

**Cour
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Internationale**



**International
Criminal
Court**

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Date: 29 July 2025

THE APPEALS CHAMBER

Before: Judge Solomy Balungi Bossa, Presiding
Judge Luz del Carmen Ibáñez Carranza
Judge Gocha Lordkipanidze
Judge Kimberly Prost
Judge Erdenebalsuren Damdin

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

***IN THE CASE OF THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

PUBLIC

**Ngaïssona Defence Response to the “Request for Extension of Time to File the
Notice of Appeal and Appeal Brief”, ICC-01/14-01/18-2789**

Source: Defence of Patrice-Edouard Ngaïssona

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I. INTRODUCTION

1. On 24 July 2025, Trial Chamber V ('Trial Chamber') rendered the "Judgment" in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*¹ and found both Mr Yekatom and Mr Ngaïssona guilty on almost the entirety of the confirmed counts against them. Mr Yekatom was convicted on 20 out of 21 counts and sentenced to a joint term of 15 years. Mr Ngaïssona was convicted on 28 out of 31 counts and sentenced to a total of 12 years of imprisonment. On the same day, the Appeals Chamber dismissed *in limine* a joint request from the Defence for Mr Alfred Rombhot Yekatom ('Yekatom Defence') and the Defence for Mr Patrice-Edouard Ngaïssona ('Ngaïssona Defence') requesting that the Appeals Chamber suspend the time limit to file the Notice of Appeal during the judicial recess, which commenced on 25 July 2025.² The Appeals Chamber held that its decision was without prejudice to the Defence filing a request for extension of time after the notification of the trial judgment.³ Given the Appeals Chamber disposition of the joint Defence suspension request, the deadline to file the Notice of Appeal under Rule 150(1) will expire on 25 August 2025.
2. Yesterday, 28 July 2025, the Yekatom Defence filed its "Request for Extension of Time to File the Notice of Appeal and Appeal Brief" ('Yekatom Defence Request'), requesting to: (1) file its Notice of Appeal no later than 22 October 2025, and (2) file its Appeal Brief no later than 60 days after the filing of its Notice of Appeal.⁴
3. The Ngaïssona Defence hereby fully joins and concurs with the arguments presented in the Yekatom Defence Request, as further substantiated in the response below.

¹ ICC-01/14-01/18-2784-Red ('Judgment').

² Decision on the Defence's request for suspension of time limits, ICC-01/14-01/18-2787.

³ *Ibid.*, para. 5

⁴ ICC-01/14-01/18-2789.

II. SUBMISSIONS

4. As foreseen by all the parties to the proceedings,⁵ the Judgment is a particularly complex, lengthy, and unique decision that was issued on the eve of a 23-day judicial recess, during which the Ngaïssona Defence faces significant resource and logistical constraints. In these circumstances, it is not objectively possible for the Ngaïssona Defence to comply with the ordinary 30-day statutory time limit to file its Notice of Appeal. Accordingly, it fully joins the Yekatom Defence Request, in particular: the Ngaïssona Defence requests pursuant to Rule 150(2) of the Rules of the Regulations of the Court, an extension of time until 22 October 2025 to file its Notice of Appeal. It also requests pursuant to Regulation 35(2) of the Regulations of the Court that the 60-day timeframe envisaged for filing the Appeal Brief under Regulation 58 of the Regulations read in conjunction with Rule 150(1) of the Rules begin running from the date of filing the Notice of Appeal. The requested extension accounts for the judicial recess from 25 July to 18 August 2025 and seeks 35 additional days beyond the 30-day period provided under Rule 150(1) to continue preparing the Notice of Appeal.
5. The Yekatom Defence Request is justified under Rule 150(2) of the Rules and Regulation 35(2) of the Regulations, given that several factors typically warranting an extension—routinely acknowledged by the Appeals Chamber—are present in this case to an exceptional and unprecedented extent. Moreover, granting the request would not result in any prejudice to the parties.
6. Since the amendment of Regulation 57 of the Regulations of the Court introduced the requirement that parties include in their Notice of Appeal “the grounds of appeal [...] specifying the alleged errors and how they affect the appealed decision”, the Appeals Chamber has, without exception, extended the

⁵ Request for the suspension of rule 150(1) time limit, ICC-01/14-01/18-2780, paras. 3, 7.

deadline to file the Notice of Appeal under Rule 150(1) upon request.⁶ The Appeals Chamber has expressly determined that a Notice of Appeal necessitates a thorough analysis of the impugned decision,⁷ and it has consistently found that certain factors constitute good cause for extending the deadline to file it. These include:

- 1) the length and complexity of the impugned decision, including the novelty of the potential issues on appeal;
 - 2) the need for the translation of the impugned decision;
 - 3) the impact of the judicial recess and other resource constraints.
7. All these factors are present in the instant case, making it impossible for the Ngaïssona Defence to conduct the thorough analysis needed of the Judgment in view of identifying its grounds of appeal and how they impacted the Judgment within the 30-day time limit.

