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No. **ICC-01/14-01/18**
Date: **24 January 2024**

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 Ngaiissona Defence Request for Leave to Add Two Items to its
List of Evidence**

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

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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 Articles 64(2) and 67 of the Rome Statute, issues this ‘Decision on the Ngaïssona Defence Request for Leave to Add Two Items to its List of Evidence’.

1. On 17 November 2023, the Ngaïssona Defence, in accordance with the time limit set by the Chamber,¹ filed its List of Evidence.²
2. On 12 January 2024, the Ngaïssona Defence requested the Chamber’s leave to add the prior recorded testimonies of D30-4197 and D30-4953³ to its List of Evidence (the ‘Items’ and the ‘Request’, respectively).⁴
3. On 16 January 2024, the Office of the Prosecutor (the ‘Prosecution’) deferred to the Chamber’s discretion with regard to the Request.⁵
4. The Single Judge recalls the applicable law for requests to add items to the list of evidence, as set out in his previous decisions.⁶
5. The Single Judges takes note of the Ngaïssona Defence’s explanations, in particular that (i) the Items were not available at the time when its List of Evidence was submitted, and (ii) the Ngaïssona Defence momentarily lost contact with the two concerned witnesses and was therefore unable to include the Items earlier, when it first sought the Chamber’s leave to add items to its List of

¹ Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLRV and the Defence), 29 May 2023, ICC-01/14-01/18-1892, para. 21(i).

² Defence Submission of its Final List of Witnesses and its List of Evidence, ICC-01/14-01/18-2215, with confidential Annexes 1 and 2. *See in particular*, Annex 2, ICC-01/14-01/18-2215-Conf-Anx2, which contains the List of Evidence.

³ CAR-D30-0026-0001 and CAR-D30-0027-0001 (disclosed on 11 January 2024, Trial D30 Evidence Package 57).

⁴ Second Ngaïssona Defence request for leave to add items to the List of Evidence, ICC-01/14-01/18-2297, with confidential Annex A, ICC-01/14-01/18-2297-Conf-AnxA, which contains a list of the Items.

⁵ Prosecution’s Response to the ‘Second Ngaïssona Defence request for leave to add items to the List of Evidence’ (ICC-01/14-01/18-2297), ICC-01/14-01/18-2304.

⁶ *See* Decision on the Prosecution Request to Add Six Email Threads to its List of Evidence, 6 May 2021, ICC-01/14-01/18-989-Red, paras 5-6; Decision on the Yekatom Defence First Request for Leave to Add an Item to its List of Evidence, 5 December 2023, ICC-01/14-01/18-2241, para. 4. *See also* the jurisprudence referenced therein.

Evidence.⁷ Further noting that the Items have meanwhile been disclosed and that the Prosecution does not oppose the Request, the Single Judge sees no impediment to adding the Items to the Ngaiissona Defence's List of Evidence. He therefore grants the Request.

**FOR THESE REASONS, THE SINGLE JUDGE HEREBY
GRANTS** the Request.

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



Judge Bertram Schmitt
Single Judge

Dated 24 January 2024

At The Hague, The Netherlands

⁷ Request, ICC-01/14-01/18-2297, paras 13-16. *See also* Decision on the Ngaiissona Defence Request for Leave to Add Fourteen Items to its List of Evidence, 11 January 2024, ICC-01/14-01/18-2292.