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No. **ICC-01/14-01/18**  
Date: **2 February 2024**

**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**

**Further Directions on the Conduct of the Proceedings  
(End of Defence Presentation of Evidence and Closure of Evidence)**

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 Articles 64(2), 67 and 69 of the Rome Statute (the ‘Statute’), Rules 140 and 141 of the Rules of Procedure and Evidence (the ‘Rules’) and Regulations 34, 36 and 38(1)(c) of the Regulations of the Court, issues these ‘Further Directions on the Conduct of the Proceedings (End of Defence Presentation of Evidence and Closure of Evidence)’.

1. On 25 August 2023, the Ngaïssona Defence informed that Mr Ngaïssona wants to exercise his right to make an unsworn statement pursuant to Article 67(1)(h) of the Statute (the ‘Unsworn Statement’), requested the Chamber to allot a minimum of five sessions, and left it to the Chamber’s discretion to decide on the appropriate moment and modalities of this Unsworn Statement.<sup>1</sup>
2. On 11 September 2023, the Office of the Prosecutor (the ‘Prosecution’) notified the participants of the completion of its ‘direct case’.<sup>2</sup>
3. On 17 September 2023, the Yekatom Defence and the Ngaïssona Defence (jointly, the ‘Defence’) filed, *inter alia*, their final lists of witnesses and evidence.<sup>3</sup> The first witnesses called by the Defence have testified.<sup>4</sup>
4. Therefore, the Chamber considers this to be an appropriate moment to issue further instructions on the timing of any further submission of evidence, the Unsworn Statement, as well as the filing of closing briefs and presentation of closing statements. The directions are given at this point in time to provide the participants with as much time as possible to organise and plan their workload.

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<sup>1</sup> Ngaïssona Defence notice of intent to present evidence pursuant to Trial Chamber V’s “Further Directions on the Conduct of the Proceedings” (ICC-01/14-01/18-1892), ICC-01/14-01/18-2055-Conf (with confidential Annex 1), paras 12-19.

<sup>2</sup> Prosecution’s Notice of the Close of its Case-in-Chief, ICC-01/14-01/18-2089.

<sup>3</sup> Yekatom Defence’s List of Witnesses and Evidence, ICC-01/14-01/18-2212-Conf (with confidential Annexes A-D); 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) (corrected version of Annex 1 notified on 1 December 2023).

<sup>4</sup> **D29-5015**: Transcripts of hearing, 11 to 13 December 2023, ICC-01/14-01/18-T-254 to T-256; **D29-5014**: Transcripts of hearing, 15 to 16 January 2024, ICC-01/14-01/18-T-257 to T-258; **D29-6036**: Transcripts of hearing, 17 to 23 January 2024, ICC-01/14-01/18-T-259 to T-262; **D29-6025**: Transcripts of hearing, 24 to 25 January 2024, ICC-01/14-01/18-T-263 to T-264.

5. At the outset, and while the Defence has not anticipated the filing of requests under Rule 68(2)(c) of the Rules, the Chamber hereby orders the Defence to submit any such requests no later than one week after the testimony of the last witness called by the Defence.
6. Further, and noting that the Initial Directions provide for the procedure to submit evidence in writing (bar table applications),<sup>5</sup> the Chamber hereby sets the final time limit for any requests by the Defence to submit evidence in writing as part of the Defence presentation of evidence at one week after the testimony of the last witness called by the Defence. However, the Defence is strongly encouraged to file any such requests on a rolling basis during its presentation of evidence. In addition, and in the interests of fairness and judicial economy, the Defence is directed to inform the Chamber and participants of the following details about any such prospective requests by 1 March 2024: (i) the expected number of applications; (ii) their subject-matter; (iii) their volume (for example, the number of pages, and/or duration in case of audio/visual material); and (iv) the anticipated timelines.
7. The Defence shall notify the conclusion of its presentation of evidence by way of formal notice to be filed in the case record. This notice must be filed promptly after the conclusion of the Defence presentation of evidence.<sup>6</sup>
8. As regards the Unsworn Statement, the Chamber is of the view that the most opportune time for hearing it is after the testimony of the last witness to be called by the Defence. The Unsworn Statement is to start immediately after the end of this testimony. This will also enable Mr Ngaïssona to use the time he considers necessary.
9. The closing briefs by the parties and participants, should they wish to file any, are to be filed eight weeks after the declaration of the closure of the submission of evidence in accordance with Rule 141(1) of the Rules.