⁶*The Prosecutor v. Al Hassan*, Decision on the Defence's "Request for Extension of Time to File the Notice of Appeal" against the decision of Trial Chamber X entitled "Trial Judgment", ('Al Hassan Decision on Defence Request for an Extension of Time'), ICC-01/12-01/18-2606; *The Prosecutor v. Al Hassan*, Decision on the "Joint Defence and OTP Request for Limited Extension of the Deadline for the Notices of Appeal", (Al Hassan Decision on Joint OTP and Defence Request for an Extension of Time'), ICC-01/12-01/18-2628; *The Prosecutor v. Ongwen*, Decision on Mr Ongwen's request for time extension for the notice of appeal and on translation, (Ongwen Decision on Defence Request for an Extension of Time), ICC-02/04-01/15-1781; *The Prosecutor v. Ongwen*, Decision on Mr Ongwen's second request for time extension, ('Ongwen Decision on Second Defence Request for an Extension of Time'), ICC-02/04-01/15-1811; *The Prosecutor v. Ntaganda*, Decision on Mr Bosco Ntaganda's and the Prosecutor's requests for time extension for the notice of appeal and the appeal brief, ('Ntaganda Decision on Request for an Extension of Time') ICC-01/04-02/06-2364 ; *The Prosecutor v. Gbagbo & Blé Goudé*, Decision on the Prosecutor's request for time extension for the notice of appeal and the appeal brief, ('Gbagbo et al. Decision on the Prosecutor's Request for an Extension of Time'), ICC-02/11-01/15-1268. Regulation 57 of the Regulations of the Court was amended to include the requirement of listing the grounds of appeal and how they affected the Article 74 Decision in July 2017. Gbagbo et al. Decision on the Prosecutor's Request for an Extension of Time, para. 8.

⁷ Al Hassan Decision on Defence Request for an Extension of Time, para. 12; Ntaganda Decision on Request for an Extension of Time, para. 5; Gbagbo et al. Decision on the Prosecutor's Request for an Extension of Time, para. 8.

A. The complexity and length of the Judgment including the novelty of the potential issues on appeal constitute good cause for granting the Yekatom Defence Request

8. The Judgment stems from proceedings spanning several years and involving multiple accused. Its unprecedented complexity and length were reflected in the Presiding Judge's remarks during its public delivery, describing the case as "exceptionally comprehensive and complicated, both in terms of establishing the facts as well as assessing the evidence and contributions of the accused to the crimes."⁸
9. The Appeals Chamber has determined that the complexity and length of the trial judgment constitutes good cause for extending the time limit to file the Notice of Appeal.⁹ The following five reasons render the Judgment particularly complex and lengthy, thereby justifying the Yekatom Defence Request.
10. *First*, the Judgment marks the first time in the Court's history that Article 74 and Article 76 determinations are contained in one decision. Under Rule 150(1), when Article 74 and Article 76 proceedings are bifurcated, parties have a full 30 days to file a notice of appeal for a decision determining the guilt or innocence of the accused, and a separate 30 days to file a notice of appeal against the sentence. In *The Prosecutor v. Ongwen*, the Appeals Chamber granted an extension of time for the Defence to file its Notice of Appeal and Appeal Brief against the sentencing decision, noting that without such an extension, the Defence would have had to submit its Appeal Brief against the sentence just two weeks after filing its Appeal Brief against the conviction decision.¹⁰

⁸ ICC-01/14-01/18-T-312-ENG ET, p. 4, lines 7-9.

⁹ Al Hassan Decision on Defence Request for an Extension of Time, para 12 ; Ongwen Decision on Defence Request for an Extension of Time, paras 4, 12; Ntaganda Decision on Request for an Extension of Time, paras. 3,5; Gbagbo et al. Decision on the Prosecutor's Request for an Extension of Time, paras. 4, 8.

