

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/14-01/18
Date: 13 February 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 Annexes A and B

**Public Redacted Version of "Ngaïssona Defence Request for a 48-hour interim
release on exceptional humanitarian grounds", ICC-01/14-01/18-2366-Conf, 16
February 2024**

Source: Defence of Patrice-Edouard Ngaïssona

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D29

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I. INTRODUCTION

1. Yesterday, on 15 February 2024, Mr Patrice-Edouard Ngaïssona's ('Mr Ngaïssona') father, Mr Raymond Ngaïssona, died. While Mr Raymond Ngaïssona resided in Central African Republic ('CAR'), he died in [REDACTED] France.¹ Mr Raymond Ngaïssona was [REDACTED] that his beloved son, Mr Ngaïssona, and his Defence team, worked tirelessly to organize through the assistance of his family's church and philanthropic sponsors. [REDACTED] Mr Ngaïssona is now entering a period of incredibly painful mourning and has expressed to the members of his Defence team the urgent need to physically say goodbye to his father and to mourn him with his loved ones.
2. For exceptional humanitarian grounds, the Defence for Mr Ngaïssona ('the Defence') hereby requests Trial Chamber V ('the Chamber') to grant the interim release of Mr Ngaïssona in France for a period not exceeding 48 hours ('the Request'). The Defence has consulted with Mr Ngaïssona who has agreed that this brief period of exceptional interim release can be subject to numerous conditions such as to facilitate the logistical and security arrangements that must be made by the Court in the event the Chamber were to grant the Request.²

II. CONFIDENTIALITY

3. The Defence files the Request confidentially given that it concerns Mr Ngaïssona's private and family life. It will file a public redacted version in due course.

¹ Annex A contains the medical certificate attesting to the death of Mr Raymond Ngaïssona in [REDACTED] France, in addition to the request of Mr Ngaïssona's brother to house Mr Raymond Ngaïssona at the funeral home [REDACTED].

² Annex B contains the addresses which Mr Ngaïssona would visit during his temporary interim release. They are limited to his family residence in the commune of [REDACTED] and the funeral home located in [REDACTED]. The two locations are just 18 kilometers apart.

III.SUBMISSIONS

4. The Defence submits that the Chamber should grant Mr Ngaïssona's request for interim release for a period not exceeding 48 hours for the following two reasons. *First*, it has been consistently held by various chambers at the International Criminal Court ('the Court') that the death of a first degree relative constitutes a compelling humanitarian circumstance that may justify the conditional temporary release of a suspect or an accused. *Second*, granting the Request will have no effect on the integrity of the proceedings since France is a State Party which will be able and willing to enforce any condition that the Chamber would impose on the release of Mr Ngaïssona.

- a. **The death of a first degree relative constitutes a compelling humanitarian circumstance that allows for the temporary release of Mr Ngaïssona subject to strict conditions**

5. The death of Mr Ngaïssona's father constitutes a compelling humanitarian circumstance justifying the temporary release of Mr Ngaïssona for an exceptionally brief period, with strict conditions being imposed. While the various Core Texts of the Court do not provide for the temporary conditional release based on humanitarian grounds, various trial chamber and pre-trial chambers of the Court have consistently found that the death of a first degree relative constitutes an exceptional humanitarian circumstance which is relevant to determining whether an accused or suspect should be temporarily released.³ The legal basis for these decisions was Articles 64 and 68 of the Rome Statute interpreted in accordance with Article 21(1).⁴ In 2021, in *The Prosecutor v. Al Hassan*, the Appeals Chamber held

³ See *Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on the Defence's Urgent Request concerning Mr Jean-Pierre Bemba's Attendance of his Father's Funeral, ICC-01/05-01/08-437-Red, para. 9 (the "First Bemba Decision"); *Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on the Defence Request for Mr Jean-Pierre Bemba to Attend his Step-mother's Funeral, ICC-01/05-01/08-1099-Red, para. 13 (the "Second Bemba Decision"); *Prosecutor v. Laurent Gbagbo*, Decision on the urgent request of the Defence for Mr Gbagbo to attend his mother's funeral, ICC-02/11-01/11-711-Red, para. 25 (the "Gbagbo Decision"); *Prosecutor v. Al Hassan*, Decision on the urgent Defence request for a custodial visit on compassionate grounds, ICC-01/12-01/18-1227-Red, para. 8 (the "Al Hassan Decision").

