



Original: English

No. ICC-01/14-01/18 A A2 A3

Date: 20 October 2026

THE APPEALS CHAMBER

Before:

**Judge Solomy Balungi Bossa, Presiding
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-ÉDOUARD NGAÏSSONA**

Public

Decision on request for hearing

Decision 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

☐ **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
Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations
Section**

☐ **Other**

The Appeals Chamber of the International Criminal Court,

In the appeals of the Deputy Prosecutor, Mr Alfred Yekatom and Mr Patrice-Édouard Ngaïssona against Trial Chamber V’s “Judgment” of 24 July 2025 (ICC-01/14-01/18-2784-Red),

Having before it the “Request for Hearing” of 29 September 2026 (ICC-01/14-01/18-2932),

Issues the following

DECISION

The Defence for Mr Yekatom’s request for hearing is rejected.

REASONS

1. On 24 July 2025, Trial Chamber V (hereinafter: “Trial Chamber”) rendered the “Judgment” (hereinafter: “Impugned Decision”).¹
2. On 25 November 2025, the Deputy Prosecutor (hereinafter: “Prosecutor”), the Defence for Mr Ngaïssona (hereinafter: “Ngaïssona Defence”) and the Defence for Mr Yekatom (hereinafter: “Yekatom Defence”) filed their respective appeal briefs against the Impugned Decision.²

¹ [Judgment](#), ICC-01/14-01/18-2784-Conf (public redacted version filed on the same day, ICC-01/14-01/18-2784-Red), with Annexes A and B.

² [Prosecution Appeal Brief](#), ICC-01/14-01/18-2846-Conf (public redacted version dated 27 November 2025 and registered on 28 November 2025, ICC-01/14-01/18-2846-Red); [Ngaïssona Defence Appeal Brief against the Trial Judgment](#), ICC-01/14-01/18-2847-Conf (public redacted version filed on 19 December 2025, ICC-01/14-01/18-2847-Red), with public Annexes A-L; [Yekatom Defence Appeal against the Judgment, ICC-01/14-01/18-2784-Conf, 24 July 2025](#), ICC-01/14-01/18-2848-Conf (corrected public redacted version filed on 19 December 2025, ICC-01/14-01/18-2848-Corr-Red), with public Annexes 1-2, and confidential Annexes 3-6.

3. On 27 February 2026, the Prosecutor and the Ngaïssona Defence filed their response briefs³ and the Common Legal Representatives of Victims of the Other Crimes (hereinafter: “Victims”) filed their observations.⁴

4. On 23 March 2026, the Appeals Chamber issued a decision to not hold a hearing in these appeals at that stage of the proceedings (hereinafter: “Decision on Hearing”).⁵

5. On 8 May 2026, the Appeals Chamber granted the Ngaïssona Defence’s request for leave to reply to the Prosecutor’s Response, but rejected the Yekatom Defence’s request for the same (hereinafter: “Decision on Requests for Leave to Reply”).⁶

6. On 25 August 2026, the Appeals Chamber instructed the Prosecutor, the Ngaïssona Defence and the Victims to file further submissions on several questions arising from the Prosecutor’s appeal (hereinafter: “Order on Further Written Submissions”).⁷

7. On 29 September 2026, the Yekatom Defence filed a request for a hearing (hereinafter: “Request”).⁸

8. On 30 September 2026, the Ngaïssona Defence responded to the Request (hereinafter: “Ngaïssona Defence Response to the Request”).⁹ On the same day, Prosecutor and the Victims filed their further written submissions addressing the several questions arising from the Prosecutor’s appeal.¹⁰

³ 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, with public Annex A (hereinafter: “Prosecutor’s Response”); [Ngaïssona Defence Response to the Prosecution Appeal Brief \(ICC-01/14-01/18-2846-Conf\)](#), ICC-01/14-01/18-2886-Conf-Corr (public redacted version filed on 12 March 2026, ICC-01/14-01/18-2886-Corr-Red).

⁴ [Consolidated Victims’ Response to the Prosecution and Defence Appeals of the Judgment and Sentence against Mr Alfred Yekatom and Patrice-Edouard Ngaïssona](#), ICC-01/14-01/18-2884-Conf (public redacted version filed on 23 March 2026, ICC-01/14-01/18-2884-Red).