¹⁰ *The Prosecutor v. Ongwen*, Decision on the Defence request for extension of time limit for the filing of the notice of appeal and the appeal brief, ICC-02/04-01/15-1837, para. 9. *See also The Prosecutor v. Bemba*, Decision on Mr Jean-Pierre Bemba Gombo's request for an extension of time for the filing of his

11. Here, unless an extension is granted, the Ngaïssona Defence will have only 30 days to identify its grounds of appeal and explain how these impacted both Mr. Ngaïssona's conviction and sentence. While it is spared the burden of preparing for sentencing proceedings concurrently with its appeal—as would be the case if the proceedings were bifurcated¹¹—the analysis of the sentencing decision in this context is substantially more complex and thus will take time. In bifurcated proceedings, parties make sentencing submissions with the benefit of knowing the trial chamber's findings of fact. Here, by contrast, the parties submitted sentencing arguments without knowledge of these findings. Only upon reviewing the Article 74 decision can the parties assess how their sentencing submissions align with or were affected by Trial Chamber's factual findings. This undertaking has only just begun, and it is only after it is completed, that the parties can meaningfully determine whether, based on the Trial Chamber's factual findings, the sentence imposed was disproportionate—and thus whether any ground of appeal arise.

12. *Second*, the Judgment is exceptional in its length—it is a total of 1649 pages. The Appeals Chamber has repeatedly affirmed that the length of a judgment constitutes good cause for extending the deadline to file the Notice of Appeal.¹² This is the longest judgment ever rendered before the Court. Reviewing a judgment of such length including the opposing views will require considerable time. In *The Prosecutor v. Gbagbo & Blé Goudé*, the Prosecution when requesting an extension of time to file its potential Notice of Appeal against the acquittal

document in support of the appeal, ICC-01/05-01/08-3431, para. 11 (finding that an extension of time to file the Appeal Brief against the sentence was reasonable given *inter alia* that the Appeal Brief against the sentence would have to be filed one day after Mr Bemba's appeal brief against his conviction).

¹¹ The Appeals Chamber has held that the concurrent preparation of the Notice of Appeal and sentencing proceedings is a factor relevant to the determination of whether "good cause" exists to extend the deadline for filing the Notice of Appeal. Al Hassan Decision on Joint OTP and Defence Request for an Extension of Time, para. 12; Ongwen Decision on Defence Request for an Extension of Time, paras. 4, 12; Ntaganda Decision on Request for an Extension of Time, para. 5.

¹² Al Hassan Decision on Defence Request for an Extension of Time, para 12 ; Ongwen Decision on Defence Request for an Extension of Time, paras 4, 12; Ntaganda Decision on Request for an Extension of Time, paras. 3,5; 'Gbagbo et al. Decision on the Prosecutor's Request for an Extension of Time', paras. 4, 8.

decision, estimated that it would take one month to read and analyze the decision, which was almost 300 pages shorter than the Judgment.¹³ Here, the Defence foresees taking at least one month to read and analyze the decision, which does not include taking the time to make informed choices in consultation with Mr Ngaïssona on the grounds of appeal and how they impacted the Judgment.

13. Identifying the factual grounds of appeal will be a laborious process in this case.

In *The Prosecutor v. Ntaganda*, the Appeals Chamber agreed with the argument put forward by the Defence that the trial chamber's findings of fact consisting of 320 pages was a factor justifying an extension of time.¹⁴ Here, the Judgment's findings of fact total 1,081 pages, well over three times the length as in *Ntaganda* and include 8,033 footnotes, which underscores the laborious exercise the Defence will have to undertake in analyzing the Judgment for errors of fact, which includes both analyzing the evidence cited and not cited by the Trial Chamber.

14. *Third*, beyond its considerable length, the Judgment stands out for the breadth of charges, as well as its wide geographic and temporal scope. It contains determinations on the guilt of two accused, where it was uncontested by the Prosecution that their contributions to the overlapping crimes were unrelated.¹⁵ This lack of overlap in the evidence adds to the complexity of the analysis, as the findings rely on distinct bodies of evidence. Mr Ngaïssona's case—excluding that of Mr Yekatom—involved 31 counts, which constitutes the highest number of charges adjudicated by a trial chamber excluding the *Ongwen*

¹³ *The Prosecutor v. Gbagbo & Blé Goudé*, Prosecution's urgent request for extension of time limits under rule 150(1) and regulation 58(1), ICC-02/11-01/15-1264, para. 10.

¹⁴ *Ntaganda* Decision on Request for an Extension of Time, paras. 3, 6.

