

# **ANNEX A**

**Public**

**From:** Trial Chamber V Communications <TrialChamberVComms@icc-cpi.int>  
**Sent:** 16 February 2024 17:31  
**To:** D30 Ngaïssona Defence Team  
**Cc:** Chamber Decisions Communication; OTP CAR IIB; D29 Yekatom Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Office of the Director DJSS; Associate Legal Officer-Court Officer; VWS Legal  
**Subject:** Decision on the Ngaïssona Defence's requests for temporary transfer and cancellation of hearings on 19 and 20 February 2024

Dear Counsel,

The Chamber again wishes to express its sincere condolences to Mr Ngaïssona for his loss.

It takes note of the 'Ngaïssona Defence request for a 48-hour interim release on exceptional humanitarian grounds', ICC-01/14-01/18-2366-Conf (the 'Transfer Request'), and its subsequent clarifications that release is sought 'Monday and Tuesday next week [or] [i]f this proves impossible to put in place at such short notice, later next week would be acceptable' (see email from the Ngaïssona Defence, 16 February 2024, at 09:44), as well as the Prosecution's response thereto (see email from the Prosecution 16 February 2024, at 12:46) and the Registry's observations (see email from the Registry, 16 February 2024, at 13:11 and at 16:29). In the Registry's latter observations, the Registry confirmed to the Chamber that 'should Mr Ngaïssona remain under the ICC custody as proposed by the Registry, he will be able to transit through the Belgian territory without difficulty.'

It also notes the Ngaïssona Defence's request to cancel the hearings on 19 and 20 February 2024 on 'compassionate grounds' (see email from the Ngaïssona Defence, 15 February 2024, at 18:09) (the 'Cancellation Request').

The Chamber duly considered the abovementioned submissions and balanced the interests at stake.

As regards the Cancellation Request, the Chamber considers that Mr Ngaïssona's well-being prevails over any considerations regarding the expeditiousness of the proceedings in the present circumstances. Further noting that no objections were received, the Chamber grants the Cancellation Request.

As regards the Transfer Request, the Chamber acknowledges that Mr Ngaïssona's request for temporary release to participate in the funerary rites of his father constitutes an exceptional humanitarian circumstance (see also Pre-Trial Chamber II, The Prosecutor v. Jean-Pierre Bemba Gombo, Public redacted version of ICC-01/05-01/08-437-Conf Decision on the Defence's Urgent Request concerning Mr Jean-Pierre Bemba's Attendance of his Father's Funeral, 22 July 2009, ICC-01/05-01/08-437-Red (original version notified on 3 July 2009), para. 9; Trial Chamber III, The Prosecutor v. Jean-Pierre Bemba Gombo, Public redacted version of ICC-01/05-01/08-1099-Conf Decision on the Defence Request for Mr Jean-Pierre Bemba to Attend his Stepmother's Funeral, 12 January 2011, ICC-01/05-01/08-1099-Red (original version notified on 7 January 2011), para. 13).

Having balanced Mr Ngaïssona's right to family life against the security risks and risks to the integrity of the proceedings, and in light of the Registry's observations, the Chamber grants Mr Ngaïssona's temporary transfer to Paris, pursuant to Article 64, 68(1), 86-87(1)(a), (2), (3), (4) of the Statute and Rule 176 of the Rules, in order to participate in the funerary rites of his deceased father for a period that does not exceed 24 hours subject to the following conditions:

1. Mr Ngaïssona remains in the custody and control of the Court, with the assistance of the relevant national authorities, during his transfer from the detention centre to France and back.

2. The Registry will put all necessary measures in place to ensure that no security risks occur.
3. The Registry will ensure the necessary assistance of the Host State, Belgium and France.
4. The French police will escort Mr Ngaïssona and protect the venues he will visit at all times during his stay on French territory.
5. Mr Ngaïssona will be accompanied by the necessary security personnel of the Court and a representative of the Registry who is able to understand the languages spoken by Mr Ngaïssona in order to monitor his conversations at all times until his return to the Court's detention centre.
6. Mr Ngaïssona will only go to his family's residence, and in case his father's body is not at this location, go to the place where it will be located within the territory of France as detailed in Annex B of the request by the Ngaïssona Defence.
7. Mr Ngaïssona will only communicate with his relatives, persons necessary to the funeral arrangements and the persons guarding him. He and the members of his Defence team will not speak to the public or press.
8. Mr Ngaïssona will not discuss the case against him except with members of the Defence team currently representing him for the purposes of these proceedings.
9. Mr Ngaïssona will cover some of the costs incurred and the Registry is instructed to liaise with Mr Ngaïssona's Defence team in this regard.
10. Finally, the Chamber stresses again that this decision is subject to the implementation of the abovementioned conditions and trusts that, in implementing these conditions, the Registry will ensure that no security risks exist.

This decision is issued per email in light of the urgency of the Transfer Request. However, given the subject matter, the Chamber acknowledges the importance of putting it on the record as soon as possible and will do so in due course.

Kind regards, TCV