⁵ [Decision on whether to hold a hearing and further directions](#), ICC-01/14-01/18-2894 (A A2 A3), para. 8.

⁶ [Decision on requests for leave to reply](#), ICC-01/14-01/18-2917 (A A2 A3), paras 24, 27-36.

⁷ [Order requesting further written submissions](#), ICC-01/14-01/18-2929 (A A2 A3), paras 6-7.

⁸ [Request for Hearing](#), ICC-01/14-01/18-2932.

⁹ [Ngaïssona Defence Response to the Yekatom Defence’s “Request for Hearing”](#), ICC-01/14-01/18-2934, para. 2.

¹⁰ [Prosecution responses to the questions of the Appeals Chamber](#), ICC-01/14-01/18-2935; [Victims’ Additional Submissions pursuant to Order No. ICC-01/14-01/18-2929 A A2 A3](#), ICC-01/14-01/18-2933.

9. On 8 October 2026, the Prosecutor and the Victims respectively filed their responses to the Request (hereinafter: “Prosecutor’s Response to the Request” and “Victims’ Response to the Request”).¹¹

II. MERITS

A. Submissions of the parties and participants

10. The Yekatom Defence requests the Appeals Chamber to convene a hearing once the further written submissions in relation to the Prosecutor’s appeal have been filed, particularly to address the matters identified in the Request, “including the questions and further submissions insofar as they bear on [Mr Yekatom]’s appeal”.¹² It submits that, because the Order on Further Written Submissions identified eleven questions concerning article 25(3)(d) of the Statute in relation to the Prosecution’s appeal, it should be heard on those interpretations before the Appeals Chamber decides whether to apply them to Mr Yekatom’s convictions.¹³

11. In particular, the Yekatom Defence argues that the distinction between material and subsidiary facts is central to its challenge to the Prosecutor’s reliance on “the subsidiary characterisation throughout its answers to Grounds 1.1 to 1.3”.¹⁴ It also highlights issues concerning the scope and safeguards of article 83(2) of the Statute, insofar as “any resulting arguments [...] affect Ground 1.2”, including whether the Prosecutor’s proposal to “sustain the convictions on an alternative basis” “rests on properly pleaded and proved facts”.¹⁵ The Yekatom Defence recalls that, while the Appeals Chamber permitted the Ngaïssona Defence to address whether certain findings had been properly characterised as subsidiary, it was denied leave to reply on the “related distinction between pleaded material facts and subsidiary facts”, and argues that further submissions are necessary.¹⁶

¹¹ [Prosecution response to Yekatom Request for Hearing](#), ICC-01/14-01/18-2936; [Victims’ Response to the Yekatom Defence’s Request for Hearing](#), ICC-01/14-01/18-2937.

¹² [Request](#), paras 1, 33, 48.

¹³ [Request](#), paras 2-3.

¹⁴ [Request](#), para. 17; *see also* paras 15-16, 18-19.

¹⁵ [Request](#), para. 22.

¹⁶ [Request](#), para. 15.

12. With respect to the assessment of P-1339's evidence by Trial Chamber VI in the recent conviction decision in the *Said* case,¹⁷ the Yekatom Defence submits that Trial Chamber VI treated this witness's evidence "with caution", finding him "not forthcoming" and assessing "the reliability of his testimony on a case-by-case basis in light of other evidence".¹⁸ It argues that this approach differs markedly from the Trial Chamber's treatment of the same witness on similar subject matter in the present case.¹⁹ The Yekatom Defence further contends that a "hearing would assist the Appeals Chamber in determining the appeals", as the issues identified could be clarified in oral submissions, the Request is timely, and the hearing will not cause undue delay.²⁰

13. In response to the Request, the Ngaïssona Defence indicates that it "respectfully defers to the Appeals Chamber's discretion".²¹

14. The Prosecutor submits that Yekatom Defence has shown no basis to reconsider the Appeals Chamber's previous decision not to hold a hearing,²² and that, if further submissions are considered necessary, written submissions would suffice.²³ Specifically, the Prosecutor argues that nothing has changed since the Decision on Hearing that would warrant departing from it, and that the Request merely raises matters irrelevant to Mr Yekatom's appeal, seeks to reply to the Prosecutor's Response without permission, and attempts to present additional evidence without identifying any legal basis.²⁴ He maintains that the Appeals Chamber's questions on article 25(3)(d) of the Statute;²⁵ the distinction between material and subsidiary facts, including the scope of and safeguards under article 83(2) of the Statute;²⁶ and the *Said* Trial Chamber's assessment of P-1339's evidence, do not require oral argument.²⁷

¹⁷ [Request](#), paras 27-30, referring to Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, [Trial Judgment](#), 23 September 2026, ICC-01/14-01/21-1054-Conf (a public redacted version filed on the same day, ICC-01/14-01/21-1054-Red) (hereinafter: "*Said* Conviction Decision").

