

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: **8 April 2022**

TRIAL CHAMBER V

Before:

**Judge Bertrand 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 ROMBHOT YEKATOM AND PATRICE-EDOUARD
NGAISSONA***

PUBLIC

Public Redacted Version of the “Ngaïssona Defence Response to ‘Prosecution’s Request for the Formal Submission of the Prior Recorded Testimony of P-1077 pursuant to Rule 68(3)’ (ICC-01/14-01/18-1332-Conf), dated 24 March 2022”, 4 April 2022

Source: Defence of Patrice-Edouard Ngaïssona

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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I. Introduction

1. Having sent the below submissions via email, on 4 April 2022, Trial Chamber V ('Trial Chamber' or 'Chamber') ordered the Defence to formally file its response on the record.¹
2. Pursuant to Regulation 23bis(1) of the Regulations of the Court, the present submissions are filed as "confidential", as it responds to a filing of the same classification.

II. Submissions

3. The Ngaïssona Defence defers to the discretion of Trial Chamber V regarding the merits of the *"Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-1077 pursuant to Rule 68(3)"*² filed on 24 March 2022.
4. The Defence opposes the formal submission of the following documents as associated exhibits:
 - a. **CAR-OTP-2003-1654**: this dossier, which comprises 255 pages, is a compilation of various separate intelligence reports, out of which only page 1736, which is a separate information bulletin from the [REDACTED] dated 12 November 2014, was shown to the witness. It is clear from the context of P-1077's transcript³ that the witness was not aware of being shown [REDACTED]⁴. The Chamber recalled on several occasions that "it cannot be excluded that there may be circumstances warranting that only part(s) of a single item be submitted into evidence and that such requests will be assessed by the Chamber on a case-by-case basis".⁵ Given

¹ Email, 4 April 2022 15:00, subject: 'Chamber's direction in relation to the Ngaïssona Defence's Response to ICC-01/14-01/18-1332-Conf'.

² ICC-01/14-01/18-1332-Conf.

³ CAR-OTP-2107-3554-R01, at 3560, lns 202-211.

⁴ The Chamber will note is not the ERN number of the dossier but the relevant page within that dossier.

⁵ See Decision on Submitted Materials for P-2841, email from the Chamber on 2 July 2021, at 14:07; Decision on Submitted Materials for P-2328, email from the Chamber on 1 October 2021, at 12:28; Decision on Submitted Materials for P-0965, email from the Chamber on 21 February 2022, at 08:42.

the nature of item CAR-OTP-2003-1654, the Defence is of the view that only page 1736 should be considered as an associated exhibit to P-1077's prior recorded testimony.

- b. **CAR-OTP-2066-1601:** this document is a 209 page Facebook record, from which only page 1656, [REDACTED], was shown to the witness. Again, it is clear from the context of P-1077's transcript⁶ that the witness was not aware of being shown a Facebook record but was only shown [REDACTED].⁷ To the extent that this declaration exists as a standalone document under other ERN numbers,⁸ and in light of the nature and scope of Facebook records, the Defence submits that it would be more appropriate to introduce this Anti-Balaka declaration as exhibit to P-1077's prior recorded testimony under a different ERN number.

III. Conclusion

5. The Defence respectfully provides the above submissions via formal filing.

Respectfully submitted,



Mr Knoop, Lead Counsel for Patrice-Edouard Ngaïssona

Dated this 8 April 2022

At The Hague, the Netherlands.

⁶ CAR-OTP-2107-3584-R01, at 3594, lns 372-377.

⁷ See CAR-OTP-2107-3584-R01, at 3596, lns 415-423.

⁸ See for instance CAR-OTP-2066-2102.