

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: **English**

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

Date: 11 January 2021

**TRIAL CHAMBER V**

**Before:** Judge Bertram Schmitt, Presiding Judge  
Judge Péter Kovács  
Judge Chang-ho Chung

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II  
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-  
EDOUARD NGAÏSSONA***

**Confidential with Confidential Annexes A - C**

**Joint Submission on Agreed Facts**

**Source:** Office of the Prosecutor

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

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**Detention Section**

**Victims Participation and Reparations  
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**Other**

## I. INTRODUCTION

1. The Parties hereby provide their joint submissions on agreed facts, pursuant to Trial Chamber V's ("Chamber") 16 July 2020 "Decision setting the Commencement Date of the Trial".<sup>1</sup>

2. Although the Prosecution and Defence teams agree on a total of 19 facts, the Parties have not been able to reach a common agreement regarding any of the remaining 145 proposed stipulations, under rule 69 of the Rules of Procedure and Evidence ("Rules").

3. The few facts on which the Defence teams agree mostly concern background information on NGAISSONA and certain geographical locations in the Central African Republic ("CAR"). In this respect, the Parties have agreed in respect of 14 maps included in the Prosecution's List of Exhibits. Notably, the Chamber is unencumbered in terms of taking judicial notice of certain facts, including locations within CAR as matters of common knowledge, in accordance with article 69(6) on its own, or upon application by the Parties and Participants.

4. *Confidential* Annex A contains the Prosecution's First Proposal of Agreements as to Evidence ("First Proposal") and its Second Proposal of Agreements as to Evidence ("Second Proposal"). *Confidential* Annex B contains the Defences' respective responses reflecting their positions. *Confidential* Annex C contains the Chamber's 26 November 2020 direction on the prospective agreement of the Parties as to maps.

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<sup>1</sup> ICC-01/14-01/18-589, para. 22; *see also*, ICC-01/14-01/18-T-012-ENG p. 50, lines 1-25. The Parties have indicated that they agree that the present submission be filed as a Prosecution submission.

## II. CONFIDENTIALITY

5. Pursuant to regulation 23*bis*(1) of the Regulations of the Court ("RoC"), this filing is classified as "Confidential" as it relates to *inter partes* communications and information that should not yet be released to the public.

## III. PROCEDURAL BACKGROUND

6. On 19 May 2020, to advance the proceedings and to reduce the scope of the contested issues in the case, the Prosecution provided the Defence with its First Proposal containing 58 basic factual stipulations.<sup>2</sup>

7. On 10 June 2020, the NGAISSONA Defence responded to the First Proposal.<sup>3</sup>

8. On 25 June 2020 the Prosecution communicated to the Defence its Second Proposal.<sup>4</sup> The Second Proposal contains 106 factual stipulations, including the three stipulations adopting the language counter-proposed by NGAISSONA in response to the Prosecution's First Proposal.

9. On 9 July 2020, the Chamber encouraged the Parties to utilise agreed facts and considered that "agreed facts under Rule 69 of the Rules constitute an important tool to ensure the efficiency of the proceedings".<sup>5</sup>

10. On 10 July 2020, the YEKATOM Defence responded to the Second Proposal.<sup>6</sup>

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<sup>2</sup> See Annex A.

<sup>3</sup> See Annex B.

<sup>4</sup> See Annex A.

<sup>5</sup> ICC-01/14-01/18-T-012-ENG p. 50, line 3.

<sup>6</sup> See Annex B.

11. On 16 July 2020, the Chamber directed the Parties to file a 'joint submission' on agreed facts by 11 January 2021.<sup>7</sup>

12. On 29 July 2020, the NGAISSONA Defence responded to the Second Proposal.<sup>8</sup>

13. On 26 November 2020, the Chamber further urged the parties to agree on maps which illustrate the geographical locations of the sites relevant to the facts and circumstances of the present case.<sup>9</sup>

14. On 11 January 2020, the NGAISSONA Defence responded to the Second Proposal.<sup>10</sup>

15. Having considered the Prosecution's 15 December 2020 invitation pursuant to the Chamber's direction to agree on maps normatively set out in the Annexes to the DCC and/or Trial Brief, as well as those found in materials regularly disclosed, the Defence definitively responded on 8 January 2021 indicating the extent of their agreement.

#### IV. SUBMISSIONS

##### a. Agreements as to facts

16. The 164 stipulations comprising the First Proposal and Second Proposal concern: (i) the Accused's background; (ii) the fact, duration, and character of the armed conflict, and the participating groups; (iii) the nature and extent of precipitating Seleka crimes; (iv) the formation of the Anti-Balaka and its composition during the relevant period; and (v) the geography of the Central African Republic ("CAR").

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<sup>7</sup> ICC-01/14-01/18-589, para. 22.

