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No. ICC-01/14-01/18

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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 redacted version of

**Decision on the Ngaissona Defence Request for Urgent Intervention regarding
State Cooperation**

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

☒ **The Office of the Prosecutor**

☒ **Counsel for the Defence**

Yekatom Defence

Ngaïssona Defence

☒ **Legal Representatives of the Victims**

Common Legal Representative of the Former
Child Soldiers

Common Legal Representatives of Victims of
Other Crimes

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☐ **The Office of Public Counsel for
Victims**

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

☒ **States' Representatives**

Competent Authorities of the Central African
Republic

☐ **Amicus Curiae**

REGISTRY

Registrar

Mr 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 57(3)(b), 61(11), 64(2), 64(6)(a), 86, 87, and 93(1)(e) of the Rome Statute (the ‘Statute’), issues this ‘Decision on the Ngaïssona Defence Request for Urgent Intervention regarding State Cooperation’.

1. On 24 June 2024, the Ngaïssona Defence (the ‘Defence’) requested the urgent intervention of the Chamber to ‘order the Central African Republic ([the] ‘CAR’) to issue, without any further delay, the authorizations needed for both witnesses [D30-4914] and [D30-4679] to testify’ (the ‘Witnesses’, the ‘Authorisations’ and the ‘Request’).¹ It further provides an overview of the steps taken in order to secure these Authorisations.²
2. On 25 June 2024,³ the Common Legal Representative of the Former Child Soldiers, the Common Legal Representatives of the Victims of the Other Crimes and the Yekatom Defence indicated that they do not intend to respond to the Request.⁴
3. On 26 June 2024, the Office of the Prosecutor (the ‘Prosecution’) deferred to the Chamber’s discretion in relation to the Request.⁵
4. On the same day, as well as on 28 June 2024, the Registry provided its observations on the Request (the ‘Observations’). The Registry notes that ‘[a]s previously reported [...], various factors impacted the timely issuance of the requested authorisations for witnesses D30-4679 and D30-4914’.⁶ It indicates

¹ Ngaïssona Defence’s Request for Urgent Intervention regarding State Cooperation, ICC-01/14-01/18-2545-Conf, para. 1.

² Request, ICC-01/14-01/18-2545-Conf, paras 5-34.

³ The Single Judge shortened the deadline to respond to the Request and for the Registry to file observations to 26 June 2024, at 10:00 (*see* email from the Chamber, 25 June 2024, at 09:51).

⁴ *See* email from the Common Legal Representative of the Victims of the Other Crimes, 25 June 2024, at 11:29; email from the Common Legal Representative of the Former Child Soldiers, 25 June 2024, at 11:57; email from the Yekatom Defence, 25 June 2024, at 18:09.

⁵ Prosecution’s Response to “Ngaïssona Defence’s Request for Urgent Intervention regarding State Cooperation” (ICC-01/14-01/18-2545-Conf), ICC-01/14-01/18-2554-Conf, paras 1, 3-4.

⁶ Observations of the Registry on the “Ngaïssona Defence’s Request for Urgent Intervention regarding State Cooperation”, ICC-01/14-01/18-2545-Conf, ICC-01/14-01/18-2553-Conf, para. 4 *with reference to* Corrected version of the “Registry’s Report on its Efforts to Secure the Attendance of Defence Witnesses” (ICC-01/14-01/18-2513-Conf-Exp), 3 June 2024, ICC-01/14-01/18-2513-Conf-Exp-Corr,

that it ‘has made several follow-up attempts with the [REDACTED] the [CAR] regarding the issuance of [the Authorisations]’,⁷ which it understands to be the ‘last step in this process’.⁸ However, ‘given the approaching dates set for the testimonies, the Registry believes that witnesses D30-4679 and D30-4914 will not be able to appear before the summer recess’.⁹

5. At the outset, the Chamber takes note that the Witnesses [REDACTED] and thus require authorisation from the CAR [REDACTED] in order to testify before the Chamber.¹⁰
6. The Chamber recalls the applicable law set out in its previous decisions.¹¹ Taking into account the expected testimonies of the Witnesses,¹² as well as the efforts made by the Defence and Registry in order to secure the required Authorisations,¹³ the Chamber is satisfied that the requirements to request state cooperation pursuant to Articles 57(3)(b) and 93(1)(e) of the Statute are fulfilled. Accordingly, the Chamber grants the Request.
7. The Registry is instructed to proceed accordingly and transmit a cooperation request to the CAR authorities immediately. Therein, the Registry should indicate that the Witnesses are expected to testify between 9 and 18 July 2024. Should it not be feasible to obtain the Authorisations in advance of these dates, the CAR authorities’ cooperation is sought to issue the Authorisations expeditiously in

confidential *ex parte*, only available to the Registry (original version notified on 30 May 2024) (corrected confidential redacted version notified on 3 June 2024) (the ‘Report on Registry Efforts’).

⁷ See email from the Registry, 28 June 2024, at 17:06.

⁸ Observations, ICC-01/14-01/18-2553-Conf, para. 6.

⁹ See email from the Registry, 28 June 2024, at 17:06.

¹⁰ See Request, ICC-01/14-01/18-2545-Conf; Report on Registry Efforts, ICC-01/14-01/18-2513-Conf, paras 4, 9, 17.

¹¹ See *for instance*, Decision on the Yekatom Defence Request for Cooperation from Ireland, 28 July 2022, ICC-01/14-01/18-1531-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence and the competent Authorities of Ireland (confidential redacted version notified the same day), paras 3-4.

¹² See Corrected version of the Defence Final List of Witnesses, 1 December 2023, ICC-01/14-01/18-2215-Conf-Anx1-Corr (original version notified on 17 November 2023); D30-4914’s Statement, CAR-D30-0024-0001.

¹³ See Request, ICC-01/14-01/18-2545-Conf, paras 5-34; Report on Registry Efforts, ICC-01/14-01/18-2513-Conf-Exp-Corr, paras 9-20; Observations, ICC-01/14-01/18-2553-Conf, paras 5-6 and email from the Registry, 28 June 2024, at 17:06.

order to allow for the Witnesses to appear between 19 and 30 August 2024, per video-link or at the seat of the Court.

8. The Registry is further instructed to emphasise the importance of the prompt execution of the cooperation request, particularly noting the advanced stage of the proceedings, with only three defence witnesses remaining to testify.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request;

ORDERS the Registry to transmit a cooperation request to the CAR authorities, as outlined in paragraphs 7-8 above; and

ORDERS the Defence, the Prosecution and the Registry to file public redacted versions of the Request, ICC-01/14-01/18-2545-Conf; the Response, ICC-01/14-01/18-2554-Conf; as well as the Observations, ICC-01/14-01/18-2553-Conf and the email from the Registry, 28 June 2024, at 17:06, respectively, by 6 September 2024.

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



Judge Péter Kovács



Judge Bertram Schmitt

Presiding Judge



Judge Chang-ho Chung

Dated 18 July 2025

At The Hague, The Netherlands