¹⁵ See ICC-01/14-01/18-T-012-ENG ET, p. 33, lines 14-17 ("Mr Yekatom is charged as a principal in the commission of those crimes; Mr Ngaïssona is charged as an accessory. And so the number of witnesses that relate to Mr Yekatom's involvement in the commission of the crimes is fundamentally different because the nature of his involvement is also different than Mr Ngaïssona.")

case.¹⁶ Mr Ngaïssona was convicted on 28 of those 31 counts.¹⁷ While the confirmed charges relate to four locations, including the capital and its surrounding areas, the contextual elements of the crimes as well as Mr Ngaïssona's involvement extends to several other locations in which attacks occurred both before¹⁸ and after¹⁹ the seminal 5 December attacks on Bangui and Bossangoa. These attack locations include but are not limited to the following: (1) Ombella-M'Poko (Gaga, Zawa, Yaloké), (2) Ouham-Pendé (Bossemptélé) (3) Nana-Mambéré (Baoro), (4) Mambéré-Kadéï (Guen, Carnot, Berbérati), (5) Lobaye (Boda).²⁰

15. The case also reaches beyond CAR's borders. The Trial Chamber's findings are based on Mr Ngaïssona's involvement with various groups coordinating across five countries—including CAR, the Democratic Republic of the Congo, Cameroon, and France—to establish the Anti-Balaka.²¹ The temporal scope is similarly broad: the relevant period of the charges spans from September 2013 to December 2014,²² though the origins of the conflict and Mr Ngaïssona's alleged contributions to it, begin as early as December 2012.²³

16. This complex factual matrix resulted in an unprecedented evidentiary record aimed at both establishing and disputing the charges. The Prosecution called 114 witnesses, 75 appeared before the trial chamber and 39 had their evidenced

¹⁶ Trial Chamber IX made findings on 70 counts confirmed by the Pre-Trial Chamber. *Ongwen*, Trial Judgment, ICC-02/04-01/15-1762-Red, para. 32

¹⁷ Judgment, para. 4707

¹⁸ *Ibid.*, paras., 1327-1480.

¹⁹ *Ibid.*, paras., 1924-2114.

²⁰ *Ibid.*

²¹ *Ibid.*, Section 2, "Individuals and their activities in Cameroon and the Democratic Republic of the Congo", paras. 752-988; Section 3, "*Front pour le retour à l'ordre constitutionnel en Centrafrique (FROCCA)*", paras. 989-1058 ; Section 4, "Formation of groups in different localities and the emergence of the Anti-Balaka", paras. 1059-1209.

²² *Ibid.*, para 3934.

²³ *Ibid.*, paras 699-713; Section 2, "Individuals and their activities in Cameroon and the Democratic Republic of the Congo", paras. 752-988; Section 3, "*Front pour le retour à l'ordre constitutionnel en Centrafrique (FROCCA)*", paras. 989-1058 ; Section 4, "Formation of groups in different localities and the emergence of the Anti-Balaka", paras. 1059-1209.

entirely introduced in writing under Rule 68(2)(b) and (c) of the Rules.²⁴ The Ngaïssona Defence and Yekatom Defence called a total of 56 witnesses of which 37 had their testimony submitted entirely in writing under Rule 68(2)(b) of the Rules.²⁵ Additionally, the Chamber called one witness²⁶ and granted leave for the victims to call three witnesses.²⁷

17. In addition to the 174 witnesses who gave evidence, an unprecedented amount of documentary evidence was formally submitted, specifically 19,590 items.²⁸ Given the Trial Chamber's decision to adopt the 'Submission Approach' to evidence,²⁹ the Judgment marks the first time the parties will be apprised of the Trial Chamber's assessment of the relevance, and probative value including authenticity of several thousand items. Analyzing whether any errors have resulted from the Chamber's evidentiary assessment will take significant time given this tremendous volume.

18. *Fourth*, the Judgment presents novel issues that the Defence will need time to analyze. The Appeals Chamber has recognized that the novelty of the issues on appeal constitutes good cause for extending the time limit to file a Notice of Appeal.³⁰ While the Defence has only just begun apprising itself of the Judgment, the novelty of certain issues is already apparent.

²⁴ Ibid., para. 13.

²⁵ Ibid., para. 16.

²⁶ Ibid., para. 22.

²⁷ Ibid., para. 14.

²⁸ Ibid., para. 22.

²⁹ Initial conduct of the proceedings, ICC-01/14-01/18-631, para 53.

