Yekatom is not prejudiced in any way following Mr Bourgon's withdrawal, and (iii) avoid any delay in the proceedings, especially with regard to the confirmation of charges hearing scheduled for 19 September 2019. In particular, the Chamber notes

⁹ Decision on Withdrawal of Counsel, ICC-01/14-01/18-21.

¹⁰ ICC-01/14-01/18-89-Conf-Exp. A public redacted version of the warrant of arrest is also available; *see* [ICC-01/14-01/18-89-Red](#).

¹¹ Registry, *Rapport du Greffe sur la Remise de Patrice-Edouard Ngaïssona*, ICC-01/14-01/18-101-US-Exp, paras 5-14.

¹² [ICC-01/14-01/18-87](#); [ICC-01/14-01/18-121](#).

¹³ ICC-01/14-01/18-262.

¹⁴ ICC-01/14-01/18-263-Conf-Exp. A public redacted version is also available, *see* ICC-01/14-01/18-263-Red.

Mr Bourgon's submissions that (i) the current Associate Counsel, Mylène Dimitri, who is familiar with the proceedings, will immediately be assigned as counsel, at Yekatom's request; (ii) Peter Robinson will act as Associate Counsel; (iii) Mr Bourgon will remain with the team until Yekatom and his newly assigned counsel are fully satisfied with the handover of all issues related to Yekatom's representation, including preparation for the upcoming confirmation of charges hearing; and (iv) Mr Bourgon will remain available to the newly assigned counsel following his withdrawal.

13. In light of the fact that the current Associate Counsel, Ms Dimitri, will be immediately assigned as counsel to Yekatom, and noting the other measures taken by the Defence to ensure that Yekatom will not be prejudiced by Mr Bourgon's withdrawal, and that it will not result in any delay in the proceedings, the Chamber authorizes Mr Bourgon to withdraw as lead counsel for Yekatom in the present case. The Chamber further reminds Mr Bourgon of his continuing obligations under articles 8, 15(2), 17(2), 18, and 19 of the Code of Conduct.

FOR THESE REASONS, THE CHAMBER HEREBY

- a) **GRANTS** the Request; and
- b) **ORDERS** the Registrar to take immediate steps to facilitate the appointment of counsel for Yekatom.

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



Judge Antoine Kesia-Mbe Mindua

Presiding Judge



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Tuesday, 6 August 2019

At The Hague, The Netherlands