

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-01/14**
Date: **22 August 2025**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Sergio Gerardo Ugalde Godinez
Judge Haykel Ben Mahfoudh

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**Public
with Public Annexes 1 and 2**

Defence Request for State Party Cooperation

Source: Counsel for Mr Beina

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

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☒ **Counsel for the Defence**
Counsel for Mr Beina

☐ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

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(Participation/Reparation)**

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

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

☒ **States' Representatives**
Central African Republic

☐ **Amicus Curiae**

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Section**

☐ **Other**

I. INTRODUCTION

1. The Defence of Mr Edmond Beina ('the Defence' and 'Mr Beina', respectively) hereby request that Pre-Trial Chamber II ('the Chamber') of the International Criminal Court ('the Court' or 'ICC') direct a request for cooperation to the Central African Republic ('CAR') pursuant to Articles 57(3)(b) and (c), 86, and 87(1)(a) of the Rome Statute of the ICC ('Rome Statute' or 'the Statute') requesting the latter suspend or stay domestic proceedings against Mr Beina before the *Cour pénale spéciale* ('CPS') until the final resolution of proceedings under Article 19 of the Statute with respect to Mr Beina before the ICC.
2. In light of the decision of the *Chambre d'assises* within the *Première Section d'assise* of the CPS ('*Chambre d'assises*') to *inter alia* set a deadline of 3 September 2025 for the submission of witness lists for trial in Mr Beina's domestic case before the CPS, indicating the imminent commencement of a domestic trial of Mr Beina thereafter, the Defence submits that opening of this trial before the CPS prior to the Article 19 proceedings before the ICC having reached finality would (i) breach the CAR's obligations as a State Party under the Statute to cooperate with the Court and (ii) run contrary to the principle of good faith, which underpins the CAR's obligation to cooperate with the ICC and obliges the CAR to refrain from acts or conduct that would defeat the object and purpose of the Statute.
3. On this basis, the Defence requests that the Chamber direct a request for cooperation to the CAR pursuant to Article 87(1)(a) of the Statute ordering it to immediately suspend or stay domestic criminal proceedings against Mr Beina until at least the final resolution of proceedings before the Court concerning its Admissibility Challenge, including any potential appeals pursuant to Articles 19(6) and 82(1)(a) of the Statute.

II. PROCEDURAL HISTORY

4. The CAR ratified the Statute on 3 October 2001.
5. On 30 May 2014, the CAR referred the situation in the CAR since 1 August 2012 to the Office of the Prosecutor of the International Criminal Court ('Prosecution' or 'ICC OTP' and 'ICC' or 'the Court', respectively).¹

¹ Letter from the Minister of Justice of the Central African Republic to the Prosecutor of the International Criminal Court, 30 May 2014, in Preseidency, [Annex 1 to Decision Assigning the Situation in the Central African Republic II to PTC II](#), ICC-01/14-1-Anx1, 18 May 2014.

6. On 7 December 2018, following an under seal and *ex parte* application under Article 58(1) of the Statute by the Office of the Prosecutor ('Prosecution' or 'OTP'), the Chamber, in a prior composition, issued, under seal and *ex parte*, a warrant of arrest for Mr Beina for alleged crimes under the jurisdiction of the Court allegedly committed in Guen, a village in Mambere-Kadei Prefecture of the CAR, between at least 1 February to early April 2014 ('ICC Arrest Warrant').²
7. On 3 May 2022, *Chambre d'instruction N°3* of the CPS issued a warrant for the arrest of Mr Beina for alleged crimes within the jurisdiction of the CPS ('CPS Arrest Warrant').³
8. On 16 June 2024, Mr Beina was arrested in the CAR with the assistance of *inter alia* personnel from the OTP.⁴
9. On 22 October 2024, the CAR filed, under seal and *ex parte*, a challenge under Article 19(2)(b) of the Statute to the admissibility of the case against Mr Beina before the ICC ('Admissibility Challenge').⁵
10. On 7 November 2024, the Chamber ordered (i) the reclassification of the ICC Arrest Warrant as public; (ii) the CAR to submit a public redacted version of the Admissibility Challenge or to indicate whether it can be reclassified as public; and (iii) the Registrar to assist Mr Beina in choosing counsel for the purposes of the Article 19 proceedings.⁶
11. On 7 January 2025, the Registry confirmed the appointment of Mr Philippe Larochelle as Counsel for Mr Beina for the purpose of the Article 19 proceedings initiated by the Admissibility Challenge.⁷
12. On 4 February 2025, the Chamber issued an Order *inter alia* inviting the Prosecution, the Defence, and the Office of Public Counsel for Victims ('OPCV') to submit observations on the Admissibility Challenge.⁸

² Warrant of Arrest for Edmond Beina, ICC-01/14-32-US-Exp, 7 December 2018, under seal and *ex parte*, only available to the Prosecution; re-classified as public 7 November 2024: [ICC-01/14-32](#) ('ICC Arrest Warrant').

³ Admissibility Challenge, Annex 15 ('CPS Arrest Warrant').

⁴ Admissibility Challenge, para. 16, Annexes 8, 9, 10.

⁵ Requête de la République Centrafricaine en irrecevabilité de l'affaire contre M. Emond BEINA, ICC-01/14-189-US-Exp-AnxII, 22 October 2024, under seal and *ex parte*, only available to the Prosecution and Registry; public redacted version filed 14 November 2024: [ICC-01/14-194-AnxI](#); 232 confidential annexes transmitted on 1 November 2024; ICC-01/14-191-Conf ('Admissibility Challenge').

⁶ [Order on the reclassification of the warrant of arrest for Edmond Beina and on other procedural matters](#), ICC-01/14-192, 7 November 2024.

⁷ [Notification of the appointment of Mr Philippe Larochelle as Counsel for Mr Edmond Beina for the limited purposes of the current article 19 proceedings](#), ICC-01/14-200, 7 January 2025.

⁸ [Order on the conduct of the proceedings following the Central African Republic's challenge to the admissibility of the case against Edmond Beina](#), ICC-01/14-203, 4 February 2025 ('Order of 4 February 2025'), para. 10.

13. On 17 March 2025, the Prosecution,⁹ the the Defence,¹⁰ and the OPCV¹¹ submitted their respective observations on the Admissibility Challenge.

14. On 20 March 2024, Mr Beina submitted supplemental observations on the Admissibility Challenge.¹²

III. SUBMISSIONS

A. The Imminent Commencement of the Trial against Mr Beina before the CPS

On 7 July 2025, the case of *Le Parquet spécial c. Mathurin Kombo, François Boybanda, Philémon Kahena, Dieudonné Gomitoua, Edmond Beina et Jean Bahara* ('Guen Case') involving Mr Beina was transferred to the *Chambre d'assises* for trial.¹³ The Guen Case is the subject of the Admissibility Challenge pending before the Court.¹⁴

15. The Defence brings to the Chamber's attention that, on 14 August 2025, the *Chambre d'assises* issued a scheduling order in the Guen Case, included as Annex 1 to the present filing, setting the deadline of 3 September 2023 for the parties' filing of their witness lists for trial,¹⁵ despite the fact that the present proceedings before the ICC relating to the Admissibility Challenge ('Article 19 Proceedings') are ongoing.