³⁰ Al Hassan Decision on Defence Request for an Extension of Time, para. 12 *citing* Request for Extension of Time to File the Notice of Appeal, ICC-01/12-01/18-2597, para. 2; Ntaganda Decision on Request for an Extension of Time, para. 5 (finding that the reasons advanced by Mr Ntaganda in support of an extension of time to file a Notice of Appeal demonstrated good cause). In his request for an extension, Mr Ntaganda raised the novelty of the issues on appeal. *Ntaganda*, Request for extension of time to file notice of appeal, ICC-01/04-02/06-2361, paras. 1, 10, 19. *See also* *The Prosecutor v. Bemba*, Decision on Mr Bemba's request for an extension of time for the filing of his document in support of the appeal, ICC-01/05-01/08-3370, para. 6 (finding Mr Bemba's request for an extension of time to file his Appeal Brief justified, which included submissions on the novelty of the legal issues to be addressed).

19. Notably, as stated above, this is the first case in which the judgment and sentence have been issued simultaneously. In addition to needing more time to analyze both issues of conviction and sentence in a single decision, there also is the added complexity of analyzing whether the decision of the Trial Chamber to issue both at the same time was unfair in a way that affected the reliability of the conviction or sentence.

20. Additionally, this will be the first potential appeal where questions concerning the authenticity and reliability of certain categories of forensic digital evidence will be addressed in the context of an Article 5 judgment. Analyzing the Trial Chamber's findings on such evidence will demand significant time due to both its extraordinary volume and its highly technical nature—requiring the expertise of only a limited number of Defence team members. For example, the case record contains a formidable volume of CDR evidence- over 100 CDR related items³¹ this number does not include items submitted for the purpose of attributing certain phone numbers to specific users. Additionally, 943 Facebook items were submitted totaling well over 27,000 pages³² as well as over 400 emails.³³ The authenticity and reliability of this evidence was a live issue in the case, and the Defence needs time to analyze the Trial Chamber's disposition of it.³⁴

³¹ Judgment, para. 158.

³²Judgment, para. 144. According to the Defence's records, the total number of pages of Facebook material was over 27,000. Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA, para. 65.

³³While the Judgment does not state the number of emails submitted onto the case record, the Defence is able to provide a minimum estimate. In the Prosecution's request to submit email evidence through the bar table, it included in its annex both submitted items and items it sought to submit. Prosecution's Application for Submission of Yahoo Email Evidence from the Bar Table Pursuant to Article 64(9), ICC-01/14-01/18-1450-Conf-AnxA (containing 389 items in total). Trial Chamber V granted the Prosecution's request to submit the emails not previously submitted in annex, ICC-01/14-01/18-1450-Conf-AnxA. Decision on the Fifth Prosecution Submission Request from the Bar Table (Yahoo Emails), ICC-01/14-01/18-1632. In addition to these 389 items, which were submitted, the Trial Chamber also granted the Defence's request to submit 26 email items. Decision on the Second Ngaïssona Defence Request for Submission from the Bar Table (Yahoo Emails), ICC-01/14-01/18-2635.

³⁴ Judgment, paras. 436, 867-870.

21. This will also be the first Article 5 judgment where the Appeals Chamber will adjudicate a conviction entered under Article 25(3)(c) of the Statute. *The Prosecutor v. Al Hassan* would have been the first case, but both the Prosecution and Mr Al Hassan discontinued their respective appeals on 17 December 2024.³⁵ In *Bemba*, the Appeals Chamber recognized the Defence's argument that Mr Bemba being the first accused convicted under Article 28 was a novel issue and a factor justifying an extension of time.³⁶ Here, like in *Bemba*, novel issues relating to the mode of responsibility are intended to be raised on appeal.

22. *Fifth*, the Ngaïssona Defence must analyze whether to appeal other fair trial rights issues that go outside of the four corners of the Judgment, which adds to the complexity of the analysis needed to file a Notice of Appeal. In *Bemba* and *Ntaganda*, the Appeals Chamber found that this factor did constitute good cause to extend the deadline.³⁷ Similar to *Bemba* and *Ntaganda*, the Prosecution, with authorization from Pre-Trial Chamber II, initiated Article 70 proceedings in this case.³⁸ While the investigations did not result in arrest and prosecution, there was a direct impact on the trial proceedings, culminating in the introduction of P-1847's prior recorded testimony under Rule 68(2)(d),³⁹ and the Prosecution's request to submit rebuttal evidence attempting to impeach the credibility of

³⁵ *Al Hassan*, "Defence Notice of Discontinuance of Appeal against Trial Judgment rendered by Trial Chamber X on 26 June 2024", ICC-01/12-01/18-2667; "Prosecution Notice of Discontinuance of its Appeals against the Trial Judgment of Trial Chamber X dated 26 June 2024", ICC-01/12-01/18-2668.

