

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 24 January 2024

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

**Prosecution's Response to the Ngaïssona Request for the Submission of Expert
Report and Associated Material pursuant to Rule 68(3) (ICC-01/14-01/18-2310-Conf)**

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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I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") defers to the discretion of Trial Chamber V ("Trial Chamber") in deciding the Ngaïssona Defence's Request for the Submission of Expert Report and Associated Material pursuant to Rule 68(3).¹ However, it notes that the Request is unnecessary in the circumstances. The more appropriate mechanism for formal submission of D30-P-4864's report and its associated material ("Report") is introduction under rule 68(2)(b) of the Rules of Procedure and Evidence ("Rules"). Introduction by this mechanism would promote expeditious proceedings, save valuable court resources and time, and cause no prejudice to the Parties and Participants.

II. CONFIDENTIALITY

2. Pursuant to regulation 23*bis*(2) of the Regulations of the Court ("RoC"), this document is filed as "Confidential", as it responds to a filing of the same designation. It may be re-classified as "Public" as the Chamber sees fit.

III. SUBMISSIONS

3. The Request does not sufficiently explain the need for introduction of the Report under the mechanism of rule 68(3), entailing additional *viva voce* evidence, as opposed to the more efficient mechanism of 68(2)(b). In fact, there is no need; the Report is already complete and fully comprehensible. As such, leading additional evidence from the expert given the straightforward analysis set out in the Report would neither save time, nor assist the Chamber in terms of assessing the reliability of the call data record evidence put forward by the Prosecution.

¹ ICC-01/14-01/18-2310-Conf ("Request").

4. Instead, in these circumstances, introduction of the Report under 68(2)(b) would be appropriate and would contribute to the expeditiousness of proceedings. The Report does not go to the acts and conduct of the Accused.² It has sufficient indicia of reliability³ in that it was obtained upon the instructions of the Ngaïssona Defence team, and was prepared by an expert of significant relevant experience and who is recognised on the Court's list of experts. Its introduction would cause no prejudice to either Accused,⁴ especially so in relation to Mr Ngaïssona, whose lawyers obtained it. Finally, it would contribute to the expeditiousness of the proceedings,⁵ by freeing up valuable Court time and narrowing the scope of contested issues between the parties.

IV CONCLUSION

5. Subject to the foregoing observations, the Prosecution defers to the Chamber in deciding the Request.



Karim A. A. Khan KC, Prosecutor

Dated this 24th day of January 2024

At The Hague, The Netherlands

² See ICC-01/14-01/18-2016, para. 58.

³ See ICC-01/14-01/18-2016, para. 59.

⁴ See ICC-01/14-01/18-2016, para. 61.

⁵ See ICC-01/14-01/18-2016, para. 60.