16. No reasons were provided to the Defence to justify, explain or comprehend why the *Chambre d'assises* has imposed a deadline for the the submission of witness lists—a clear indication of an imminent trial of Mr Beina in the Guen Case before the CPS—before the Article 19 Proceedings before the ICC have reached finality. The Defence suggests that this represents a potential attempt to frustrate the Article 19 Proceedings, or would, at the very least, have such an effect, and therefore seeks the necessary remedies from the Chamber to allow the

⁹ Prosecution response to "Request of the Central African Republic challenging the admissibility of the case against Mr Edmond Beina" (ICC-01/14-194-AnxI), ICC-01/14-212-Conf, 17 March 2025; public redacted version filed 7 May 2025: [ICC-01/14-212-Red](#).

¹⁰ Written Observations of Mr Edmond Beina on the Central African Republic's Admissibility Challenge, 17 March 2025, ICC-01/14-213-Conf; public redacted version filed the same day: [ICC-01/14-213-Red](#).

¹¹ Observations on behalf of Victims on the Central African Republic's challenge to the admissibility of the case against Edmund Beina, ICC-01/14-211-Conf; public redacted version filed 7 May 2025: [ICC-01/14-211-Red](#).

¹² Supplementary Observations of Mr Edmond Beina on the Central African Republic's Admissibility Challenge, ICC-01/14-214-Conf, 20 March 2025; public redacted version filed 7 May 2025: [ICC-01/14-214-Red](#).

¹³ Communiqué de presse CPS n°100725, '[L'Affaire GUEN devant la Chambre d'assises](#)', 10 July 2025.

¹⁴ Admissibility Challenge, paras 68–76.

¹⁵ Annex 1: *Parquet spécial c. Kombo et consorts*, Chambre d'assises, Ordonnance n° 50-S1-2025 portant calendrier des audiences dans l'affaire dite « Guen », Dossier N° CPS/CHASS/1SA/25-001, 14 août 2025 ('CPS Scheduling Order'), p. 5.

present Article 19 proceedings to run their course before Mr Beina is tried before any jurisdiction.

B. Serious and Imminent Risk of the CAR's Breach of its Obligation under Article 86 of the Statute to Cooperate with the Court

17. The Defence submits that if Mr Beina's trial before the CPS is allowed to commence before the Article 19 Proceedings have reached finality—that is, before the Chamber has issued its decision on the Admissibility Challenge and any appeals that may result therefrom are resolved—the CAR would be in breach of its obligation under Article 86 of the Statute to 'cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court'.¹⁶

18. Interpreting Article 86 of the Statute, the Appeals Chamber has observed that '[t]he extent of the obligation of States Parties to cooperate fully must be understood in the context of the Statute as a whole and bearing in mind its object and purpose'.¹⁷ It is clear from the Appeals Chamber's guidance and more recent jurisprudence that Article 86 of the Statute imposes a independent general obligation of States to cooperate with the Court, including on matters not explicitly outlined elsewhere in Part 9 of the Statute.

19. In *Al Bashir*, Pre-Trial Chamber I found Malawi to be in breach of its obligation under Article 86 of the Statute to cooperate with the Court on the basis of *inter alia* its failure to respond to the Court's request for cooperation and its general non-engagement with the Court.¹⁸ Pre-Trial Chamber I found that Malawi's breach of its obligation under Article 86 of the Statute was also occasioned by its failure to respect Article 119(1) of the Statute, which provides that 'any dispute concerning the judicial functions of the Court shall be settled by the decision of the Court'.¹⁹ Pre-Trial Chamber I would reach near identical findings with respect to Chad's breach of its obligations under Article 86 of the Statute,²⁰ adding that Chad should have brought

¹⁶ For the avoidance of doubt, the phrase 'in its investigation and prosecution of crimes within the jurisdiction of the Court' as used in Article 86 of the Statute extends to admissibility proceedings before the Court. See C. Kreß and K. Prost, 'Article 86', in K. Ambos (ed.), *Rome Statute of the International Criminal Court: Article-by-Article Commentary* (4th ed., Beck, Hart, Nomos, 2022) ('Ambos (ed.), *Commentary*'), p. 2456, para. 13.

¹⁷ *Prosecutor v. Al Bashir*, Appeals Chamber, [Judgment in the Jordan Referral re Al-Bashir Appeal](#), ICC-02/05-01/09-397-Corr, 6 May 2019 ('*Al Bashir* Jordan Referral Judgment'), para. 121.

¹⁸ *Prosecutor v. Al Bashir*, Pre-Trial Chamber I, [Corrigendum to the Decision Pursuant to Article 87\(7\) of the Rome Statute on the Failure by the Republic of Malawi to Comply with the Cooperation Requests Issued by the Court with Respect to the Arrest and Surrender of Omar Hassan Ahmad Al Bashir](#), ICC-02/05-01/09-139-Corr, 12 December 2011 ('*Al Bashir* Malawi Decision'), paras 10–12.

¹⁹ *Ibid.*, para. 11.

²⁰ *Prosecutor v. Al Bashir*, Pre-Trial Chamber I, [Decision pursuant to article 87\(7\) of the Rome Statute on the refusal of the Republic of Chad to comply with the cooperation requests issued by the Court with respect to the arrest and surrender of Omar Hassan Ahmad Al Bashir](#), ICC-02/05-01/09-140-tENG, 13 December 2011, paras 9–11.

the matter in question ‘to the Chamber’s attention, together with any available information, in order to assist the Chamber to make its decision.’²¹

20. In *Ruto and Sang*, Trial Chamber V(A) observed that ‘[t]he wording [of Article 86 of the Statute] saying that full cooperation shall be rendered “in accordance with the provisions of this Statute” affords no refuge to non-cooperation, such as may result purportedly from any claim that the subject-matter of the request was not spelt out explicitly in the Statute’.²²

21. In this regard, the Defence submits that while the CAR originally submitted the issue of the conflicting cases against Mr Beina before the ICC and the CPS to the Chamber in the form of the Admissibility Challenge, its obligation under Article 86 of the Statute, read in conjunction with Article 119(1), cannot stop there. Respect for the Court’s exclusive competence to resolve questions regarding its own judicial function demands not only the submission of controversies concerning its function to the Court in accordance with the relevant provisions of the Statute (in this case, Article 19), but also allowing the controversy to ‘be settled by the decision of the Court’. Within this obligation is the necessary corollary duty to refrain from acts or conduct which may exercise a prejudicial effect on the subject matter of the controversy that would render the eventual decision of the Court on the matter without effect.

