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

Date: 16 September 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***

Public

**Public Redacted Version of “Prosecution’s Request for Leave to Reply to the
NGAISSONA Defence’s Response to the Request for leave to add 9 items to the
List of Evidence collected from [REDACTED],
(ICC-01/14-01/18-1417-Conf)”, ICC-01/14-01/18-1426-Conf, 23 May 2022**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Mr Karim A. A. Khan KC
Mr Mame Mandiaye Niang
Mr Kweku Vanderpuye

Counsel for Alfred Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé

Counsel for Patrice-Edouard Ngaïssona

Mr Geert-Jan Alexander Knoops
Mr Richard Landry Omissé-Namkeamaï
Ms Marie-Hélène Proulx

Legal Representatives of Victims

Mr Dmytro Suprun
Mr Abdou Dangabo Moussa
Ms Elisabeth Rabesandratana
Mr Yaré Fall
Ms Marie-Edith Douzima-Lawson
Ms Paolina Massidda

Legal Representatives of Applicants

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 requests leave to reply to the NGAISSONA Defence's Response to the Prosecution's Request for leave to add 9 items to the List of Evidence collected from [REDACTED] ("Response").¹

2. A limited and focused reply addressing the legal positions advanced in the Response would assist Trial Chamber V ("Chamber") in properly determining the timeliness of the seizure of the items and of the Prosecution's Request.

3. A reply in relation to this proposed issue would clarify the facts and applicable law, as well as the determinative factors regarding the disposition of such applications going forward.

II. CONFIDENTIALITY

4. Pursuant to regulation 23bis(2) of the Regulations of the Court ("RoC"), this submission is classified as "*Confidential*" as it concerns filings of the same designation. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

5. The timeliness of the Prosecution's Request is at issue. If leave is granted, the Prosecution will address the following question, as emerges from the Defence's contentions:

(1) Whether the timing² of the Prosecution's Request for Assistance ("RFA")³ to the Central African Republic ("CAR") authorities in [REDACTED] in BANGUI may be

¹ See ICC-01/14-01/18-1417-Conf ("NGAISSONA Defence Response"). See also, ICC-01/14-01/18-1394-Conf (Prosecution Request).

² NGAISSONA Defence Response, paras. 10-12.

³ (OTP/CAR2/CAF-297/TL/OEA-cd).

grounds to preclude the addition of the items to the Prosecution's List of Evidence or its formal submission/admissibility, in particular:

(a) Whether the CAR authorities were bound to [REDACTED] [REDACTED]⁴ [REDACTED] pursuant to the terms of the [REDACTED];⁵ and if so,

(b) Whether, in determining the timeliness of the present Request, the [REDACTED] by the CAR authorities' under the auspices of the [REDACTED],⁶ renders moot the timing and/or execution of the RFA.

6. A reply focused on this limited and discrete matter will distil the salient issues before the Chamber, and assist the fair and considered determination of the Request.

⁴ See article 93(1)(h) and (i) of the Statute. See also, ICC-01/14-56-US-Exp (the Registry's request to the CAR authorities for the arrest and surrender of MOKOM and, the execution of a personal search, search and seizure, notified on 4 February 2019).

⁵ ICC-01/14-01/22-2-Red2. See e.g., ICC-01/14-01/18-1-Conf-Exp, p. 22, ("DIRECTS the Registrar to prepare and transmit to the relevant national authorities of the Central African Republic or the competent authorities of any other arresting State a request for cooperation in accordance with articles 93(1)(h) and 99(1) of the Statute for [REDACTED] (emphasis added) [..]"); ICC-01/14-01/18-89-Conf-Exp, p. 40, ("DIRECTS the Registrar to prepare and transmit to the relevant national authorities of the arresting State a request for cooperation in accordance with articles 93(1)(h) and 99(1) of the Statute for [REDACTED] (emphasis added) [..]").

⁶ See ICC-01/14-01/22-2-US-Exp, p. 40.

IV. RELIEF SOUGHT

7. For the above reasons, the Chamber should permit a reply to the NGAISSONA Defence's Response to the Prosecution Request.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a dot.

Karim A. A. Khan KC, Prosecutor

Dated this 16th day of September 2022
At The Hague, The Netherlands