⁴ *Ibid.* Chambers have also considered the following provisions in determining such requests: Article 86, 87(1)(a), (2), (3) and (4) of the Rome Statute, and rule 176(2) of the Rules of Procedure and Evidence (the "Rules"), and regulation 200 of the Regulations of the Registry. See ICC-01/05-01/08-437-Red, para. 8.

that the decision of Trial Chamber X to reject a request of Mr Al Hassan to be transferred temporarily to Mali for a custodial visit with his family members following the tragic death of his young daughter was a decision made under Article 60(3) of the Rome Statute.⁵

6. Mr Ngaïssona has been detained at the Detention Centre in The Hague since 23 January 2019.⁶ Not once in the several years he has spent in custody, has he requested interim release. Pursuant to Article 60(2), the Defence hereby requests that Mr Ngaïssona be temporarily released for a period not exceeding 48 hours. In that time, Mr Ngaïssona will be able to properly mourn his father's passing through being able to see his body, say goodbye, and be with his family. The family has planned to gather at Mr Ngaïssona's residence in [REDACTED] to mourn the passing of Mr Raymond Ngaïssona,⁷ which is just 18 kilometers from the funeral home where the family has requested to house Mr Raymond Ngaïssona's body.⁸
7. In the instant case, the exceptional humanitarian circumstances for the very limited interim release of Mr Ngaïssona considerably outweighs any potential risk that would be presented by granting the Request for the following two reasons. First, Mr Ngaïssona's request is proportionate in that he is only asking to be released for 48 hours. Second, Mr Ngaïssona's consent to abide by several conditions would effectively reduce the risks enumerated in Article 58 of the Rome Statute to zero.
8. In *Prosecutor v. Bemba*, one year following his surrender to the seat of the Court, Mr Bemba requested conditional release for a brief period to be allowed to attend his father's funeral, which was set to take place in Belgium.⁹ Pre-Trial Chamber II granted Mr Bemba's request.¹⁰ It found that the death of Mr Bemba's father constituted an exceptional humanitarian circumstance that justified the pre-trial

⁵ *Prosecutor v. Al Hassan*, Judgment on the appeal of Mr Al Hassan against the decision of Trial Chamber X entitled 'Decision on the urgent Defence request for a custodial visit on compassionate grounds' of 23 December 2020, ICC-01/12-0/18-1311-Red, para. 32.

⁶ ICC-01/14-01/18-403-Red-Corr, para. 4.

⁷ Annex B contains the exact address of the latest residence of Mr Ngaïssona.

⁸ *Compare* [REDACTED] *with* [REDACTED].

⁹ First *Bemba* Decision, para. 5.

¹⁰ First *Bemba* Decision, pp. 5-6.

chamber's inherent powers to authorize the transfer Mr Bemba to Belgium.¹¹ Pre-Trial Chamber II granted the release for a period of 24 hours, which was requested by the Belgian authorities, and subjected Mr Bemba's release to several conditions.¹²

9. Here, the same attendant circumstances are present as in *Bemba*. Like Mr Bemba, Mr Ngaïssona's biological father has passed away, and Mr Ngaïssona is requesting to participate in some of the funerary rites. Similar to Mr Bemba, Mr Ngaïssona's father has passed away in a State which is: (1) thousands of kilometers from the situation country (2) within close proximity to the Court, and (3) the same State in which he was arrested.
10. Mr Ngaïssona is willing to subject himself to the same strict conditions that the pre-trial chamber set in *Bemba*, namely that:
 - a. the national authorities of any State through which Mr Ngaïssona will be transiting will transport Mr Ngaïssona from the Detention Centre in The Hague to his family's residence, whose exact location is specified in Annex B;
 - b. the French police will escort Mr Ngaïssona and protect the venues he will visit at all times during his stay on French territory;
 - c. Mr Ngaïssona will be accompanied by a representative of the Court's Registry at all times;
 - d. Mr Ngaïssona will only go to his family's residence, and in case his father's body is not at this location, go to the place where it will be located within the territory of France as specified in Annex B;
 - e. Mr Ngaïssona will not be in contact with the public or speak to the press;

¹¹ First *Bemba* Decision, para. 9. *See also* Second *Bemba* Decision, para. 13.

¹² First *Bemba* Decision, pp. 5-6. *See also* Second *Bemba* Decision, para. 17.