22. As early as 1939, the Permanent Court of International Justice (‘PCIJ’) articulated the following principle which it characterized as ‘universally accepted by international tribunals’:

[T]he parties to a case must abstain from any measure capable of exercising a prejudicial effect in regard to the execution of the decision to be given, and, in general, not allow any step of any kind to be taken which might aggravate or extend the dispute.²³

23. In the following decades, this principle found continued support in the jurisprudence of the International Court of Justice (‘ICJ’).²⁴ It has been best articulated by Judge Weeramantry of

²¹ *Ibid.*, para. 11.

²² *Prosecutor v. Ruto and Sang*, Trial Chamber V(A), [Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation](#), ICC-01/09-01/11-1274-Corr2, 17 April 2014 (‘*Ruto and Sang* Decision on Witness Summonses’), para. 103.

²³ PCIJ, *Electricity Company of Sofia and Bulgaria (Belgium v. Bulgaria)*, Provisional Measures, [Order of 5 December 1939](#), PCIJ Series A/B, No. 79 (1939), p. 199. See also PCIJ, *Polish Agrarian Reform and the German Minority (Germany v. Poland)*, Provisional Measures, [Order of 29 July 1933](#), PCIJ Series A/B, No. 58 (1933), p. 178 (describing the Court’s authority to ‘to protect the subject of the dispute and the actual object of the principal claim’).

²⁴ See, e.g., ICJ, *Nuclear Tests (Australia v. France)*, Interim Measures of Protection, [Order of 22 June 1973](#), ICJ Reports (1973), p. 106, para. 35; ICJ, *Nuclear Tests (New Zealand v. France)*, Interim Measures of Protection, [Order of 22 June 1973](#), ICJ Reports (1973), p. 142, para. 36; ICJ, *Aegean Sea Continental Shelf (Greece v. Turkey)*, Provisional Measures, [Order of 11 September 1976](#), ICJ Reports (1976), p. 9, para. 25; ICJ, *Frontier Dispute (Burkina Faso/Republic of Mali)*, Provisional Measures, [Order of 10 January 1986](#), ICJ Reports (1986), pp. 9, 11–12, paras 18, 32(1)(A); ICJ, *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, Provisional Measures, [Order of 15 March 1996](#), ICJ Reports (1996), pp. 122, 129, paras 41, 47(1).

the ICJ, who outlined the obligation of parties to preserve the subject-matter of a case pending judicial adjudication and the corresponding power of a tribunal to issue orders necessary for such preservation as follows:

The function of a judicial tribunal, once an issue has been brought to it, is to take the necessary steps according to law towards reaching a decision in accordance with the principle of the equality of parties. This presupposes that the issue brought to it, once committed to the court, must as far as possible be preserved in that form, free of interference by unilateral action of a party, until the determination made by the court. It means also that the principle of equality cannot be disturbed by the superior force available to one party, wherewith to impair or interfere with the subjectmatter until determination.²⁵

24. This reasoning was later adopted by the ICJ in-full in the *LaGrand* case, where the Court found that it had the the inherent jurisdiction to issue binding provisional measures orders on parties to enjoin them from taking such acts that would jeopardize the preservation of the subject matter pending adjudication or frustrate the ability of the Court to carry out its judicial function in this regard.²⁶

25. The Defence recalls that the Chamber, in its present composition, has elsewhere held that the interpretation of the cooperation regime of the Statute, as with the Statute as a whole, must be interpreted in conformity with the principle of effectiveness (*ut res magis valeat quam pereat*) under Article 31 of the Vienna Convention on the Law of Treaties ('VCLT').²⁷ It is well-established that the Statute, like any other treaty, is governed by the principles of the VCLT.²⁸

²⁵ ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))*, Provisional Measures, Order of 13 September 1993, [Separate Opinion of Judge Weeramantry](#), ICJ Reports (1993) ('*Bosnia v. Serbia*, Separate Opinion of Judge Weeramantry'), p. 376. See also ICJ, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Provisional Measures, 23 January 2007, [Declaraton of Judge Buergenthal](#), ICJ Reports (2007), pp. 22–24.

²⁶ ICJ, *LaGrand (Germany v. United States)*, [Judgment](#), 27 June 2001, ICJ Reports (2001) ('*LaGrand Judgment*'), pp. 502–6, paras 102–9.

²⁷ *Situation in Ukraine*, Pre-Trial Chamber II, [Finding under article 87\(7\) of the Rome Statute on the non-compliance by Mongolia with the request by the Court to cooperate in the arrest and surrender of Vladimir Vladimirovich Putin and referral to the Assembly of States Parties](#), ICC-01/22-90, 24 October 2024 ('*Ukraine Mongolia Non-Compliance Finding*'), para. 34. See Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331 ('VCLT'), Art. 31. See also [Al Bashir Jordan Referral Judgment](#), para. 124.

²⁸ See, e.g., *Situation in the Democratic Republic of the Congo*, Appeals Chamber, [Judgment on the Prosecutor's Application for Extraordinary Review of Pre-Trial Chamber I's 31 March 2006 Decision Denying Leave to Appeal](#), ICC-01/04-168, 13 July 2006, para. 33; *Prosecutor v. Katanga and Ngudjolo*, Appeals Chamber, [Judgment on the Appeal Against the Decision on Joinder rendered on 10 March 2008 by the Pre-Trial Chamber in the Germain Katanga and Mathieu Ngudjolo Chui Cases](#), ICC-01/04-01/07-573, 9 June 2008, para. 5; *Prosecutor v. Kony*, Appeals Chamber, [Judgment on the appeal of Mr Joseph Kony against the decision of Pre-Trial Chamber III of 29 October 2024 entitled "Decision on the criteria for holding confirmation of charges proceedings in absentia"](#), ICC-02/04-01/05-610, 3 June 2025, para. 36.

26. If a State Party was permitted to try a suspect before its own courts while admissibility proceedings before the ICC were still pending, the entire procedure under the Statute for the determination of admissibility challenges would be rendered ineffective. It is clear that the drafters of the Statute intended proceedings under Article 19 of the Statute to be the proper forum for the definitive resolution of conflicts of jurisdiction between the ICC and a State. If a State Party were permitted to *de facto* resolve such a conflict itself through unilateral action in pre-empting the ICC's jurisdiction, it would render Article 19 ineffective. This is reinforced with reference to Article 119(1) of the Statute. Even if a Pre-Trial Chamber were to uphold the admissibility of a case, its decision to this effect would be immaterial if the State Party had already tried the accused on the same substantive case. In doing so, the State Party may artificially trigger the *ne bis in idem* principle,²⁹ precluding the case before the ICC which the Pre-Trial Chamber declared admissible and thereby unlawfully pre-empt the ICC's jurisdiction by circumventing the applicable procedures under the Statute and Rules through unilateral action.

