



Original: English

No. ICC-01/14-01/18

Date: 16 August 2024

TRIAL CHAMBER V

Before:

Judge Bertram Schmitt, Presiding Judge

Judge Péter Kovács

Judge Chang-ho Chung

Judge Beti Hohler, Alternate Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF

***THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD
NGAISSONA***

Public

**Decision on the Second Ngaißsona Defence Request for Submission from the Bar
Table (Yahoo Emails)**

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

The Office of the Prosecutor

Karim A. A. Khan
Mame Mandiaye Niang
Kweku Vanderpuye

Counsel for Alfred Yekatom

Mylène Dimitri
Thomas Hannis
Anta Guissé
Sarah Bafadhel

Counsel for Patrice-Edouard Ngaïssona

Geert-Jan Alexander Knoops
Marie-Hélène Proulx
Lauriane Vandeler

Legal Representatives of Victims

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

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

Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

TRIAL CHAMBER V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Articles 64(2) and (9), 66(2), 69 and 74(2) of the Rome Statute (the ‘Statute’) and Rules 63 and 64 of the Rules of Procedure and Evidence, issues this ‘Decision on the Second Ngaïssona Defence Request for Submission from the Bar Table (Yahoo Emails)’.

1. On 28 June 2024, in accordance with the time limit set by the Chamber,¹ the Ngaïssona Defence (the ‘Defence’) filed a request for the submission of 26 documents from the bar table (the ‘Items’ and the ‘Request’, respectively).² The Items consist of Yahoo email communications extracted from Mr Ngaïssona’s email account,³ which were disclosed to the Defence by the Office of the Prosecutor (the ‘Prosecution’). The Defence submits that the Items are *prima facie* relevant to material issues at trial and are sufficiently probative.⁴
2. On 8 July 2024, the Yekatom Defence informed the Chamber that it does not intend to respond to the Request and defers to the Chamber’s discretion.⁵
3. On 10 July 2024, the Prosecution deferred to the Chamber’s discretion with regard to the Request, subject to some observations (the ‘Response’).⁶
4. The Chamber recalls the applicable law for the submission of evidence from the bar table.⁷ It also takes note of the parties’ arguments on the relevance and

¹ The Chamber initially set the final time limit for any bar table applications by the Defence at one week after the testimony of the last witness called by the Defence, whilst encouraging it to file requests on a rolling basis during its presentation of evidence (see Further Directions on the Conduct of the Proceedings [End of Defence Presentation of Evidence and Closure of Evidence], 2 February 2024, ICC-01/14-01/18-2342, para. 6). The Chamber later amended the deadline for bar table motions to be filed by the Defence, requiring each Defence team to *inter alia* file bar table motions for at least two categories of items by 28 June 2024 (see email from the Chamber, 15 May 2024, at 10:30).

² Ngaïssona Defence Second Application for the Submission of Evidence from the Bar Table (Yahoo Email Evidence), ICC-01/14-01/18-2559-Conf (with one confidential annex, ICC-01/14-01/18-2559-Conf-Anx1), paras 1, 21.

³ See Annex to the Request, ICC-01/14-01/18-2559-Conf-Anx1.

⁴ Request, ICC-01/14-01/18-2559-Conf, para. 2.

⁵ Email from the Yekatom Defence, 8 July 2024, at 10:48.

⁶ Prosecution’s Response to “Ngaïssona Defence’s Second Application for the Submission of Evidence from the Bar Table (Yahoo Email Evidence)” (ICC-01/14-01/18-2559-Conf), ICC-01/14-01/18-2585-Conf, paras 1, 11.

⁷ Decision on the First Prosecution Submission Request from the Bar Table (Sexual and Gender Based Violence), 12 April 2022, ICC-01/14-01/18-1359, paras 10-12 *referring to* Initial Directions on the Conduct of the Proceedings, 26 August 2020, ICC-01/14-01/18-631, paras 53-54, 62.

probative value of the Items,⁸ and defers its consideration of such arguments to its deliberation of the judgment pursuant to Article 74(2) of the Statute.

5. The Chamber observes that the Items relate to (i) the Defence's alleged lack of *prima facie* authenticity of Yahoo emails disclosed by the Prosecution; (ii) Mr Ngaïssona's whereabouts from May to July 2013; (iii) Mr Ngaïssona's financial situation during his exile following the Seleka coup; (iv) Mr Ngaïssona's role as President of the Central African Football Federation on the eve of the Seleka coup; and (v) the sharing of information amongst citizens in the Central African Republic during the Seleka rule.
6. In light of the above, the Chamber is satisfied that they are *prima facie* relevant and has not identified any procedural bars. In light of the above, the Chamber recognises all of the Items as formally submitted.

FOR THESE REASONS, THE CHAMBER HEREBY

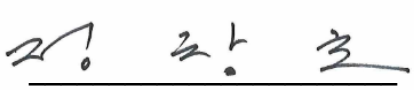
GRANTS the Request;

RECOGNISES as formally submitted CAR-OTP-2130-3450, CAR-OTP-2130-3520, CAR-OTP-2130-3409, CAR-OTP-2130-3525, CAR-OTP-2130-3486, CAR-OTP-2130-3633, CAR-OTP-2130-3517, CAR-OTP-2130-3522, CAR-OTP-2130-3568, CAR-OTP-2130-3537, CAR-OTP-2130-3530, CAR-OTP-2130-3674, CAR-OTP-2130-3637, CAR-OTP-2130-3555, CAR-OTP-2130-3437, CAR-OTP-2130-3438, CAR-OTP-2130-3396, CAR-OTP-2130-3443, CAR-OTP-2130-3659, CAR-OTP-2130-3642, CAR-OTP-2130-3644, CAR-OTP-2130-3646, CAR-OTP-2130-3648, CAR-OTP-2124-1027, CAR-OTP-2124-0929 and CAR-OTP-2130-3389; and

ORDERS the Defence and the Prosecution to file a public redacted version of the Request, ICC-01/14-01/18-2559-Conf, and the Response, ICC-01/14-01/18-2585-Conf, respectively, within one week of notification of this decision.

⁸ See Request, ICC-01/14-01/18-2559-Conf, paras 6-9, 19-20; Response, ICC-01/14-01/18-2585-Conf, paras 4-10.

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

 _____ Judge Péter Kovács	 _____ Judge Bertram Schmitt Presiding Judge	 _____ Judge Chang-ho Chung
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Dated 16 August 2024

At The Hague, The Netherlands