

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/18
Date: 16 January 2026

TRIAL CHAMBER V

Before: Judge Beti Hohler , Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

**Public Document
with Confidential EX PARTE Annexes A, B and C**

**Public Redacted Version of "Defence Request pursuant to Article 57(3)(b) of the
Statute to Seek Cooperation from the Kingdom of the Netherlands",
ICC-01/14-01/18-1844-Conf-Exp, 20 April 2023**

Source: Defence of Patrice-Edouard Ngaïssona

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

D29

D30

☒ Legal Representatives of the Victims

V44

V45

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for Victims

☒ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. Introduction

1. Having exhausted all other alternatives, the Defence for Mr Ngaïssona (“Defence”) respectfully requests Trial Chamber V (“Chamber”) to seek the cooperation of the Kingdom of the Netherlands (the “Netherlands” or “Dutch authorities”), pursuant to Part 9 of the Rome Statute (“Statute”), in obtaining from [REDACTED] and transmitting to the Defence the following information and documents:

- 1) Official documentation from [REDACTED], or absent that, written confirmation, attesting to the employment of [REDACTED] (“P-2049”), the dates on which he took up and left his position, as well as the specific circumstances that led to his departure (“Requested Material 1”);
- 2) Any official document and report from [REDACTED] that attest to P-2049’s professional ethics and conduct while he was under [REDACTED] employment (“Requested Material 2”);
- 3) Official documentation from [REDACTED] confirming, or written confirmation infirming that [REDACTED] in BOSSANGO on or around 6 December 2013 (“Requested Material 3”); and
- 4) Generic templates [REDACTED] used and provided by [REDACTED] to patients in the BOSSANGO area in 2013-2014 (“Requested Material 4”);
- 5) The whereabouts and contact details of two former employees [REDACTED] (“Requested Material 5”);

(altogether the “Requested Materials”)

2. As elaborated below, the Requested Materials are material to the proper determination of certain key factual issues being discussed in this trial and to the proper preparation of Mr Ngaïssona’s defence. Moreover, the present Request meets the requirements of specificity, relevance and necessity.¹

¹ *The Prosecutor v. Dominic Ongwen*, Decision on Defence Request for Deadline Extension and Cooperation from Uganda, ICC-02/04-01/15-1254, 4 May 2018, para. 7.

II. Confidentiality

3. In accordance with Regulation 23*bis*(1) of the Regulations of the Court (the “Regulations”), the present Request is filed as confidential *ex parte*, available only to the Registry and to the Ngaiissona Defence, as it contains confidential information regarding ongoing defence investigations and defence strategy. The Defence respectfully asks that this classification be maintained until such time that the Defence is in a position to utilise the Requested Materials in the course of the proceedings, or until such time that the classification become unnecessary given the stage of the proceedings

III. Applicable Law

4. Pursuant to Article 57(3)(b) of the Statute, the Pre-Trial Chamber may, upon the request of a person who has been arrested, “seek such cooperation pursuant to Part 9 as may be necessary to assist the person in the preparation of his or her defence”.
5. Article 57(3)(b) of the Statute is complemented by Rule 116 of the Rules of Procedure and Evidence (“Rules”), which provides that the Pre-Trial Chamber shall seek cooperation under Article 57, paragraph 3(b) of the Statute, where it is satisfied that:
 - (i) this “would facilitate the collection of evidence that may be material to the proper determination of the issues being adjudicated, or to the proper preparation of the person's defence”; and
 - (ii) sufficient information to comply with Article 96(2) of the Statute has been provided in the Defence's Request.
6. Article 96(2) of the Statute requires the cooperation request to contain or be supported by the following:

(a) A concise statement of the purpose of the request and the assistance sought, including the legal basis and the grounds for the request; (b) As much detailed information as possible about the location or identification of any person or place that must be found or identified in order for the assistance sought to be provided; (c) A concise statement of the essential facts underlying the request; (d) The reasons for and details of any procedure or requirement to be followed; (e) Such information as may be required under the law of the requested State in order to execute the request; and (f) Any other information relevant in order for the assistance sought to be provided. [...]

7. Pursuant to Article 61(11) of the Statute, after the charges have been confirmed, the responsibility for the conduct of subsequent proceedings shall be transferred to the Trial Chamber constituted by the Presidency, which Chamber is vested with "any function of the Pre-Trial Chamber that is relevant and capable of application in those proceedings". Accordingly, in the present case, the proper addressee of a request under Article 57(3)(b) of the Statute is the Chamber.