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<sup>5</sup> Initial Directions on the Conduct of the Proceedings, 26 August 2020, ICC-01/14-01/18-631, paras 61-62.

<sup>6</sup> This notice may be conditional on the Chamber's resolution of any then pending requests for the submission of evidence.

10. In the view of the Chamber, the purpose of such written submissions is for the participants to provide a succinct summary of their views, positions and arguments on the confirmed charges and the evidence presented during trial. The Chamber considers that they are not meant to be a discussion between the participants, but rather an additional tool for the benefit of the Chamber. Accordingly, all closing briefs are to be filed on the same date.<sup>7</sup>
11. The Chamber orders that the Prosecution and Defence limit their closing briefs to 200 pages, and considers the statutory page limit of 120 pages to be sufficient for the Common Legal Representative of Former Child Soldiers (the ‘CLRV1’) and the Common Legal Representatives of Victims of Other Crimes (the ‘CLRV2’).
12. The Chamber further (i) reminds the participants of the requirements as set out in Regulation 36 of the Regulations of the Court; (ii) instructs the participants to rely, to the extent possible, on the most recent available versions of transcripts;<sup>8</sup> (iii) instructs the participants to simultaneously file public redacted versions of their briefs; and (iv) instructs the participants to use the following format when stating witness codes in their respective briefs: P-XXXX (for the Prosecution), D29-XXXX (for the Yekatom Defence), D30-XXXX (for the Ngaïssona Defence), V44-XXXX (for the CLRV2) and V45-XXXX (for the CLRV1).
13. The closing statements will be held two weeks after the filing of the closing briefs. Further details will be provided in due course.

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<sup>7</sup> See, for a similar approach, Trial Chamber I, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')*, Third Directions on the conduct of proceedings, 11 December 2023, ICC-02/05-01/20-1046, para. 12; Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Directions on Closing Briefs and Closing Statements, 13 April 2018, ICC-02/04-01/15-1226, para. 3; Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Decision on Prosecution’s Motion for Reconsideration of the Closing Submissions Directions, 15 January 2016, ICC-01/05-01/13-1552, para. 10.

<sup>8</sup> References to transcripts in the footnotes should comply with the following format: P-XXXX: T-XXX, p. XX, lines XX-XX (Conf [if applicable]). In case of apparent discrepancies between the English and the French transcripts, the relevant reference to both transcripts shall be provided. For example, P-XXXX: T-XXX [ENG], p. XX, lines XX-XX (Conf [if applicable]) and T-XXX [FR], p. XX, lines XX-XX.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**DIRECTS** the Defence to file any applications under Rule 68(2)(c) of the Rules within one week after the testimony of the last witness to be called by the Defence;

**DIRECTS** the Defence to file any applications to submit evidence in writing within one week after the testimony of the last witness to be called by the Defence;

**DIRECTS** the Defence to inform the Chamber and the participants in accordance with paragraph 6 above by 1 March 2024;

**DIRECTS** the Ngaïssona Defence to schedule the Unsworn Statement immediately after the end of the testimony of the last witness to be called by the Defence;

**INVITES** the filing of the closing briefs, if any, eight weeks after the declaration of the closure of the submission of evidence, and in accordance with paragraph 12 above;

**DECIDES** that the Prosecution and Defence have a 200-page limit for their closing briefs; and

**ORDERS** that the closing statements will be held two weeks after the filing of the closing briefs.

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



**Judge Bertram Schmitt**

**Presiding Judge**



**Judge Péter Kovács**



**Judge Chang-ho Chung**

Dated 2 February 2024

At The Hague, The Netherlands