³⁶ *Bemba* Decision on Request for an Extension of Time to file the Appeal Brief, para. 6 *citing* Defence Request for Variation of the Time Limits for the Filing of the Document in Support of Appeal, ICC-01/05-01/08-3353, paras. 10-14. Paragraph 11 of the Defence request specifically refers to Mr Bemba being convicted under Article 28, and it being the first conviction under this mode of responsibility before the Court.

³⁷ *The Prosecutor v. Ntaganda*, Decision on Mr Ntaganda's request for an extension of the page and time limit for the filing of the appeal brief and related matters, ICC-01/04-02/06-2415, para. 12 *citing* Request for extension of page limit and time to file appeal brief, ICC-01/04-02/06-2398, paras. 13-28. Paragraph 15 of the Defence's request specifically addressed the fair trial issues arising from the Prosecution's access to Mr Ntaganda's telephone conversations; *Bemba* Decision on Request for an Extension of Time to file the Appeal Brief, para. 6.

³⁸ See Decision on the Prosecution Request for Non-Disclosure under Rule 81(2) of Material collected during the Article 70 Investigation, ICC-01/14-01/18-1063-Conf, para. 1

³⁹ Decision on the Prosecution Request for Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(d) of the Rules, ICC-01/14-01/18-2126-Conf

several witnesses.⁴⁰ The Defence needs sufficient time to analyze whether the Prosecution's investigations into several witnesses materially impacted the reliability of Judgment.

23. Another issue related to the fairness of the proceeding needed to be analyzed is the withdrawal of charges in *The Prosecutor v. Mokom* due to the unavailability of witnesses, many of which were the same insider witnesses that testified against Mr Ngaïssona.⁴¹ The Ngaïssona Defence needs additional time to assess the Judgment in light of the withdrawal of charges against Maxime Mokom, and the Defence's numerous requests regarding the *Mokom* case.⁴²

B. Mr Ngaïssona's right under Rule 144(2)(b) for a French translation of the Judgment constitutes good cause for granting the Yekatom Defence Request

24. Under Rule 144(2)(b), Mr Ngaïssona has the right to receive the Trial Chamber's decision concerning criminal responsibility and sentence as soon as possible in a language he fully understands or speaks. Mr Ngaïssona does not speak English in any capacity that would allow him to read the Judgment. To meet the requirements of fairness under the Statute, Mr Ngaïssona will need a translation of the decision in French, which is one of the languages that he fully understands and speaks. While in *Ongwen*, the Appeals Chamber held that Article 67(1)(f) "does not, per se, require that a full translation of the decision under article 74 of the Statute be provided to a convicted person before filing of a notice of appeal",⁴³ the Appeals Chamber did find that the lack of Acholi translation was a factor justifying an extension of time to file the Notice of

⁴⁰Public redacted version of "Prosecution's Request for the Submission of Rebuttal Evidence", ICC-01/14-01/18-2657-Conf, 27 August 2024, ICC-01/14-01/18-2657-Red.

⁴¹ *The Prosecutor v. Mokom*, Notice of Withdrawal of the Charges against Maxime Jeoffroy Eli Mokom Gawaka, ICC-01/14-01/22-275.

⁴² Decision on the Ngaïssona Defence Motion for Disclosure of Material Related to the Withdrawal of Charges in the Mokom Case, ICC-01/14-01/18-2474-Red; Decision on the Ngaïssona Defence Request for Reconsideration of the 'Decision on the Ngaïssona Defence Motion for Disclosure of Material Related to the Withdrawal of Charges in the Mokom Case, ICC-01/14-01/18-2728; Decision on the Ngaïssona Defence Request to Compel the Prosecution to Comply with the Contact Protocol, ICC-01/14-01/18-2493.

⁴³ Ongwen Decision on Defence Request for an Extension of Time, para. 10.