27. To do so would not only constitute a failure to cooperate with the Court, representing a refusal to engage with the established procedures for the resolution of the controversy the CAR itself submitted to Court for resolution. It would also amount to an effective usurpation of the Court's exclusive competence to resolve controversies concerning its own judicial functions under Article 119(1) of the Statute by rendering the Court's eventual decision on the admissibility of Mr Beina's case without effect.

28. The Defence highlights that regardless of when the Chamber may issue its decision on the Admissibility Challenge, the Defence, the Prosecution, and the CAR have a right to appeal this decision pursuant to Article 19(6) and Article 82(1)(a) of the Statute within five (5) days of its notification.³⁰ The Article 19 Proceedings cannot be considered to have reached finality until either (i) the time limit under Rule 154(1) of the Rules has elapsed without any party filing appeals or (ii) the Appeals Chamber has decided upon any appeals against the Chamber's decision on the Admissibility Challenge. Only then will the question of the jurisdictional conflict between the ICC and the CAR with respect to case against Mr Beina be definitively resolved by the Court.

29. This is inherent in the object and purpose of the Statute, by virtue of which the Court 'shall have the power to exercise its jurisdiction' and whose 'jurisdiction and functioning [...] shall be

²⁹ See Rome Statute, Art. 20(3).

³⁰ Rule 154(1) of the Rules.

governed by the provisions of this Statute’,³¹ that admissibility proceedings are intended to judicially settle before the Court any existing controversy of competing jurisdictions *before* a suspect or accused is tried. As the *raison d’être* of Article 19 proceedings is to determine the proper forum for criminal proceedings against a suspect or accused, it is implicit that the commencement of proceedings before either jurisdiction pre-empting this determination of forum is contrary to the object and purpose of the Statute’s provisions on admissibility proceedings. The requirement under Article 19(4) of the Statute that an admissibility challenge take place ‘prior to or at the commencement of the trial’ underscores the understanding that proceedings concerning such challenges serve to determine the proper forum for a trial before it actually commences. This is further reflected in the Prosecutor’s obligation under Article 19(7) of the Statute to suspend an investigation pending the resolution of an admissibility challenge under Article 19(2)(b) or (c).

C. Serious and Imminent Risk of a Breach of the CAR’s Duty to Refrain from Acts or Conduct that Would Defeat the Object and Purpose of the Rome Statute

30. If the Chamber considers that the above submissions on the CAR’s obligation to cooperate with the Court under Article 86 of the Statute are not, on their own, conclusive, the Defence supplements that the Chamber should have recourse to the CAR’s duty to refrain from conduct that would defeat the object and purpose of the Statute.

31. This duty arises from the principle of good faith under Article 26 of the VCLT. Moreover, the Appeals Chamber has affirmed in this regard that the obligations of States to cooperate with the Court are governed by the principle of good faith.³² In the *Situation in Ukraine*, this Chamber, in its current composition, also held that ‘States Parties must operate in all circumstances in good faith, consistently with the object and the purpose of the Statute and with the expectation that each and all signatories will meaningfully fulfil the obligations agreed in the Statute for the benefit of humanity.’³³

³¹ Rome Statute, Art. 1.

³² [Al Bashir Jordan Referral Judgment](#), paras 11, 202. See also C. Kreß and K. Prost, ‘Article 86’, in Ambos (ed.), *Commentary*, p. 2455, para. 9 (‘Certainly, the word ‘fully’ [in Article 86 of the Statute] explicitly alludes to the well-recognized principle of good faith’ (emphasis in original)).

³³ [Ukraine Mongolia Non-Compliance Finding](#), para. 14. See also [Ruto and Sang Decision on Witness Summonses](#), paras 121–29; *Situation in the State of Palestine*, Pre-Trial Chamber I, [Finding under article 87\(7\) of the Statute on Hungary’s non-compliance with the Court’s request to cooperate in the provisional arrest of Benjamin Netanyahu and referral to the Assembly of States Parties](#), ICC-01/18-462, 24 July 2025, paras 13, 22.

32. The CAR's duty to refrain from acts that would frustrate or undermine the ICC's judicial function and process under the principle of good faith should, therefore, inform the Chamber's consideration of the CAR's obligation to cooperate with the Court.

33. Article 26 of the VCLT sets out the cardinal principle of *pacta sunt servanda* as follows: 'Every treaty in force is binding upon the parties to it and must be performed by them in good faith.'³⁴ Beyond the VCLT, this principle is also declaratory of a customary rule of general international law,³⁵ applicable before the Court pursuant to Article 21(1)(b) of the Statute.³⁶

34. The second element of Article 26 of the VCLT, the principle of good faith, has long been emphasized as a fundamental principle of public international law.³⁷ As the ICJ held in the *Gabčíkovo-Nagymaros Project* case, the principle of good faith, 'obliges the Parties [of a treaty] to apply it in a reasonable way and in such a manner that its purpose can be realized'.³⁸ The latter negative dimension of the principle thus requires States Parties to a treaty 'refrain from any acts calculated to prevent the due execution of the treaty or otherwise to frustrate its objects'.³⁹ While this explicit language was omitted from the text of the International Law Commission's Draft Articles on the Law of Treaties,⁴⁰ which developed into the VCLT, it was the Commission's understanding that a State's duty to refrain from acts that would defeat the object and purpose of a treaty was 'clearly implicit in the obligation to perform the treaty in

³⁴ VCLT, Art. 26.

³⁵ See, e.g., International Law Commission ('ILC'), 727th meeting, 20 May 1964, in [Yearbook of the ILC](#) ('YILC') (1964), Vol. I, p. 28, para. 26 (R. Ago); B. Cheng, *General Principles of Law as Applied by International Courts and Tribunals* (Stevens, 1953), pp. 112–14; H. Kelsen, *Théorie pure du droit* (Dalloz, 1962), p. 164; R. Jennings and A. Watts, *Oppenheim's International Law* (9th ed., Longman, 1996), Vol I, p. 1206, para. 584; Jean Salmon, '[1969 Vienna Convention: Article 26: Pacta sunt servanda](#)', in O. Corten and P. Klein (eds), *The Vienna Conventions on the Law of Treaties: A Commentary* (Oxford University Press, 2011) ('Salmon, Commentary on Article 26 of the VCLT'), p. 662, para. 6, and p. 681, para. 42.

³⁶ See *Prosecutor v. Bemba*, Trial Chamber III, [Judgment pursuant to Article 74 of the Statute](#), ICC-01/05-01/08-3343, 21 March 2016, para. 71; M.M. deGuzman, '[Article 21](#)', in Ambos (ed.), *Commentary*, p. 1138, para. 29.

