

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/14-01/18

Date: 13 April 2026

THE APPEALS CHAMBER

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

Public Document

Request for further leave to Reply to the "Prosecution consolidated response to Yekatom's and Ngaïssona's appeals against the Judgment and Yekatom's request to present additional evidence" (ICC-01/14-01/18-2885-Conf)

Source: Defence of Patrice-Edouard Ngaïssona

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I. INTRODUCTION

1. Pursuant to Regulation 60(1) of the Regulations of the Court, the Defence for Mr Ngaïssona ('Defence') requests further leave to reply to the "Prosecution consolidated response to Yekatom's and Ngaïssona's appeals against the Judgment and Yekatom's request to present additional evidence" ('Response').¹
2. On 18 March 2026, the Defence filed a request for leave to reply to the Response ('First Request for Leave to Reply').² Therein, the Defence argued that a limited reply on the evidentiary standards applicable to core factual findings leading to Mr Ngaïssona's conviction would assist the Appeals Chamber and streamline any potential oral submissions.³
3. On 23 March 2026, the Appeals Chamber deemed hearings in the present appeals unnecessary at this time.⁴ It further indicated that any further requests for leave to reply to the responses to the appeal briefs shall be filed by 13 April 2026.⁵
4. In light of the Appeals Chamber's decision not to hold a hearing, the Defence seeks leave to further reply to the Response. A focused reply on specific aspects of the Response is in the interests of justice and would assist the Appeals Chamber in its determination of the Defence's appeal.

II. SUBMISSIONS

5. The First Request for Leave to Reply was limited to a specific issue which, given its complexity and relevance to cross-cutting appellate issues, warranted written submissions. The Defence had anticipated that oral submissions would allow it to address any remaining matters, particularly factual inaccuracies and novel arguments emerging from the Response. While the Defence was mindful that the Appeals

¹ ICC-01/14-01/18-2885-Conf ('Response').

² ICC-01/14-01/18-2892.

³ ICC-01/14-01/18-2892, para. 6.

⁴ ICC-01/14-01/18-2894.

⁵ *Ibid.*

Chamber retained discretion over whether or not to hold a hearing,⁶ it relied on the Court's established appellate practice to hold hearings.⁷

6. The Defence has taken note of the Appeals Chamber's observation that it has already received extensive submissions from the parties in the present appellate proceedings.⁸ Yet, certain areas of the Response advance unprecedented arguments and materially reframe the evidentiary basis of key findings, which could not reasonably have been anticipated at the time of the Defence's appeal.⁹ A concise reply, limited to these specific aspects, would assist the Appeals Chamber in ensuring proper adjudication of the appeal and is in the interests of justice.¹⁰
7. While the filing of a reply remains within the Appeals Chamber's discretion,¹¹ it has consistently granted similar requests.¹² The Court's practice reflects the importance of offering broad opportunities to reply during appellate proceedings, through both oral and written submissions.¹³ In the present case, where no oral hearing is foreseeable,

⁶ ICC-01/14-01/18-2894, para. 7.

⁷ See *Prosecutor v. Bemba*, Scheduling order for a hearing before the Appeals Chamber, [ICC-01/05-01/08-3568](#); *Prosecutor v. Gbagbo and Blé Goudé*, Order scheduling a hearing before the Appeals Chamber and setting a time limit for any request for leave to reply, [ICC-02/11-01/15-1318](#); *Prosecutor v. Ngudjolo Chui*, Scheduling order for a hearing before the Appeals Chamber, [ICC-01/04-02/12-199](#); *Prosecutor v. Ntaganda*, Second order scheduling a hearing, [ICC-01/04-02/06-2568](#); *Prosecutor v. Ongwen*, Order scheduling a hearing before the Appeals Chamber, [ICC-02/04-01/15-1909](#); *Prosecutor v. Lubanga*, Scheduling order and decision in relation to the conduct of the hearing before the Appeals Chamber, [ICC-01/04-01/06-3083](#).

⁸ ICC-01/14-01/18-2894, para. 8.

⁹ Although not determinative, whether an issue could have been anticipated may be considered by the Appeals Chamber in its assessment, see e.g. *Prosecutor v. Ntaganda*, [ICC-01/04-02/06-2522](#), paras 11-12.

¹⁰ Regulations 60(1), Regulations of the Court; *Prosecutor v. Ntaganda*, [ICC-01/04-02/06-2522](#), para. 6, relying on *Prosecutor v. Bemba et al.*, [ICC-01/05-01/13-2259 \(A6 A7 A8 A9\)](#), para. 9, referring to *Prosecutor v. Bemba*, [ICC-01/05-01/08-3480 \(A\)](#), para. 8.

¹¹ Regulations 60(1), Regulations of the Court.

¹² *Prosecutor v. Lubanga*, Order on the filing of a reply under regulation 60 of the Regulations of the Court, [ICC-01/04-01/06-2982](#); *Prosecutor v. Bemba*, Decision on Mr Bemba's request for leave to reply to the Prosecutor's Response to the Document in Support of the Appeal, [ICC-01/05-01/08-3480](#); *Prosecutor v. Ngudjolo*, Prosecution Reply to the Defence Response to the Prosecution's Appeal Brief, [ICC-01/04-02/12-126](#), para. 1; *Prosecutor v. Ntaganda*, Decision on the request for leave to reply, [ICC-01/04-02/06-2488](#) (part I), granting the request for leave to reply and directing that the reply should be delivered orally at the hearing and [ICC-01/04-02/06-2522](#) (part II), granting the request for leave to reply on a large amount of issues the Defence sought leave to reply on.

