

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **20 June 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 *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Confidential with Confidential Annex

Submission on Proposed Agreed Facts

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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Unrepresented Victims	Unrepresented Applicants (Participation/Reparation)
States Representatives	Amicus Curiae

REGISTRY

Registrar Mr Peter Lewis	Counsel Support Section
Victims and Witnesses Unit Mr Nigel Verrill	Detention Section
Victims Participation and Reparations Section	Other

I. INTRODUCTION

1. The Prosecution provides its Submissions on proposed agreed facts, pursuant to the Chamber's 2 March 2022 direction to the Parties and Participants.¹

2. The Prosecution proposed a total of 26 facts for agreement on 27 May 2022 ("Proposed Facts").² However, the Defence has not acceded to all but one.³ Thus, the Parties have again been unable to reach any appreciable agreements pursuant to rule 69 of the Rules of Procedure and Evidence ("Rules").⁴

II. CONFIDENTIALITY

3. Pursuant to regulation 23bis(1) of the Regulations of the Court ("RoC"), this filing is classified as "Confidential" as it relates to *inter partes* communications and information that should not yet be released to the public.

III. SUBMISSION

4. To date, the Prosecution has proposed 190 facts for prospective agreement with the Defence in this trial.⁵ These range from background information regarding the Accused, to well-recognised facts concerning the origins and course of the conflict in the Central African Republic ("CAR"), to specific locations within the country, to the nature of the combatant parties, and to the salient events during the relevant period. However, the Defence has acceded to only a handful of these.⁶

¹ See ICC-01/14-01/18-T-103-CONF-ENG, p. 36.

² See Prosecution email to the Defence, dated 27 May 2022 at 14:44, available on request. (requesting a response date of 10 June 2022).

³ The Ngaissona Defence responded in an email to the Prosecution, dated 10 June 2022 at 16:05, available on request (agreeing solely to proposition A.7 of the Proposed Facts). The Yekatom Defence has not responded as of this filing. See also, Annex, p. 3.

⁴ Note that the Legal Representatives did not oppose the propositions put forth by the Prosecution. See email of the Legal Representatives to the Prosecution, dated 30 May 2022 at 09:32, available on request.

⁵ The First and Second Proposals comprised 164 facts combined; see ICC-01/14-01/18-811-Conf-Corr, paras. 6-7, 13.

⁶ See ICC-01/14-01/18-811-Conf-Corr, para. 18.

5. The Proposed Facts are set out in the confidential annex to this submission, which also reflect the NGAISSONA Defence's agreement to proposition A.7 of the Proposed Facts namely, "[o]n 24 March 2013, the Seleka took control of BANGUI forcing François BOZIZÉ to flee to Cameroon", subject to the following rephrasing: "[o]n 24 March 2013, the Seleka entered Bangui."⁷

IV. CONCLUSION

6. At this stage, the Prosecution considers that its efforts to reach agreement with the Parties as to evidence pursuant to rule 69 have been exhausted. Further entreaties would not be fruitful, although the Prosecution is mindful that the Parties' failure to agree has affected, and will continue to affect, the celerity of the proceedings.

7. With that said, the Prosecution also considers that the Chamber is not encumbered from taking judicial notice of 'facts of common knowledge' relevant to the conflict and as may be found among the facts proposed to date, pursuant to article 69(6). Moreover, the Chamber may do so on its own accord within the exercise of its discretion, as may be appropriate.



Karim A. A. Khan QC, Prosecutor

Dated this 20th day of June 2022
At The Hague, The Netherlands

⁷ See confidential Annex.