



**Original: English**

**No. ICC-01/14-01/18  
Date: 4 June 2020**

**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  
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD  
NGAISSONA***

**Public**

**Second Order Scheduling First Status Conference**

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

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**TRIAL CHAMBER V** of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Article 64(2) and (3) of the Rome Statute (the ‘Statute’), and Rule 132(1) of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Second Order Scheduling First Status Conference’.

1. On 13 March 2020, the Court’s headquarters premises in The Hague (the ‘Headquarters’) were temporarily closed due to the measures taken by the host State in response to the public state of health, and the advice from the Court’s Crisis Management Team.<sup>1</sup>
2. On 19 March 2020, the Chamber issued its ‘Order scheduling First Status Conference’ (the ‘Scheduling Order’), convening a first status conference (the ‘Status Conference’) on 21 April 2020.<sup>2</sup> In order to facilitate the preparation of the Status Conference, the Chamber requested the parties, participants and the Registry to make written submissions on potential agenda items, and to indicate whether they wished to add further items to the list and whether parts of the Status Conference should be held *ex parte*, by 8 April 2020.<sup>3</sup> Noting the state of public health in the host State and other countries at the time, the Chamber indicated that it would amend the timelines set out in the order in due course, ‘[s]hould the development of the situation render the status conference on the indicated date impractical’.<sup>4</sup>
3. On 26 March 2020, following the extension of the Headquarters’ temporary closure,<sup>5</sup> the Chamber deferred the Status Conference in light of the public health situation in the host State and the ‘measures taken in response by the Host State which are also affecting the functioning of the Court’.<sup>6</sup> The Chamber stressed that the Status Conference would be held as soon as feasible and that

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<sup>1</sup> Email from the Office of the Registrar, 13 March 2020, at 17:32.

<sup>2</sup> Order Scheduling First Status Conference, ICC-01/14-01/18-459.

<sup>3</sup> Scheduling Order, ICC-01/14-01/18-459, paras 2-5.

<sup>4</sup> Scheduling Order, ICC-01/14-01/18-459, para 1, n. 1.

<sup>5</sup> Email from the Office of the Registrar, 24 March 2020, at 14:18. *See further* emails from the Office of the Registrar, 1 April 2020, at 10:37 and 22 April 2020, at 09:41.

<sup>6</sup> Order Deferring the First Status Conference, ICC-01/14-01/18-464, paras 1-2.

the parties and participants were expected to be able to attend on a relatively short notice.<sup>7</sup>

4. On 8 April 2020, the Office of the Prosecutor (the ‘Prosecution’),<sup>8</sup> the Yekatom Defence,<sup>9</sup> the Ngaïssona Defence,<sup>10</sup> the Common Legal Representative of the Former Child Soldiers and the Common Legal Representatives of Victims of Other Crimes (jointly, the ‘CLR’)<sup>11</sup> and the Registry<sup>12</sup> filed their submissions on the Status Conference.
5. On 15 May 2020 and 29 May 2020, respectively, the Registrar announced the Headquarters’ partial reopening as of 1 June 2020.<sup>13</sup>
6. On 3 June 2020, the Registry informed the Chamber that a Status Conference could be facilitated on 9 July 2020, taking into consideration the required preparation procedures as dictated by the current medical protocol for hearings in light of the Coronavirus Pandemic.<sup>14</sup> The Registry further advises that according to this protocol, hearings can last for a maximum of three hours and need to be scheduled in one-hour sessions, followed by a 45-minute break (the ‘Hearing Limitations’).

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<sup>7</sup> Order Deferring the First Status Conference, ICC-01/14-01/18-464, para. 3.

<sup>8</sup> Prosecution’s Observations on the Agenda of the First Status Conference, ICC-01/14-01/18-474-Conf (public redacted version notified on 24 April 2020).

<sup>9</sup> Yekatom Defence Submissions for First Status Conference, ICC-01/14-01/18-472 (with one confidential annex).