¹⁸ [Request](#), paras 27, 29.

¹⁹ [Request](#), paras 28-29.

²⁰ [Request](#), paras 31-47.

²¹ [Ngaïssona Defence Response to the Request](#), para. 2.

²² [Prosecutor's Response to the Request](#), paras 1, 19.

²³ [Prosecutor's Response to the Request](#), para. 18.

²⁴ [Prosecutor's Response to the Request](#), paras 3-4.

²⁵ [Prosecutor's Response to the Request](#), paras 5-9.

²⁶ [Prosecutor's Response to the Request](#), paras 10-13.

²⁷ [Prosecutor's Response to the Request](#), paras 14-17.

15. Similarly, the Victims submit that the Request should be rejected, arguing that an oral hearing would add an unnecessary procedural step and “risk delaying the resolution of the appeals without contributing to the determination of the issues raised”.²⁸ In support, the Victims aver that the Yekatom Defence identifies “no genuinely new issue or circumstances” warranting reconsideration of the Appeals Chamber’s previous determination that a hearing is unnecessary.²⁹ They note that the questions in the Order for Further Submissions concern only the Prosecutor’s appeal relating to Mr Ngaïssona’s liability, and that, had those questions been relevant to Mr Yekatom, the Appeals Chamber would have invited his defence to respond.³⁰ They further argue that the Yekatom Defence failed “to seek leave to reply to the [Prosecutor’s] Response on time” and cannot now use that omission to obtain an oral hearing,³¹ and that reassessment of P-1339’s credibility is unnecessary, as differing conclusions by Trial Chamber VI do not show error by the Trial Chamber in the present case.³²

B. Determination by the Appeals Chamber

16. The Appeals Chamber recalls that “the decision to hold an oral hearing in appeal proceedings against final judgments is discretionary and made on a case by-case basis”.³³ It further recalls that it previously determined that a hearing was not necessary at that stage of the proceedings, having regard to the breadth and sufficiency of the written submissions, responses and observations already before it.³⁴ The Appeals Chamber nevertheless reserved the possibility of issuing further directions, should additional submissions, whether oral or written, later prove required.³⁵

17. In the present case, the Appeals Chamber notes the Yekatom Defence’s assertion that it “seeks to address matters identified in [the] Request, including the questions and further written submissions insofar as they bear on [Mr Yekatom’s] appeal”.³⁶ Specifically, the Yekatom Defence submits that these questions, framed under article 25(3)(d) of the Statute, and the Appeals Chamber’s answers thereto, may bear on the determination of Mr

²⁸ [Victims’ Response to the Request](#), paras 1, 5, 29.

²⁹ [Victims’ Response to the Request](#), paras 14-16.

³⁰ [Victims’ Response to the Request](#), paras 17-19.

³¹ [Victims’ Response to the Request](#), paras 20-21.

³² [Victims’ Response to the Request](#), paras 22-24.

³³ [Decision on Hearing](#), para. 7 and references therein.

³⁴ [Decision on Hearing](#), para. 8.

³⁵ [Decision on Hearing](#), para. 8.

³⁶ [Request](#), para. 1.

Yekatom's grounds of appeal 1 and 2.³⁷ However, to the extent that the Yekatom Defence relies on the mere possibility of such an impact, its contention remains speculative.