³⁷ See, e.g., *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide* (*Ukraine v. Russian Federation*; 32 States intervening), Preliminary Objections, [Judgment](#), 2 February 2024, ICJ Reports (2024), p. 419, para. 142, and references cited therein.

³⁸ ICJ, *Gabčíkovo-Nagymaros Project* (*Hungary/Slovakia*), [Judgment](#), 25 September 1997, ICJ Reports (1997) ('*Gabčíkovo-Nagymaros Project Judgment*'), pp. 78–79, para. 142. See also ICJ, *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States*), [Judgment](#), 27 June 1986, ICJ Reports (1986), pp. 135–38, paras 270–75.

³⁹ H. Waldock (Special Rapporteur), '[Third Report on the Law of Treaties](#)', UN Doc. A/CN.4/167, in [YILC](#) (1964), Vol. II, p. 7.

⁴⁰ See ILC, 727th meeting, 20 May 1964, in [YILC](#) (1964), Vol. I, p. 31, para. 52 (R. Ago). A later proposal to re-insert similar text was rejected as 'superfluous', given that its implication was considered subsumed within the principle of good faith and its reintroduction would simply 'make the text less concise and less forceful than the Commission had intended'. ILC, 849th meeting, 11 May 1966, in [YILC](#) (1966) Vol. I, Part Two, pp. 34–35, para. 38 (R. Ago).

good faith’, with the majority of its members ‘prefer[ing] to state the *pacta sunt servanda* rule in as simple a form as possible’.⁴¹

35. The Defence also notes that Article 18 of the VCLT imposes an obligation ‘to refrain from acts which would defeat the object and purpose of a treaty’ on States which have signed a given treaty but for whom that treaty is yet to enter into force.⁴² It would *a fortiori* be absurd and unreasonable if such an obligation did not persist after a treaty’s entry into force as, should a State no longer be bound as they were under Article 18 of the VCLT after a treaty’s entry into force, they would, in this regard, be under a less demanding obligation as State Party than they were as a signatory than as a State Party. This would be an absurd and unreasonable construction of a State Party’s obligations. This principle of good faith under Article 26 of the VCLT thus must be considered as extending the duty of signatories under Article 18 to States Parties.⁴³

36. In *Ruto and Sang*, Trial Chamber V(A) expressly applied the principle of good faith to proceedings before the Court. The Trial Chamber recalled Article 26 of the VCLT, referring to numerous authorities on the fundamental nature of the principle of good faith therein.⁴⁴ On this basis, it observed that ‘the rule of good faith operates to exclude the idea that in negotiating and concluding treaties, the parties had intended to create a regime that is merely “illusory or nominal”’.⁴⁵ The Trial Chamber adopted the formulation of the principle of good faith by the ICJ in the *Gabčíkovo-Nagymaros Project* case quoted above, including its negative dimension.⁴⁶ going on to hold as follows regarding the object and purpose of the Statute as a whole in the context of the principle of good faith:

37. On the basis of the foregoing, the general international law principle of good faith under Article 26 of the VCLT applies equally to the Statute as it would any other treaty or convention. States Parties to the Statute are, therefore, under an obligation to refrain from conduct that

⁴¹ ILC, ‘Draft Articles on the Law of Treaties with Commentaries’, in [YILC](#) (1966), Vol. II, p. 211, para. 4. See also K. Schmalenbach, ‘Article 26: *Pacta sunt servanda*’, in O. Dörr and K. Schmalenbach (eds), *Vienna Convention on the Law of Treaties: A Commentary* (Springer, 2018), p. 484, para. 49; Salmon, [Commentary on Article 26 of the VCLT](#), pp. 671–73, paras 25–27.

⁴² VCLT, Art. 28.

⁴³ See ILC, 849th meeting, 11 May 1966, in [YILC](#) (1966) Vol. I, Part Two, p. 35, para. 38 (R. Ago) (considering that the principle of good faith extends the obligation of signatories under (what would become) Article 18 of the VCLT to States Parties following the entry into force of a treaty); ICJ, *Gabčíkovo-Nagymaros Project* Judgment, [Dissenting Opinion of Judge Fleischhauer](#), p. 206 (considering that the principle of good faith under Article 26 of the VCLT must import the same obligation regarding acts calculated to frustrate the object of the treaty to States Parties as Article 18 does with respect to signatories).

⁴⁴ [Ruto and Sang Decision on Witness Summonses](#), paras 121–22.

⁴⁵ *Ibid.*, para. 123 (footnote omitted).

⁴⁶ *Ibid.*, para. 126.

would defeat the object and purpose of the Statute. As a State Party to the Statute, the CAR is bound by this duty.

38. Pre-Trial Chamber I has considered that the object and purpose of the Statute are best served by the resolution of any questions regarding the Court's jurisdiction over a matter before further proceedings on the matter take place before the Court.⁴⁷ This rationale must apply with equal force with respect to further proceedings on the same matter before domestic jurisdictions as well. The object and purpose of the Statute in general and of Article 19 specifically clearly indicate that issues of complementarity be definitively decided upon by the ICC before a case is adjudicated either before the Court or a domestic jurisdiction.

39. The object and purpose of Article 19 of the Statute is to ensure the effectuation of the Court's complementary jurisdiction by ensuring that conflicts concerning the Court's jurisdiction *vis-à-vis* domestic jurisdictions are resolved in accordance with the relevant law on complementarity, namely Article 17 of the Statute. If the CAR were to proceed with the domestic trial of Mr Beina before the jurisdictional conflict presented in the Admissibility Challenge is resolved with finality before the ICC, the CAR would be (i) frustrating the object and purpose of Article 19 of the Statute and, in doing so, (ii) breaching its duty of good faith by engaging in conduct that would defeat the object and purpose of the Statute.

D. Defence Request under Article 57(3)(b) and (c) of the Statute

40. On the basis of the above, the Defence requests, pursuant to Article 57(3)(b) and (c) of the Statute, that the Chamber direct a request for cooperation under Article 87(1)(a) of the Statute to the CAR.

i. Mr Beina's Standing under Articles 57(3)(b) and (c) of the Statute

41. As a preliminary matter, the Defence submits that Mr Beina possesses *locus standi* to seize the Chamber with a request under Article 57(3)(b) and (c) of the Statute. Article 57(3)(b) of the Statute provides that the Chamber may:

Upon the request of a person who has been arrested or has appeared pursuant to a summons under article 58, issue such orders, including measures such as those described in article 56, or seek such cooperation pursuant to Part 9 as may be necessary to assist the person in the preparation of his or her defence.

⁴⁷ *Situation in the State of Palestine*, Pre-Trial Chamber I, [Decision on the 'Prosecution request pursuant to article 19\(3\) for a ruling on the Court's territorial jurisdiction in Palestine'](#), ICC-01/18-143, 5 February 2021, paras 84–86.