¹³ In the same vein, other international tribunals entitle the appellant to file a written reply brief as of right. See Rule 113 of the ICTR and ICTY Rules of Procedure and Evidence, Rule 140 of the IRMCT Rules of Procedure and Evidence, Rule 184 of the STL Rules of Procedure and Evidence.

the absence of any opportunity to respond to these issues would excessively constrain the Defence's ability to contribute to proper adjudication of the present appeal. This is particularly so in light of the Defence's right to speak last as provided for in Rule 141(2) read with Rule 149 of the Rules of Procedure and Evidence.¹⁴

8. The Defence seeks leave to reply on two limited categories of issues arising from the Response, which could not reasonably have been anticipated and which require correction in the interests of justice.
9. First, the Prosecution advances a series of arguments that misrepresent the evidentiary record and seek to preclude consideration of Defence submissions on procedural grounds. In particular, the Defence seeks leave to reply on:
 - a) The misrepresentation of the content of P-1847's prior-recorded statement, insofar as the Prosecution suggests it is evidence of Mr Ngaïssona's provision of funds to Dedane;¹⁵
 - b) The complete irrelevance of e-mails sent in the summer and autumn 2013 *vis-à-vis* the allegation that Mr Ngaïssona financed individuals in Zongo, particularly Maxime Mokom;¹⁶ and
 - c) The Prosecution's request for dismissal *in limine* of the Defence arguments concerning D30-4914, including the Trial Chamber and the Prosecution's obligations to pursue exculpatory leads offered by that witness,¹⁷ together with its misrepresentations of the Defence argument¹⁸ and of the notice the Defence provided.¹⁹

¹⁴ *Prosecutor v. Ngudjolo*, Decision on the Prosecutor's request to establish parameters for Mr Ngudjolo's personal address at the appeals hearing, [ICC-01/04-01/12-217](#), para. 10.

¹⁵ Response, para. 463.

¹⁶ Response, para. 468.

¹⁷ Response, paras 395-398.

¹⁸ *Contra* Response, paras 395-398 including footnote 1496.

¹⁹ Response, para. 395.

10. The Prosecution's characterisation of the Defence's submissions, and its treatment of the underlying evidentiary record, warrants a targeted reply. In particular, clarification is required as to the evidentiary basis of the Defence's argument and the manner in which the relevant testimony has been characterised by the Prosecution.
11. Secondly, the Defence seeks leave to reply on the relevance of specific factual aspects to the Chamber's findings concerning Mr Ngaïssona's criminal responsibility. Particularly:
- d) Whether the fact that some Anti-Balaka considered to have been promised assistance by Mr Ngaïssona was relevant to the Chamber's overall finding on his financial support;²⁰
 - e) Whether Mr Ngaïssona's involvement in FROCCA and his awareness of Anti-Balaka activities after 5 December 2013 and before his return to Bangui were relevant to the Chamber's finding that he engaged in the coordination and organisation of groups;²¹
 - f) Whether specific items of evidence were relevant to the finding that Mr Ngaïssona liaised with Andjilo and Konaté;²² and
 - g) Whether and how the Chamber relied²³ on Poussou's testimony regarding a meeting at the Hôtel des Députés.²⁴

²⁰ Response, para. 456, 483 (particularly fn. 173).

²¹ Response, para. 493.

²² Response, fn. 200.

²³ See ICC-01/14-01/2784-Conf ('Trial Judgment'), p. 260, para. 770 ("On the basis of the evidence, *as further outlined below*" (emphasis added)). See also footnote 1570 ("See section II.A.5 below") linking to p. 22, para. 45 and Trial Judgment, p. 500, para. 1302, footnote 3492 cross-referencing "section IV.A.2.i.b.i above." which is pp. 259-282, paras 269-812 of the Trial Judgment.

²⁴ Response, para. 387 ("the Chamber did not rely on Poussou's alleged stay at that hotel, nor on his specific account regarding Ngaïssona's role at a second meeting held there. It was therefore not required to resolve disputes about these issues. The Chamber instead relied on his consistent evidence that meetings involving CAR nationals, including François Bozizé, Ngaïssona, Bernard Mokom, and others, took place at the Hilton Hotel in Yaoundé.")

12. The Prosecution's treatment of these issues mischaracterizes the evidentiary basis of the Trial Chamber's findings. To the extent that such arguments are accepted, they bear directly on whether those findings are supported by a sufficiently reasoned opinion. Limited submissions in reply would assist the Appeals Chamber in assessing both the relevance attributed to the evidence and the adequacy of the Chamber's reasoning in respect of those findings.
13. The identified issues relate to discrete but key aspects of the evidentiary record and the reasoning underpinning findings from which Mr Ngaïssona's criminal responsibility directly depends. Succinct written submissions would assist the Chamber in its determination of the Defence's appeal, particularly the errors identified by the Defence in Ground 1.

III. RELIEF SOUGHT

14. The Defence respectfully requests that the Appeals Chamber grant it leave to reply to the Response on the issues identified at paragraphs 8-13 above.



Geert-Jan Alexander Knoop
on behalf of
Patrice-Edouard Ngaïssona

Dated this 13 April 2026

At The Hague, the Netherlands