<sup>8</sup> See Annex B.

<sup>9</sup> See Annex C ("26 November 2020 Direction")

<sup>10</sup> See Annex B.

17. Of the proposed stipulations, NGAISSONA and YEKATOM collectively agree that 19 are not contested. Other than as noted below, the Parties have not reached any further agreements in respect of the First and Second Proposals or other facts.

18. The facts, as agreed, comprise:

- i. Accused Patrice-Edouard NGAISSONA is a national of CAR, born on 30 June 1967 in Begoua, CAR (First Proposal, stipulation B.1);
- ii. NGAISSONA was elected President of the Central African Football Federation in 2008 (Second Proposal, stipulation A.1);
- iii. NGAISSONA was elected to represent the town of Nana-Bakassa in January 2011 (Second Proposal, stipulation A.2);
- iv. By decree 13.035 dated 3 February 2013, NGAISSONA became Minister of Youth, Sports, Arts and Culture within the Government of National Unity (Second Proposal, stipulation A.3);
- v. The LOBAYE Prefecture is one of 16 in CAR (Second Proposal, stipulation B.1);
- vi. The LOBAYE Prefecture is located in the southwest part of CAR, it borders the Republic of the Congo and the DRC (Second Proposal, stipulation B.2);
- vii. The capital of LOBAYE is MBAIKI (Second Proposal, stipulation B.3);
- viii. BOSSANGO is the capital of the OUHAM Prefecture, located about 300 km north of BANGUI and 200 km south of the Chadian border (Second Proposal, stipulation B.4);

- ix. YALoke is located about 225 km north-west of BANGUI (Second Proposal, stipulation B.5);
- x. GAGA is located about 35 km northwest of YALoke in the direction of BOSSEMPTELE (Second Proposal, stipulation B.6);
- xi. ZAWA is located about 35 km south of GAGA and about 23 km west of YALoke (Second Proposal, stipulation B.7);
- xii. BOSSEMPTELE is in the OUHAM-PENDE Prefecture located about 300 km northwest of BANGUI and 87 km south of BOZOUM (Second Proposal, stipulation B.8);
- xiii. BODA is a town in the LOBAYE Prefecture located about 160 km west of BANGUI (Second Proposal, stipulation B.9);
- xiv. CARNOT is a sub-prefecture in the MAMBERE-KADEI Prefecture (Second Proposal, stipulation B.10);
- xv. CARNOT is located in the southwest part of CAR about 215 km from the Cameroonian border, 100 km north of BERBERATI, 100 km west of GUEN, and some 400 km west of BANGUI (Second Proposal, stipulation B.11);
- xvi. BERBERATI is the capital of the MAMBERE-KADEI Prefecture (Second Proposal, stipulation B.12);
- xvii. BERBERATI is located in the southwest part of CAR about 85 km east of GAMBOULA near the Cameroonian border, 95 km south of CARNOT, and over 500 km west of BANGUI (Second Proposal, stipulation B.13);

- xviii. GUEN is a village in the MAMBERE-KADEI Prefecture, located about 10 km west of the GADZI Sub-Prefecture and 100 km east of CARNOT (Second Proposal, stipulation B.14); and
- xix. From 4 to 11 May 2015, the transition government held a national reconciliation conference in BANGUI (Second Proposal stipulation C.16).

**b. Agreements as to Maps**

19. As per the Chamber's 26 November 2020 Direction, the Parties have agreed to 14 maps,<sup>11</sup> indicating locations relevant to the facts and circumstances of the case.

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<sup>11</sup> CAR-OTP-2057-0965, CAR-OTP-2062-0666, CAR-OTP-2070-0267, CAR-OTP-2070-0268, CAR-OTP-2070-0274, CAR-OTP-2126-2710, CAR-OTP-2126-2711, CAR-OTP-2069-0658, CAR-OTP-2070-0277, CAR-OTP-2070-0280, CAR-OTP-2108-0517, CAR-OTP-2108-0537, CAR-OTP-2118-9140, CAR-OTP-2118-9146. See also, Annex B. As noted in a 17 December 2020 email, the CLRV do not object to the use of maps.



## V. CONCLUSION

20. None of the facts or maps agreed among the Parties are of a nature warranting a more complete presentation in the interests of justice or the interests of the victims. The Chamber should thus consider them as proved, pursuant to rule 69 of the rules.

21. Notably, the Chamber is not encumbered from taking judicial notice of facts of common knowledge, including but not limited to locations within CAR, as may be indicated in maps, pursuant to article 69(6). Moreover, it may do so either on its own accord or upon request by the Parties or Participants, as appropriate.



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**James Stewart, Deputy Prosecutor**

Dated this 11<sup>th</sup> day of January 2021

At The Hague, The Netherlands