42. Furthermore, Article 57(3)(c) of the Statute provides *inter alia* that the Chamber may ‘[w]here necessary, provide for [...] the protection of persons who have been arrested or appeared in response to a summons’.

43. The Defence emphasizes that while the text of Article 57(3)(b) of the Statute refers specifically to the standing of a person ‘who has been arrested or has appeared pursuant to a summons’, the Court’s jurisprudence has indicated that it is sufficient that the person lodging a request is detained; they need not yet have been transferred to the custody of the Court, nor have been arrested on the authority of an arrest warrant issued by the ICC, in order to possess *locus standi* under Article 57(3)(b) of the Statute. In this regard, Pre-Trial Chamber I has affirmed that its ‘powers to issue such orders or seek such cooperation as may be necessary to protect [a suspect] or assist in the preparation of his defence pursuant to articles 57(3)(b) and (c) cannot be made contingent on [a State’s] compliance with [a] request for arrest and surrender issued by the Court’.⁴⁸ On this basis, the Pre-Trial Chamber granted requests under Article 57(3)(b) and (c) despite the suspects not having been surrendered to or voluntarily appeared before the Court.⁴⁹

44. The Defence recalls that the Chamber authorized Mr Beina to make observations on the Admissibility Challenge despite having not been surrendered to or have appeared before the Court, as Rule 58(3) of the Rules of Procedure and Evidence (‘Rules’) would ostensibly require.⁵⁰ In doing so, the Chamber considered that, with a view of the need to ensure ‘Mr Beina’s exercise of his procedural rights in relation to the Admissibility Challenge’, he must ‘be allowed to submit written observations on said challenge pursuant to rule 58(3) of the Rules’.⁵¹ The *locus standi* requirement of Rule 58(3) of the Rules can be considered closely analogous to those of Article 57(3)(b) of the Statute. The Chamber should consider Mr Beina to possess standing under the latter on a similar basis as it did the former.

⁴⁸ *Prosecutor v. Gaddafi and Al-Senussi*, Pre-Trial Chamber I, [Decision on OPCD Requests](#), ICC-01/11-01/11-129, 27 April 2012 (‘Gaddafi Decision of 27 April 2012’), para. 11; *Prosecutor v. Gaddafi and Al-Senussi*, Pre-Trial Chamber I, [Decision on the “Urgent Application on behalf of Abdullah Al-Senussi for Pre-Trial Chamber to order the Libyan Authorities to comply with their obligations and the orders of the ICC”](#), ICC-01/11-01/11-269, 6 February 2013 (‘Al-Senussi Decision of 6 February 2013’), para. 39.

⁴⁹ [Gaddafi Decision of 27 April 2012](#), paras 12–14; [Al-Senussi Decision of 6 February 2013](#), para. 40.

⁵⁰ [Order of 4 February 2025](#), p. 6.

⁵¹ *Ibid.*, para. 7. See, similarly, *Prosecutor v. Gaddafi and Al-Senussi*, Pre-Trial Chamber I, [Decision on the Conduct of the Proceedings Following the “Application on behalf of the Government of Libya pursuant to Article 19 of the Statute”](#), ICC-01/11-01/11-134, 4 May 2012, para. 11; *Prosecutor v. Gaddafi and Al-Senussi*, Pre-Trial Chamber I, [Decision on the Conduct of the Proceedings following the “Application on behalf of the Government of Libya relating to Abdullah Al-Senussi pursuant to Article 19 of the ICC Statute”](#), ICC-01/11-01/11-325, 26 April 2013, para. 8; *Prosecutor v. Simone Gbagbo*, Pre-Trial Chamber I, [Decision on the Conduct of the Proceedings following Côte d’Ivoire’s Challenge to the Admissibility of the Case against Simone Gbagbo](#), ICC-02/11-01/12-15, 15 November 2013, para. 8.

45. With regard to Article 57(3)(c) of the Statute, the Defence recalls that ‘[t]he Pre-Trial Chamber has a specific responsibility to protect the rights of a suspect’ and that ‘[i]n order to fulfil its duties relating to this responsibility and to its role of the guarantor of the suspect’s rights, the Chamber has the necessary powers to take appropriate measures to protect these rights’, even before the suspect is surrendered to the Court.⁵² In this regard, the Defence submits that the progression of Mr Beina’s case before the CPS to trial before the ICC has determined the admissibility of the case against Mr Beina before the latter seriously jeopardize’s Mr Beina’s fair trial rights, in particular, his right to a tribunal ‘established by law’.⁵³

ii. The Defence Request

46. The Defence requests that the Chamber direct a request for the CAR to immediately suspend or stay domestic criminal proceedings against Mr Beina until at least the final resolution of proceedings before the ICC concerning the Admissibility Challenge, including any potential appeals pursuant to Article 19(6) and Article 82(1)(a) of the Statute. Such a request would be binding on the CAR.⁵⁴

47. The Defence submits that such a request is within the Chamber authority pursuant to Articles 87(1)(a) in light of the above submissions on the nature of the imminent risk of the CAR’s breach of its obligation to cooperate in good faith within the Court under Article 86. As Judge Weeramantry of the ICJ observed:

It is thus inherent in the authority of that tribunal that, ancillary to the power of judgment, it must have power to issue incidental orders to ensure that the subject-matter of the suit is preserved intact until judgment [...]

To take the view that a court seised of a matter has no power to act in the face of a unilateral threat to the subject-matter by one of the parties before it would appear then to result in the contradictory situation of the court on the one hand having jurisdiction

⁵² *Prosecutor v. Mbarushimana*, Pre-Trial Chamber I, [Decision on the Defence Request for an Order to Preserve the Impartiality of the Proceedings](#), ICC-01/04-01/10-51, 31 January 2011, para. 6.

⁵³ [International Covenant on Civil and Political Rights](#), 16 December 1966, Art. 14(1); [Convention for the Protection of Human Rights and Fundamental Freedoms](#), 4 November 1950, Art. 6(1). If a tribunal lacks jurisdiction to try an accused, it is not ‘established by law’ within the meaning of international human rights law. See, e.g., European Court of Human Rights (‘ECtHR’), *Richert v. Poland*, App. No. 54809/07, [Judgment](#), 25 October 2011, para. 41; ECtHR, *Jorgic v. Germany*, App. No. 74613/01, [Judgment](#), 12 July 2007, para. 64. The question of whether the CPS possesses jurisdiction to try Mr Beina cannot be considered established, in light of the conflicting claim of ICC jurisdiction, until the Admissibility Challenge is decided upon with finality by the ICC.