IV.Procedural History

8. On 17 June 2022, the Defence communicated a letter seeking the cooperation of [REDACTED] to the Counsel Support Section ("CSS") for its transmission to the External Relations and State Cooperation Unit ("ERSCU").²
9. On 20 June 2022, CSS invited the Defence to request the assistance of [REDACTED] directly with the [REDACTED] as the Registry only transmits requests to States and international organisations [REDACTED].³

² Email dated 17 June 2022, at 15:58.

³ Email dated 20 June 2022, at 10:33.

10. From 8 July to 10 August 2022, the Defence attempted to contact [REDACTED] in order to obtain the contact details of the appropriate department within the [REDACTED]. On 10 August, the Defence obtained the needed information and sent the letter of cooperation to [REDACTED] seeking its assistance in obtaining:

- 1) information on the nature of P-2049's involvement with [REDACTED] in BOSSANGOA between 2013 and 2014, and
- 2) contact information for [REDACTED] and [REDACTED] who respectively and presumably assumed the positions of [REDACTED] for [REDACTED] and [REDACTED] in BOSSANGOA and its surroundings during that same period.

11. On 26 October 2022, [REDACTED] indicated that they could not provide the Defence with information on P-2049, arguing that such information was personal and covered by confidentiality. Additionally, [REDACTED] argued that they were unable to reach out to the two former [REDACTED] Staff members, given that almost a decade has gone by since the events.

12. On the same day, the Defence sought cooperation from [REDACTED] in obtaining a generic template [REDACTED] that were used in the Central African Republic ("CAR") in 2013-2014.

13. On 5 January 2023, [REDACTED] informed the Defence that it would rather resort to its archives to confirm whether a particular medical certificate has been issued by [REDACTED]. On the same day, the Defence made a proposal to [REDACTED] according to which it would provide [REDACTED] with a copy of an alleged medical report (CAR-OTP-[REDACTED] and CAR-OTP-[REDACTED]) for authentication purposes.

14. On 9 February 2023, [REDACTED] refused the proposal on grounds of medical confidentiality. The Defence reproduces in confidential *ex parte* **Annex A** the entirety of its exchanges with [REDACTED].
15. On 22 February 2023, the Defence asked CSS to transmit to ERSCU a “Letter of Cooperation from the Ngaïssona Defence to the Ministry of Foreign Affairs of the Netherlands”, requesting the assistance of the Netherlands in obtaining the Requested Materials (confidential *ex parte* **Annex B**).
16. On 11 April 2023, the Defence was informed that the Dutch authorities are not in a position to provide their assistance without a request for cooperation submitted under Part 9 of the Statute as the request concerns the provision of personal data and the Netherlands is bound by the General Data protection. The Dutch authorities noted that Article 57(3)(b) of the Statute provides avenues for obtaining a formal request for cooperation. The *note verbale* issued by the Netherlands in this regard is reproduced in confidential *ex parte* **Annex C**.

V. Submissions

17. The Defence is requesting the Chamber to seek the assistance of the Netherlands in obtaining the Requested Materials, as specifically outlined in paragraph 1, above, as they are highly relevant and necessary to the proper determination of certain key factual issues in BOSSANGO in 2013-2014. As set out above, the Defence has conscientiously yet unsuccessfully attempted to obtain the Requested Materials from the [REDACTED] and the Netherlands. Therefore, the intervention of the Chamber pursuant to Article 57(3)(b) of the Statute is necessary as the Defence has exhausted all other alternatives.

i. Requested Materials 1 and 2

18. According to the information available to the Defence, P-2049 [REDACTED] was allegedly employed by [REDACTED] during the relevant period,⁴ including at the time of the alleged attack of 5 December 2013 on BOSSANGO,⁵ and allegedly obtained information on the alleged attack and its aftermath partly through this position.
19. In the course of its investigations, the Defence obtained information in relation to the circumstances under which P-2049's employment [REDACTED] was terminated as well as his overall ethics and conduct while undertaking his functions [REDACTED]. Notably, investigations have revealed that P-2049's employment would have been terminated [REDACTED] following P-2049 having been seen among Seleka and bearing arms [REDACTED]. The Defence attempted to elicit such information from [REDACTED] that came to testify before the Chamber. The witness was not in a position to answer the Defence's questions on the issue.⁶ However, this information, if confirmed, would be highly relevant to assess the credibility and reliability of the evidence P-2049 gave during his testimony.
20. For this reason, the Defence requests the Chamber to seek the assistance of the Netherlands, as provided under Articles 93(1)(i) and 93(1)(l) of the Statute,⁷ to obtain official documentation or written confirmation [REDACTED]

⁴ CAR-OTP-2088-2173-R04, paras. 11 and 75; ICC-01/14-01/18-T-100-CONF-ENG CT, p.8, l.4-19; CAR-OTP-2111-0452-R02, para. 35.