- f. Mr Ngaïssona will only communicate with his relatives, persons necessary to the funerary arrangements and the persons assigned to his protection;
- g. Mr Ngaïssona will not discuss the case against him except with members of the Defence team currently representing him before the proceedings;
- h. Mr Ngaïssona will be able to cover some of the costs incurred and is willing to engage with the Registry through his Defence team on the financial aspects of his interim release.¹³

11. Given the brevity of the interim release and the numerous conditions under which it would be executed, the risk to the integrity of the proceedings and the safety and security of any of the individuals with whom Mr Ngaïssona will interact is nonexistent and nominal at best. Additionally, a release of 48 hours would have no impact on the expeditiousness of the proceedings, which have now lasted over 5 years during the entirety of which Mr Ngaïssona has been held in custody.

12. In order to facilitate the process, the Defence has contacted the Registry and has been informed that the Registry will endeavour to address the issues arising out of the Request expeditiously given the urgent circumstances. Additionally, the Defence has provided in Annex B all the addresses for which the Defence has received confirmation that the family and loved ones will gather to mourn Mr Raymond Ngaïssona.

- b. France is a State which will be able and willing to enforce any condition that the Chamber would impose on the release of Mr Ngaïssona**

13. The death of Mr Ngaïssona's father in France presents a precious opportunity for Mr Ngaïssona to be able to view his father's body and mourn his passing by being

¹³ The Defence will consult with the Registry on this matter and believes that the expenses for Mr Ngaïssona's trip can be borne by sponsors and relatives.

physically present with his family and loved ones. France has demonstrated that it is a State that is willing and able to enforce any condition that the Chamber would impose. This is best demonstrated by the French authorities' willingness and ability to arrest Mr Ngaïssona and ensure his transfer to the Seat of the Court.¹⁴ Moreover, France's proximity to the Court, the security and stability of the country, and its distance from CAR weigh in favour of granting the Request since Mr Ngaïssona's timely return to the Detention Centre in the Hague can be assured.

14. Mr Ngaïssona's temporary release in France instead of CAR is dispositive. Indeed, the only instances in which the chambers of this Court have not granted temporary release to attend the funeral of a first-degree family member have been when such release was sought in the situation country.¹⁵
15. In both the *Prosecutor v. Laurent Gbagbo* and in *Al Hassan*, the Court found that no set of conditions could mitigate the security and logistical concerns presented by even a temporary release in the situation country. In the case of *Gbagbo*, the Court found that both Mr Gbagbo and the population of Côte d'Ivoire would be put in danger through the granting of the request for temporary interim release.¹⁶ Similarly, in *Al Hassan*, the Court found that the risks presented by the deteriorating security situation in Mali and the threat of terrorism did outweigh the exceptional humanitarian grounds for temporarily releasing Mr Al Hassan following the death of his young daughter.¹⁷
16. Here, Mr Ngaïssona is not requesting temporary release to CAR where his father will ultimately be buried. Mr Ngaïssona is aware of the significant security and logistical arrangements that would need to be put in place for such a request. Rather, Mr Ngaïssona is requesting the Chamber to allow him to travel to a nearby country that has shown that it is able and willing to enforce any condition that the

¹⁴ Corrected version of 'Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona', ICC-01/14-01/18-403-Conf-Corr, para. 4.

¹⁵ *Gbagbo* Decision, para. 27; *Al Hassan* Decision, paras 12-13. The Defence makes these submissions on the basis of the filings which have been made publicly available.

¹⁶ *Gbagbo* Decision, para. 27.

¹⁷ *Al Hassan* Decision, paras 12-14.

Court would order for the temporary release of Mr Ngaïssona. Moreover, unlike in the case of CAR and Mali, France is a country which benefits from social, political and economic stability. Its proximity to the Court would also facilitate the organization of Mr Ngaïssona's transfer.

17. The recent death of Mr Ngaïssona's father [REDACTED] has devastated Mr Ngaïssona and his family. The present request for Mr Ngaïssona to mourn his father by viewing his body and participating in at least some of the funerary rites is justified. When balancing the lack of any concrete risk to the integrity of the proceedings against the interest in Mr Ngaïssona preserving his right to family life and ensuring his well-being, the Chamber should find that the exceptional humanitarian circumstances weigh in favour of granting the Request.

IV. RELIEF SOUGHT

18. The Defence respectfully requests the Chamber to:

- **GRANT** the Request subject to the conditions specified in paragraph 10 of the Request.

Respectfully submitted,



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

Dated this 13 February 2026

At The Hague, the Netherlands