⁵⁴ *Prosecutor v. Abd-Al-Rahman*, Pre-Trial Chamber II, [Decision on the Defence request pursuant to article 87\(5\)\(b\) of the Statute](#), ICC-02/05-01/20-295, 9 March 2021 (‘*Abd-Al-Rahman* Article 87(5)(b) Decision’), para. 11. See also Rome Statute, Art. 87(7); [Al Bashir Jordan Referral Judgment](#), para. 141.

to hear a case and on the other being denied the effective and necessary authority to discharge the task which has thus been validly entrusted to it.⁵⁵

48. In this vein, if Article 19, read in conjunction with Article 119(1) of the Statute endows the Court with exclusive jurisdiction to resolve challenges to the admissibility of a case, a contradiction of the type referenced by Judge Weeramantry would arise if the Court then lacked the ability to enjoin a State from subjecting a suspect or accused to a domestic trial that would vitiate the very matter under consideration in the admissibility proceedings—whether the individual should be tried before the ICC or the domestic jurisdiction. The degree of ‘fundamental impotence’ implied should the Court lack the authority to issue a binding request for cooperation ordering the CAR to suspend or stay its domestic proceedings against Mr Beina in the interests of preserving the integrity of the Article 19 Proceedings and the Court’s capacity to exercise its judicial functions ‘would yield an outcome that is “unreasonable, absurd or contradictory”, and ‘impossible consequences’ as regards the fulfilment of the [Court’s] mandate and the expectations’.⁵⁶ Rather, the drafters of the Statute and the Statute’s parties ‘must be presumed to have created a court with every necessary competence, power, ability and capability to exercise its functions and fulfil its mandate in an effective way’ and thus ‘create an effective court—and not an illusory one’.⁵⁷

49. While, before the ICJ, this authority was derived, in part, from a provision of the Court’s statute,⁵⁸ it should be stressed that such power is part of the inherent judicial authority already vested within all international courts and tribunals, independent of any specific provision to that effect in their governing instruments, in order to guarantee the integrity of the judicial process.⁵⁹ The ICJ has thus affirmed that it is possessed of:

inherent jurisdiction enabling it to take such action as may be required, on the one hand to ensure that the exercise of its jurisdiction over the merits, if and when established,

⁵⁵ ICJ, *Bosnia v. Serbia*, [Separate Opinion of Judge Weeramantry](#), p. 376. See also ICJ, [LaGrand Judgment](#), p. 502–3, para. 102.

⁵⁶ [Ruto and Sang Decision on Witness Summonses](#), para. 124 (footnotes omitted).

⁵⁷ *Ibid.*

⁵⁸ ICJ, [LaGrand Judgment](#), pp. 501–06, paras 99–109.

⁵⁹ See ICJ, *Northern Cameroons (Cameroon v. United Kingdom)*, Preliminary Objections, [Separate Opinion of Judge Fitzmaurice](#), ICJ Reports (1963), p. 103; *Bosnia v. Serbia*, [Separate Opinion of Judge Weeramantry](#), p. 377; G.G. Fitzmaurice, *The Law and Procedure of the International Court of Justice* (Grotius Publications, 1986), Vol. II, pp. 533, 770–71; E. Lauterpacht, [“Partial” Judgments and the Inherent Jurisdiction of the International Court of Justice](#), in V. Lowe and M. Fitzmaurice (eds), *Fifty Years of the International Court of Justice: Essays in Honour of Sir Robert Jennings* (Cambridge University Press, 1996), pp. 476–83; P. Gaeta, [‘Inherent Powers of International Courts and Tribunals’](#), in L.C. Vohrah et al. (eds), *Man’s Inhumanity to Man: Essays on International Law in Honour of Antonio Cassese* (Kluwer Law International, 2003) (‘Gaeta, ‘Inherent Powers’”), p. 353ff; C.A. Miles, [Provisional Measures before International Courts and Tribunals](#) (Cambridge University Press, 2017), pp. 139–41.

shall not be frustrated, and on the other, to provide for the orderly settlement of all the matters in dispute.⁶⁰

50. Other tribunals have affirmed similar inherent powers on a similar basis.⁶¹ In this vein, the ICJ found that the constitutive instrument of an international tribunal inherently includes within its object and purpose the enabling of that tribunal to fulfil the functions provided under its statute, in particular, the basic functions of judicial adjudication through binding decisions.⁶² Numerous scholars have similarly affirmed that the inherent jurisdiction of international courts and tribunals to take such action as may be required to preserve the object of a dispute and prevent the frustration of their adjudicatory function emerges from their need to fulfill the mandate under their constitutive instruments, encapsulating the principle of effectiveness in international jurisdiction.⁶³

51. The same reasoning must apply before the ICC, a tribunal with equal interest in preventing parties before it from frustrating its ability to effectively carry out its judicial functions and the object and purpose of whose Statute similarly includes the ability of the Court to fulfil the functions provided therein, including basic functions of adjudicating matters under dispute, *inter alia* admissibility challenges under Article 19. The Defence submits that the ICC's exercise of this inherent jurisdiction is 'necessary to ensure a good and fair administration of justice.'⁶⁴ The Defence also submits that such inherent jurisdiction can be exercised through

⁶⁰ ICJ, *Nuclear Tests (Australia v. France)*, Jurisdiction and Admissibility, [Judgment](#), 20 December 1974, ICJ Reports (1974), p. 259, para. 23; ICJ, *Nuclear Tests (New Zealand v. France)*, Jurisdiction and Admissibility, [Judgment](#), 20 December 1974, ICJ Reports (1974), p. 463, para. 23.

⁶¹ See, e.g., Iran-U.S. Claims Tribunal, *E-Systems, Inc. v. Islamic Republic of Iran*, Interim Award (Award No. ITM 13-388-FT), 4 February 1983, 2 Iran-U.S. Claims Tribunal Reports (1983), p. 57 (finding that it possessed 'an inherent power to issue such orders as may be necessary to conserve the respective rights of the Parties and to ensure that this Tribunal's jurisdiction and authority are made fully effective'); Inter-American Court of Human Rights ('IACtHR'), *Velásquez-Rodríguez v. Honduras*, [Judgment](#), IACtHR Series C, No. 4, 29 July 1988, para. 45; International Centre for the Settlement of Investment Disputes ('ICSID'), *Biwater Gauff (Tanzania) Ltd v. Tanzania*, ICSID Case No ARB/05/22, [Procedural Order No. 3](#), 29 September 2006, para. 135 (finding that '[i]t is now settled [...] that an arbitral tribunal is entitled to direct the parties not to take any step that might (1) harm or prejudice the integrity of proceedings, or (2) aggravate or extend the dispute. Both may be seen [...] simply as a facet of the tribunal's overall procedural powers and its responsibility for its own process').

⁶² ICJ, [LaGrand Judgment](#), p. 502, para. 102. See also ICSID, *Plama Consortium Ltd. v. Republic of Bulgaria*, ICSID Case No. ARB/03/24, [Order](#), 6 September 2005, para. 45 (affirming that parties have a right to maintenance of the *status quo* 'when a change of circumstances threatens the ability of the Arbitral Tribunal to grant the relief which a party seeks and the capability of giving effect to the relief').