Appeal.⁴⁴ Similarly, in *Al Hassan*, the Appeals Chamber found that Mr Al Hassan's right to a translation of the most critical sections detailing criminal responsibility was a relevant consideration for the criterion of "good cause" under Rule 150(2).⁴⁵

25. The circumstances of Mr Ngaïssona's case require that he receive the translation of the most essential sections of the Judgment in French. While Counsel is communicating with Mr Ngaïssona daily either through meetings or telephone regarding the Trial Chamber's findings, Counsel cannot reasonably be expected to provide a full translation of these findings through these meetings given their volume. Moreover, the Defence cannot delegate its limited legal resources to translating hundreds of pages of factual findings detailing Mr Ngaïssona's responsibility, and the most critical findings on his sentence.

26. In the interest of efficiency, even prior to the issuance of the Judgment, the Defence began liaising with the Language Service Section ('LSS') to streamline obtaining a French translation.⁴⁶ LSS informed the Defence that it can request draft translations of the most essential parts of the judgment to be issued on a rolling basis.⁴⁷ Consistent with LSS' guidance on the matter, the Defence emailed LSS on 25 July 2025 with a first set of priority sections to be translated for Mr Ngaïssona in draft form.⁴⁸ It has since come to the Defence's attention that several translators are currently on leave, which further affects translation capacity at the commencement of the appeals phase. LSS has yet to provide a timeline for the first set of priority paragraphs to be translated for Mr Ngaïssona. Given the length of the factual determinations in the Judgment (1,081 pages), and that receiving the translation will be a piece-meal process, the thirty days envisaged by Rule 150(1) is not sufficient for Mr Ngaïssona to: (1)

⁴⁴ Ibid., para. 12.

⁴⁵ *Al Hassan* Decision on Defence Request for an Extension of Time, paras. 10-11,13.

⁴⁶ Email from the Ngaïssona Defence to LSS, 11 July 2025 at 14:27 (available upon request).

⁴⁷ Email from LSS to the Ngaïssona Defence, 11 July 2025 at 16:55 (available upon request); Email from LSS to the Ngaïssona Defence, 14 July 2025 at 18:15 (available upon request).

⁴⁸ Email from the Ngaïssona Defence to LSS, 25 July 2025 at 18:08 (available upon request).

analyze the draft translations and (2) give the Defence his feedback for the appeal.

27. While Regulation 61 of the Regulation of the Court allows the Defence to request a variation of grounds of appeal after it has filed its Notice of Appeal, it would be contrary to judicial economy to not allow Mr Ngaïssona to provide his feedback on the most essential factual findings on his criminal responsibility prior to filing a Notice of Appeal. Mr Ngaïssona's fully informed instructions will be determinative of the scope and content of his appeal. If the Ngaïssona Defence were to be obliged to file a Notice of Appeal without his fully informed instructions, the Appeals Chamber and other parties run the risk that the notice may entirely change following their receipt. The most efficient course would be to grant the Defence's request for an extension of time limit such that any potential future request under Regulation 61 would be very narrow, following the translation of non-essential parts of the Judgment.

C. Resource constraints caused by both the judicial recess and a significant number of the Ngaïssona Defence's appeals team members being on parental leave constitutes good cause for granting the Yekatom Defence Request

28. Without benefiting from any extension, almost the entirety of the time limit to file the Notice of Appeal will run during the judicial recess. In the *Gbagbo et al.*, the Appeals Chamber found that a large part of the time limit falling during the judicial recess did constitute among other reasons good cause for extending the deadline to file the Notice of Appeal.⁴⁹

29. While here the Trial Chamber did provide the parties with 7 weeks' notice of the date of delivery of the Judgment,⁵⁰ almost the entirety of the Defence team had already made arrangements to either visit their home countries, take annual leave, or to spend time with their school aged children who are on

⁴⁹ Gbagbo et al. Decision on the Prosecutor's Request for an Extension of Time, paras.4, 8.

⁵⁰ Order Scheduling the Delivery of the Judgment, ICC-01/14-01/18-2771.

holiday during this time. When making these travel and leave arrangements, the Defence could not have reasonably anticipated that the Trial Chamber would deliver its judgment prior to the judicial recess. Never in the Court's history has an Article 74 decision been delivered just over seven months following the closing statements. Indeed, the Chambers Practice Manual states that the judgment must be delivered within ten months following the end of the closing statements.⁵¹ Moreover, the Defence was reasonably expecting that at least ten months would be necessary for the Chamber to issue a sentence in the same decision if they were to convict. While many team members, especially counsel made themselves fully available upon being notified of the Trial Chamber's scheduling order on 3 June 2025, not all members were able to do so. Some had commitments abroad or could not secure adequate childcare in August, when few options are available before school starts.

