



Original: English

**No. ICC-01/14-01/18
Date: 28 January 2019**

PRE-TRIAL CHAMBER II

**Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *THE PROSECUTOR V. ALFRED YEKATOM***

Public

Order seeking observations on the feasibility of joining the cases against Alfred Yekatom and Patrice-Edouard Ngaissona

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

The Office of the Prosecutor
Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor

Counsel for Alfred Yekatom
Stéphane Bourgon

Legal Representatives of Victims

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
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar
Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER II (the “Chamber”) of the International Criminal Court issues this order seeking observations on the feasibility of joining the cases against Alfred Yekatom and Patrice-Edouard Ngaïssona.

1. On 11 November 2018, the Chamber issued a warrant of arrest for Alfred Yekatom (“Yekatom”) for his alleged criminal responsibility pursuant to articles 25(3)(a), (b) and (c), as well as 28(a) of the Rome Statute (the “Statute”), for crimes against humanity and war crimes committed in various locations in the Central African Republic, between 5 December 2013 and August 2014.¹

2. On 7 December 2018, the Chamber issued a warrant of Arrest for Patrice-Edouard Ngaïssona (“Ngaïssona”) for his alleged criminal responsibility pursuant to article 25(3)(a) and (c) of the Statute for crimes against humanity and war crimes committed in various locations in the Central African Republic, between at least 5 December 2013 and at least December 2014.²

3. On 23 November 2018, Yekatom appeared before the Chamber and the confirmation hearing was scheduled to commence on Tuesday, 30 April 2019.³ On 25 January 2019, Ngaïssona appeared before the Chamber and the confirmation hearing was scheduled to commence on 18 June 2019.

4. The Chamber notes article 64(5) of the Statute, rule 136 (1) of the Rules of Procedure and Evidence (the “Rules”) and regulation 28(2) of the Regulations of the Court. Article 64(5) of the Statute provides that there may be joinder or severance in respect of charges against more than one accused upon notice to the parties.⁴ Rule 136 of the Rules provides that persons accused jointly shall be tried together. Therefore, the Chamber deems it appropriate to seek observations from the Prosecutor and the respective Defence teams on this matter.

¹ Pre-Trial Chamber II, Warrant of Arrest for Alfred Yekatom, 11 November 2018, ICC-01/14-01/18-1-Conf-Exp; a public redacted version was registered on 17 November 2018, ICC-01/14-01/18-1-Red.

² Pre-Trial Chamber II, Warrant of Arrest for Patrice-Edouard Ngaïssona, 7 December 2018, ICC-01/14-02/18-2-US-Exp; a public redacted version was registered on 13 December 2018, ICC-01/14-02/18-2-Red.

³ Pre-Trial Chamber II, Transcript of Hearing, ICC-01/14-01/18-T-1-ENG ET, p. 8, lines 20-25.

⁴ The Appeals Chamber confirmed that cases may be joined at the pre-trial stage, *see Appeals Chamber, Prosecutor v Germain Katanga and Mathieu Ngudjolo Chui*, Judgment on the Appeal Against the Decision on Joinder rendered on 10 May 2008 by the Pre-Trial Chamber in the German Katanga and Mathieu Ngudjolo Chui Cases, 9 June 2008, ICC-01/14-01/07-573, para. 9.

FOR THESE REASONS, THE CHAMBER HEREBY

- a) **ORDERS** the Prosecutor to provide observations, as set forth in paragraph 4 above, by no later than Monday, 4 February 2019.
- b) **ORDERS** the Defence of Yekatom and the Defence of Ngaissona to provide their respective observations and/or responses to the Prosecutor's observations by no later than Monday, 11 February 2019.

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



Judge Antoine Kesia-Mbe Mindua
Presiding Judge



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Monday, 28th January 2019

At The Hague, The Netherlands