⁵ CAR-OTP-2088-2173-R04, para. 75.

⁶ **P-2453**: ICC-01/14-01/18-T-138-CONF-ENG CT, p. 47, l. 4-20.

⁷ Article 93(1)(i) of the Rome Statute ("*States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions: [...] (i) The provision of records and documents, including official records and documents; [...]*"); Article 93(1)(l) of the Rome Statute ("*States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions: [...] (l) Any other type of assistance which is not prohibited by the law of the requested State, with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Court.*").

surrounding P-2049's employment as detailed in paragraphs 1.1) and 1.2) of the present Request.

ii. Requested Materials 3 and 4

21. According to the information available to the Defence, [REDACTED] is a Muslim civilian who was born in BOSSANGO [REDACTED]⁸ and lived there during the conflict. [REDACTED].⁹ From [REDACTED] September 2013 to [REDACTED] February 2014, [REDACTED] was also under [REDACTED] employment [REDACTED], in BOSSANGO.¹⁰
22. [REDACTED] testified that, on 6 December 2013, [REDACTED]. [REDACTED].¹¹ Although [REDACTED] said that [REDACTED]¹² did not provide them to the Office of the Prosecutor (the "Prosecution") during [REDACTED] first interview conducted on [REDACTED], or during the follow-up interview on [REDACTED].¹³ It is only on 15 June 2021 that [REDACTED], which currently bear identification numbers CAR-OTP-[REDACTED] and CAR-OTP-[REDACTED] in the case record. These are handwritten documents on which the witness' name does not appear. Additionally, these documents do not have an official stamp or headers despite the witness asserting that they were drafted by [REDACTED].¹⁴ Notably, another witness of the Bossangoa crime-base testified in court that [REDACTED] issued in 2013 did bear the official letterhead [REDACTED].¹⁵
23. [REDACTED].[REDACTED],¹⁶ [REDACTED].¹⁷

⁸ CAR-OTP-2111-0452-R02, para. 12.

⁹ ICC-01/14-01/18-T-059-CONF-ENG ET, p.7, l. 18; CAR-OTP-2111-0452-R02, para. 11.

¹⁰ CAR-OTP-2111-0452-R02, para. 12.

¹¹ CAR-OTP-2127-9468.

¹² CAR-OTP-2111-0452, para. 52.

¹³ ICC-01/14-01/18-1042-Conf, paras. 7 and 8.

¹⁴ ICC-01/14-01/18-T-059-CONF-ENG ET, p. 26, l. 17-18 and p. 28, l. 5-6.

¹⁵ **P-2453** : ICC-01/14-01/18-T-138-CONF-ENG CT, p. 46, l.19 – p.47, l.1.

¹⁶ CAR-OTP-2130-6350-R01.

¹⁷ ICC-01/14-01/18-1042-Conf, para. 8.

24. [REDACTED] rest solely on the alleged [REDACTED] and the evidence [REDACTED] provided.¹⁸ Therefore, the Defence requests the Chamber to seek the assistance of the Netherlands, as provided under Article 93(1)(i) of the Statute,¹⁹ for an (renewed) attempt to obtain [REDACTED] official [REDACTED] file from [REDACTED], as detailed in paragraph 1.3) of the present Request.
25. In anticipation that [REDACTED] would still be unable to locate and provide the said [REDACTED], the Defence requests the Chamber to seek the assistance of the Netherlands, as provided under Article 93(1)(l) of the Statute,²⁰ to obtain official written confirmation [REDACTED] that, upon conducting a search of its archives, it was able or unable to find records showing that [REDACTED] from the [REDACTED] (paragraphs 1.3) of the present Request).
26. In the same vein, generic templates [REDACTED] are necessary not only to authenticate the photographs provided by [REDACTED] but equally to confirm that [REDACTED] reports have official headers, as mentioned under oath by Prosecution Witness P-2453. The Defence requests the Chamber to seek the assistance of the Netherlands, as provided under Article 93(1)(i) of the Statute,²¹ to obtain generic templates [REDACTED] used [REDACTED] in and around BOSSANGO in 2013-2014 (paragraphs 1.4) of the present Request).

¹⁸ ICC-01/14-01/18-723-Conf, para. 428; ICC-01/14-01/18-403-Conf-Corr, p. 109 and p.111.

