



**Original: English**

No. **ICC-01/14-01/18**  
Date: **29 January 2021**

**TRIAL CHAMBER V**

**Before: Judge Bertram Schmitt, Single Judge**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

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

**Public**

**Decision on the Prosecution Request for Appointment of Duty Counsel**

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

**The Office of the Prosecutor**

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**Counsel for Patrice-Edouard Ngaïssona**

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**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparations**

**The Office of Public Counsel for Victims**

**The Office of Public Counsel for the  
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**States Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Peter Lewis

**Counsel Support Section**

Esteban Peralta Losilla

**Victims and Witnesses Unit**

Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**Judge Bertram Schmitt**, acting as Single Judge on behalf of Trial Chamber V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Rule 74 of the Rules of Procedure and Evidence (the ‘Rules’) and Regulation 73 of the Regulations of the Court, issues this ‘Decision on the Prosecution Request for Appointment of Duty Counsel’.

1. On 9 November 2020, the Office of the Prosecutor (the ‘Prosecution’) filed its Final Witness List.<sup>1</sup>
2. On 26 August 2020, in his Initial Directions on the Conduct of the Proceedings (the ‘Initial Directions’), the Presiding Judge, *inter alia*, set 11 January 2021 as the deadline for any Prosecution requests pursuant to Rule 74 of the Rules for witnesses on its Final Witness List.<sup>2</sup>
3. On 8 January 2021, the Prosecution requested the Chamber to direct the Registry to identify and appoint, as necessary, qualified counsel to advise 21 witnesses pursuant to Rule 74 of the Rules (the ‘Witnesses’ and the ‘Request’, respectively).<sup>3</sup> The other participants informed the Chamber that they did not intend to respond to the Request.<sup>4</sup>
4. The Single Judge recalls that the Registry shall make all necessary arrangements to provide independent legal advice to witnesses who may be at risk of incriminating themselves during their testimony.<sup>5</sup>
5. The Single Judge notes that all Witnesses are expected to testify before the Chamber either fully *viva voce* or pursuant to Rule 68(3) of the Rules. Accordingly, the Single Judge directs the Registry to appoint counsel to advise

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<sup>1</sup> See Annex A to the Prosecution’s List of Witnesses and Evidence, ICC-01/14-01/18-724-Conf-AnxA.

<sup>2</sup> Initial Directions on the Conduct of the Proceedings, ICC-01/14-01/18-631, para. 37.

<sup>3</sup> Prosecution’s Request for the Appointment of Duty Counsel pursuant to Rule 74, ICC-01/14-01/18-805-Conf (public redacted version notified on 11 January 2021, ICC-01/14-01/18-805-Red), para. 1.

<sup>4</sup> Email from the Ngaïssona Defence, 14 January 2021, at 15:13; email from the Yekatom Defence, 15 January 2021, at 10:24; email from the Common Legal Representative of the Former Child Soldiers and the Common Legal Representatives of Victims of Other Crimes, 15 January 2021, at 11:00.

<sup>5</sup> Initial Directions, ICC-01/14-01/18-631, para. 38.

the Witnesses in line with the Initial Directions regarding issues of self-incrimination that may arise during their respective testimonies.<sup>6</sup>

6. The present decision is without prejudice to the Chamber's assessment of whether assurances pursuant to Rule 74 of the Rules will be granted.

**FOR THESE REASONS, THE SINGLE JUDGE HEREBY**

**DIRECTS** the Registry to appoint duty counsel for the Witnesses.

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



**Judge Bertram Schmitt**

**Single Judge**

Dated 29 January 2021

At The Hague, The Netherlands

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<sup>6</sup> Initial Directions, ICC-01/14-01/18-631, para. 39.