⁶³ See, e.g., H. Lauterpacht, *The Development of International Law by the International Court* (Grotius Publications, 1958), pp. 243–56; A. Orakhelashvili, '[Questions of International Judicial Jurisdiction in the LaGrand Case](#)', 15 *Leiden Journal of International Law* (2005), pp. 107–8, 113–14; Gaeta, '[Inherent Powers](#)', pp. 364–68.

⁶⁴ Special Tribunal for Lebanon ('STL'), *In the Matter of El Sayed*, Case No. CH/AC/2010/02, Appeals Chamber, [Decision on Appeal of Pre-Trial Judge's Order Regarding Jurisdiction and Standing](#), 10 November 2010, para. 45. See also *Prosecutor v. Banda and Jerbo*, Trial Chamber IV, [Decision on the Defence Request for a Temporary Stay of Proceedings](#), 26 October 2012, paras 75–78.

the existing framework of the Statute, namely through the issuance of requests for cooperation under Part 9 of the Statute.

52. The Defence recalls that requests under Article 57(3)(b) of the Statute must be (i) specific, (ii) relevant, and (iii) necessary.⁶⁵ This request is clearly ‘sufficiently precise [as] to enable the requested State to implement the request’.⁶⁶ The specific manner in which such a suspension or stay would be implemented as a matter of CAR domestic law is irrelevant as a State Party may not invoke its domestic law as a basis for refusing to cooperate with the Court.⁶⁷ Moreover, the CAR is under an obligation pursuant to Article 88 of the Statute to ensure that there are procedures available under its national law for all forms of cooperation with the Court, including under Article 86 of the Statute.

53. The sought request for cooperation is also relevant to the proceedings before the Chamber. As outlined above, the request directly relates to the preservation of the subject matter of the Article 19 proceedings before the Chamber, initiated by the Admissibility Challenge. As set out above, the progression of the domestic case against Mr Beina before the CPS to trial before the resolution of these proceedings before the ICC would frustrate the the Court’s ability to effectively adjudicate on the Admissibility Challenge.

54. The direction of this request for cooperation by the Chamber to the CAR is necessary in light of (i) the urgency of the matter and (ii) the fact that the Defence has unsuccessfully attempted to engage with the CAR authorities in connection with the substance of its requested relief. Firstly, the *Chambre d’assises* of the CPS has indicated that it intends for a trial in the *Guen* case, in which Mr Beina is an accused person, to proceed regardless of the status of the Article 19 Proceedings before the ICC.⁶⁸ The requested relief is thus urgently necessary to preserve the integrity of the Article 19 Proceedings. Secondly, Counsel for Mr Beina has engaged with Mr Beina’s counsel before the CPS (‘CPS Counsel’) regarding the imminent commencement of his trial before the CPS while the Article 19 Proceedings are still pending. On 11 August 2025, the CPS Counsel informed Counsel for Mr Beina that he filed before the

⁶⁵ See, e.g., *Prosecutor v. Banda and Jerbo*, Trial Chamber IV, [Decision on ‘Defence Application pursuant to articles 57\(3\)\(b\) & 64\(6\)\(a\) of the Statute for an order for the preparation and transmission of a cooperation request to the Government of the Republic of the Sudan’](#), ICC-02/05-03/09-169, 1 July 2011, para. 17; *Ruto and Sang Decision on Witness Summonses*, para. 181; *Abd-Al-Rahman Article 87(5)(b) Decision*, para. 7; *Prosecutor v. Yekatom and Ngaïssona*, Trial Chamber V, [Decision on the Ngaïssona Defence Request pursuant to Article 57\(3\)\(b\) of the Statute](#), ICC-01/14-01/18-1159-Red, 1 November 2021, para. 6.

⁶⁶ *Prosecutor v. Katanga and Ngudjolo*, Trial Chamber II, [Decision on the second motion of the Defence for Germain Katanga seeking the cooperation of the Democratic Republic of the Congo](#), ICC-01/04-01/07-2619-Red-tENG, 6 December 2010, para. 13.

⁶⁷ [Al Bashir Jordan Referral Judgment](#), para. 125; [Al Bashir Malawi Decision](#), paras 20–21.

⁶⁸ See CPS Scheduling Order, pp. 4–5.

Chambre d'assises the request included as Annex 2 to the present filing ('CPS Request').⁶⁹ The CPS Counsel also authorized Counsel for Mr. Beina to rely upon the CPS Request in the context of submissions made before the ICC. The CPS Request was submitted pursuant to Article 113 of the CPS Rules of Procedure and Evidence according to which the parties may file preliminary objections before the *Chambre d'assises* in relation to the jurisdiction of the CPS.⁷⁰ After stating in detail the procedural background related to the Admissibility Challenge,⁷¹ the CPS Counsel submitted that the *Chambre d'assises* must not start the trial against Mr Beina until the ICC has ruled on the Admissibility Challenge as doing otherwise would prejudice the decision to be made by the Chamber.⁷² The CPS Request is still pending before the *Chambre d'assises* at the time of filing, though it has scheduled a hearing on 5 September 2025 to discuss the CPS Request.⁷³ As this hearing will fall two (2) days *after* the deadline for witness lists, it is clear that the *Chambre d'assises* intends to proceed to trial in the *Guen* Case regardless of whether the Article 19 Proceedings are still ongoing before the ICC.

55. The intervention of the Chamber is thus necessary to secure the CAR's cooperation in not proceeding to trial with Mr Beina's case before the Article 19 Proceedings have been resolved.

IV. CONCLUSION

56. On the basis of the above submissions, the Defence respectfully and urgently requests that the Chamber, pursuant to Article 57(3)(b) and (c) and Article 86 of the Statute:

ORDER the CAR to immediately suspend or stay domestic criminal proceedings against Mr Beina until at least the final resolution of proceedings before the Court concerning the Admissibility Challenge, including any potential appeals pursuant to Article 19(6) and Article 82(1)(a) of the Statute; and

ORDER the Registry to transmit the Chamber's decision on the present Request to the CAR as a matter of urgency.

⁶⁹ Counsel for Mr Beina hereby provides the CPS Request and submits that no authorization from the CPS is to be obtained for the provision of the request filed by the CPS Counsel. Moreover, the request does not contain confidential information and only relates to the CPS legal procedure. The CPS Counsel has also authorized Counsel for Mr Beina to rely upon the CPS Request in the context of submissions made before the ICC.

⁷⁰ [Loi N° 18.010 portant Règlement de Procédure et de Preuve devant la Cour Pénale Spéciale de la République Centrafricaine](#), 2 juillet 2018, Art. 113.

⁷¹ CPS Request, paras 42–50.

⁷² CPS Request, paras 52–54.

⁷³ CPS Scheduling Order, p. 5.

Respectfully submitted,



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Dated this 22 August 2025

At Montreal, Canada