<sup>10</sup> Defence Submissions pursuant to Trial Chamber V’s “Order Scheduling First Status Conference” (ICC-01/14-01/18-459), ICC-01/14-01/18-473-Conf (with confidential *ex parte* Annex 1, only available to the Ngaïssona Defence and the Registry).

<sup>11</sup> Common Legal Representatives’ joint submissions on the matters identified in the “Order Scheduling First Status Conference”, ICC-01/14-01/18-471.

<sup>12</sup> Registry Submissions in View of the Upcoming Status Conference, ICC-01/14-01/18-470 (with confidential *ex parte* Annex I, only available to the Prosecution and the Registry; confidential *ex parte* Annexes II and III, only available to the Registry) (confidential redacted version of Annex II notified on 17 April 2020; confidential redacted version of Annex III notified on 8 April 2020; public redacted version of Annex III notified on 22 May 2020).

<sup>13</sup> See emails from the Office of the Registrar, 15 May 2020, at 16:45 and 29 May 2020, at 13:19.

<sup>14</sup> Email from the Registry to the Chamber, 3 June 2020, at 10:08. The Registry indicated that ‘[t]he reason for the requirement of a longer preparation time after the gradual re-opening of the Court as of 8 June 2020 is the medical protocol, which will have to be followed for all hearings. This protocol foresees that all participants are contacted already 21 days before the date of a hearing with informative material and establishes further steps, such as a questionnaire which has to be sent to the participants 16 days prior to the date of the hearing’.

7. Mindful of the Chamber's duty to ensure an expeditious trial, and recalling its intention to hold the Status Conference as soon as feasible, the Status Conference will thus be held on 9 July 2020.
8. In light of the submissions received, the Chamber considers that it does not require further oral submissions on a number of the items initially listed in its Scheduling Order. Accordingly, the Chamber issues the following agenda for the upcoming Status Conference:

A. Issues relevant to the commencement date of the trial

- (1) Ongoing disclosure obligations pursuant to Article 67(2) of the Statute and Rules 76 and 77 of the Rules, in particular timing and volume of outstanding disclosure
- (2) Ongoing investigations
- (3) Disclosure of witnesses' identities which have been withheld from the Defence
- (4) Protective measures for witnesses
- (5) Trial brief and provisional witness list

B. Anticipated evidence

- (1) Estimated number of witnesses to be called and number of hours of in-court testimony, in particular (i) the number of witnesses expected to testify at the seat of the Court / by audio- or video-link, and (ii) to what extent the number of witnesses indicated by the Prosecution takes into account the reduced scope of the charges following the confirmation decision
- (2) Expert witnesses

C. Agreed facts under Rule 69 of the Rules

D. Update and forecast on (additional) victim participation applications

9. In order to conduct the Status Conference as efficiently as possible, the parties, participants and the Registry are reminded to keep their oral submissions short and to not reiterate points already raised in their written submissions.




10. Taking into account the Hearing Limitations in the current circumstances, the Chamber will hold the Status Conference according to the following schedule:
- Session 1: 10:00 – 11:00
  - Session 2: 11:45 – 12:45
11. In light of the above agenda, the Chamber does not envisage the Status Conference to last longer than two hours, but instructs the Registry to be prepared to facilitate another session should more time be needed.
12. Lastly, the Chamber notes that the above modalities of the Status Conference may be subject to change as a result of the host State's regulations in response to the Coronavirus Pandemic. In such case, the Chamber will give notice in due course.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**CONVENES** the Status Conference on 9 July 2020, as described in paragraph 10.

**SETS** the agenda for the Status Conference, as described in paragraph 8.

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

 <hr style="width: 25%; margin: 0 auto;"/> <p><b>Judge Péter Kovács</b></p>	 <hr style="width: 25%; margin: 0 auto;"/> <p><b>Judge Bertram Schmitt</b>  <b>Presiding Judge</b></p>	 <hr style="width: 25%; margin: 0 auto;"/> <p><b>Judge Chang-ho Chung</b></p>
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Dated 4 June 2020

At The Hague, The Netherlands