¹⁹ Article 93(1)(i) of the Rome Statute (“States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions: [...] (i) The provision of records and documents, including official records and documents; [...]”).

²⁰ Article 93(1)(l) of the Rome Statute (“States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions: [...] (l) Any other type of assistance which is not prohibited by the law of the requested State, with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Court.”).

²¹ Article 93(1)(i) of the Rome Statute (“States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions: [...] (i) The provision of records and documents, including official records and documents; [...]”).

iii. Requested Material 5

27. According to the information available to the Defence for Mr Ngaïssona, [REDACTED] assumed the position of [REDACTED] in BOSSANGOYA and its surroundings in 2013-2014. [REDACTED]. The Defence managed to identify [REDACTED] contact information while he was carrying out [REDACTED]. However, the phone number found [REDACTED] is presently out of service.
28. According to the information available to the Defence, [REDACTED] assumed the position of [REDACTED] in BOSSANGOYA and its surroundings in 2013-2014.
29. While the Defence cannot ascertain the nationality of [REDACTED] and [REDACTED], the fact that they were employed by a [REDACTED] would tend to indicate that they at some point in time, [REDACTED].
30. The Defence wishes to contact the above-mentioned individuals who, on account of their positions, would be able to provide further details on the possible involvement of some residents in the town of BOSSANGOYA with [REDACTED] in the years 2013-2014, as well as provide essential information that will allow the Defence to challenge the account of Prosecution witnesses, or affect their credibility.
31. Furthermore, the above-mentioned individuals, as employees of [REDACTED] stationed in BOSSANGOYA during the conflict, could assist defence investigations by providing information arising from the unique perspective of [REDACTED] staff at the time of the events, which in turn, could assist the Chamber in assessing the credibility and reliability of the Bossangoya witnesses and determining the truth.
32. Therefore, the Defence requests an order from the Chamber seeking the assistance of the Netherlands, as provided under Articles 93(1)(a) of the

Statute,²² to obtain the whereabouts and the contact details of the mentioned [REDACTED] former employees, as detailed in paragraph 1.5) of the present Request.

33. The Defence submits that it meets the essential pre-requisites upon making a sufficient showing under the thresholds of specificity, relevance and necessity and that the Request contains all the information that the Defence is required to provide under Article 96(2). The Request therefore also satisfies Rule 116(1)(b).²³ As such, the Defence is requesting the Chamber to seek the assistance of the Netherlands as provided under Articles 93(1)(a), 93(1)(i) and 93(1)(l) of the Statute, by which States are bound to comply with requests by the Court to provide assistance with “[t]he identification and whereabouts of persons”, “[t]he provision of records and documents, including official records and documents” or “[a]ny other type of assistance [...] with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Court”.
34. The Defence highlights the urgency of the execution by the Netherlands of the cooperation request in light of the stage of the proceedings. As the Prosecution is expected to conclude its presentation of evidence soon, the Defence is in the midst of preparing its potential case and the Requested Materials are necessary to mount its defence against the charged incidents in BOSSANGO. Therefore, the Defence respectfully asks that the cooperation request be sent to the Netherlands with an emphasis on the importance of its prompt execution.

²² Article 93(1)(a) of the Rome Statute (“States Parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions: [...] (a) The identification and whereabouts of persons or the location of items; [...]”).

²³ *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Magenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Decision on Second Mangenda Request for Cooperation, 5 April 2016, ICC-01/05-01/13-1768, paras 9-11.

VI. Conclusion

35. In conclusion, the Request meets the requirements of necessity, specificity and relevance, and the Requested Materials are necessary to the proper preparation of Mr Ngaïssona's defence as well as to ensure a fair trial by rebutting evidence presented against him by the Prosecution in this case, pursuant to Article 67 of the Statute. In addition, the nature of the Requested Materials can also assist the Chamber in fulfilling its truth-seeking mission.

VII. Relief sought

36. The Defence respectfully requests the Chamber to:

- **GRANT** the Request, and seek, under Article 57(3)(b) of the Statute, the cooperation of the Kingdom of the Netherlands, pursuant to its obligations under Articles 86, 87 and 93 of the Statute, for the transmission of the Requested Materials; and
- **ORDER** the Registrar to, as soon as practicable, prepare and transmit the necessary cooperation request, which shall include all information required by Articles 93 and 96 of the Statute and which will emphasise the importance of its prompt execution.

Respectfully submitted,



G. J. Alexander Knoop
on behalf of
Patrice-Edouard Ngaïssona

Dated this 16 January 2026

At The Hague, the Netherlands.