18. In this regard, the Appeals Chamber recalls that, for the proper disposal of the Prosecutor's appeal, it issued a decision seeking further written submissions on specific questions requiring further elucidation, none of which concerned the Yekatom Defence.³⁸ The Appeals Chamber notes that those questions focus on the interpretation of article 25(3)(d) of the Statute in so far as relevant to the issues of Mr Ngaïssona's individual criminal responsibility, identified in the Prosecutor's appeal. The relevance of those questions to Mr Yekatom's appeal is not apparent. As correctly noted by the Prosecutor, the aforementioned grounds of Mr Yekatom's appeal concern his contribution, intent and knowledge under article 25(3)(a) of the Statute.³⁹ Accordingly, the Appeals Chamber considers that the tailored nature of the Order on Further Written Submissions underscores that no matter requiring clarification was identified in relation to Mr Yekatom's appeal.⁴⁰ Thus, contrary to the Yekatom Defence's contention, a hearing would not assist the Appeals Chamber in resolving the issues identified in the Request.

19. The Appeals Chamber is also not persuaded that a hearing would assist it with respect to the Yekatom Defence's request to address issues relating to grounds of appeal 1.1 to 1.3, *namely* the "distinction between material and subsidiary facts" and the "scope and safeguards of article 83(2)" of the Statute.⁴¹ The Yekatom Defence argues that, because the Prosecutor relied on the subsidiary characterisation throughout its answers to these sub-grounds of appeal,⁴² it had no opportunity to address the distinction on which the Prosecutor's position rests, particularly given the extensive pre-trial and trial litigation on this matter.⁴³ The Appeals Chamber recalls that it denied the leave to reply on similar issues. A substantial portion of the issues identified in the Request⁴⁴ partly overlaps with issue 1, *namely*, that the "[Prosecutor's] Response re-formulates pleaded Ground 1 complaints as to scope, notice, re-characterisation and mode of liability, and advances new appellate-cure positions", for which the Yekatom Defence previously sought leave to

³⁷ See [Request](#), para. 2.

³⁸ [Order on Further Written Submissions](#), paras 6-7.

³⁹ See [Prosecutor's Response to the Request](#), paras 5, 9.

⁴⁰ See [Order on Further Written Submissions](#), para. 7(a)-(k).

⁴¹ [Request](#), paras 15-36.

⁴² [Request](#), para. 17.

⁴³ [Request](#), para. 18.

⁴⁴ See [Request](#), paras 15-26

reply.⁴⁵ The Appeals Chamber further notes that the Yekatom Defence's request for leave to reply on this issue was rejected on the basis that it restated arguments already made in its appeal brief and that the Appeals Chamber was in a "position to discern which facts concerning Mr Yekatom's conduct and state of mind were pleaded at trial".⁴⁶

20. The Appeals Chamber also considers that the Yekatom Defence's reliance on the *Said* Conviction Decision is misplaced and does not justify convening a hearing with respect to issue (c) of the Request concerning the assessment of P-1339's evidence by Trial Chamber VI.⁴⁷ While the Yekatom Defence argues that Trial Chamber VI's approach differs from that taken in the present case, which in its view "cannot be addressed within the written phase",⁴⁸ it does not explain the significance of this matter to the present appellate proceedings. In particular, the Yekatom Defence does not explain how Trial Chamber VI's assessment of evidence led in another case can inform the Appeals Chamber's appellate review of the Impugned Decision, based on a different evidentiary record.⁴⁹ As rightly observed by the Victims, Trial Chamber VI's "conclusions cannot simply be transposed to the present case or treated as requiring a re-assessment of Trial Chamber V's findings".⁵⁰ Accordingly, the Appeals Chamber is not persuaded that oral submissions would assist its determination of this issue.

21. In view of the foregoing, the Appeals Chamber considers that the Request does not identify any issue that presently arises in its deliberations on the matters raised in the Yekatom Defence's appeal or that cannot be resolved on the basis of the extensive written submissions already before it. The Appeals Chamber is satisfied that the written record is both comprehensive and adequate for the proper disposal of the appeal. Should any issue later arise that genuinely requires oral clarification, the Appeals Chamber retains the ability to issue further directions.

Done in both English and French, the English version being authoritative.

⁴⁵ [Decision on Requests for Leave to Reply](#), para. 27.

⁴⁶ [Decision on Requests for Leave to Reply](#), para. 27.

⁴⁷ [Request](#), paras 27-30.

⁴⁸ [Request](#), paras 28-30.

⁴⁹ See [Prosecutor's Response to the Request](#), para. 17.

⁵⁰ [Victims' Response to the Request](#), para. 23.



Judge Solomy Balungi Bossa
Presiding

Dated this 20th day of October 2026

At The Hague, The Netherlands