30. Adding to the Ngaïssona Defence's resource constraint is the parental leave of three team members who have been selected to work on the appeal. Under the new legal aid policy, if the current complexity level of the case is maintained, the appeals legal team, including counsel, will have a total of seven members.⁵² Two of the team members who are already on parental leave are scheduled to return on 20 October 2025 and 1 December 2025 respectively. The third team member is scheduled to begin her leave on 19 August 2025, one day after the end of the judicial recess. She will not return until 17 February 2026.

31. On 16 May 2025, the Defence requested approval for the parental leave replacements for the two members who are already on leave and did not receive approval until more than five weeks later, namely on 23 June 2025.⁵³ The official appointment of the two replacements began on 4 July 2025, just three weeks

⁵¹ Chambers Practice Manual, Eighth Edition, 2024, para. 88.

⁵² Draft Legal aid policy of the International Criminal Court, ICC-ASP/22/9, p. 7.

⁵³ Email from the Ngaïssona Defence to CSS, 16 May 2025 (available upon request); Email from CSS to the Ngaïssona Defence, 23 June 2025 (available upon request).

before the issuance of the Judgment.⁵⁴ While one of the parental leave replacements has been on the case for many years, the other has no experience on this case. The third temporary replacement of the team member going on leave on 19 August cannot begin working until early September 2025 due to her finalizing of other employment commitments that she is unable to change. Moreover, while this replacement did work on the case for a period of 14 months, she has not worked on the case since November 2021.

32. The temporary replacements cannot remedy the institutional knowledge gap left by the parental leave of three team members out of seven who have been on the Ngaïssona case since prior to the confirmation of charges. Their absence necessarily impacts the ability of the Ngaïssona Defence to prepare the appeal within the statutory time limit since it cannot benefit from their institutional knowledge that has been acquired through several years on the case.

33. In *Ongwen*, the Defence requested an extension of an additional month to prepare its Notice of Appeal due to the delay caused by the Registry in granting the Defence's request for additional resources.⁵⁵ The Appeals Chamber found that the Defence's resource constraints caused by the delay constituted good cause to further extend the deadline to file the Notice of Appeal.⁵⁶ Here, like in *Ongwen*, the Ngaïssona Defence is experiencing significant resource constraints in its preparation of its Notice of Appeal. Additional time needed to onboard two of the temporary replacements meets the criterion of "good cause", given the exceptional circumstances in which 40% of the Ngaïssona Defence's longest-serving members will all be on parental leave during most of the appellate proceedings unless the Yekatom Defence Request is granted.

D. The Prosecution does not oppose Yekatom Defence Request, and no prejudice results from granting the request

⁵⁴ Email from CSS to the Ngaïssona Defence, 4 July 2025 (available upon request).

⁵⁵ *Ongwen* Decision on Second Defence Request for an Extension of Time, para.10

⁵⁶ *Ibid.*

34. In the instant case, none of the parties are opposed to the Yekatom Defence Request. Indeed, the Ngaïssona Defence fully joins and supports the arguments therein. Moreover, no prejudice results from granting it. Both Messrs Ngaïssona and Yekatom agree with the requested extension and have received sentences that will continue to run throughout the appeals process.

III. CONCLUSION

35. The length of the extension proposed in the Yekatom Defence is not unprecedented. In *Al Hassan* and *Ongwen*, the Notice of Appeal was filed approximately three months after the issuance of the Article 74 decision.⁵⁷ Thus, the Yekatom's Defence Request is consistent with the Court's prior practice. Moreover, as substantiated above, the factors justifying an extension of time in previous cases to file a Notice of Appeal are present on an unprecedented scale in this case. Given these circumstances, the request is not disproportionate.

IV. RELIEF SOUGHT

36. For the foregoing reasons, the Ngaïssona Defence respectfully requests the Appeals Chamber to:

GRANT the Yekatom Defence Request.

Respectfully submitted,



Mr Knoop, Lead Counsel for Patrice-Edouard Ngaïssona

Dated this 29 July 2025

At The Hague, the Netherlands

⁵⁷ *Al Hassan*, Defence Notice of Appeal against the Trial Judgment, ICC-01/12-01/18-2648; *Al Hassan*, Prosecution Notice of Appeal, ICC-01/12-01/18-2649; *Ongwen*, Defence Notification of its Intent to Appeal the Trial Judgment, ICC-02/04-01/15-1826.