

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **22 October 2020**

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 ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Confidential

Yekatom Defence Response to the Prosecution's Page Extension Request

Source: Defence for Mr. Alfred Rombhot Yekatom

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

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**Unrepresented Applicants
(Participation / Reparation)**

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REGISTRY

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**Victims Participation and Reparations
Section**

1. Counsel representing Mr. Alfred Rombhot Yekatom (the "Defence") hereby responds to the *Request for the extension of page limits for the Prosecution's Trial Brief, Rule 68(2)(b) applications and two motions for non-standard redactions ("Request")*.¹ It does not oppose to the requested extensions with a few caveats to safeguard the fair and expeditious conduct of the proceedings.

PROCEDURAL BACKGROUND

2. On 16 July 2020, the Trial Chamber ordered the Prosecution to submit a Trial Brief by 9 November 2020,² namely 90 days prior to the commencement of trial on 9 February 2021.³ The Prosecution is also ordered to disclose all the materials falling under its disclosure obligations by 9 November 2020.⁴
3. On 19 October 2020, the Prosecution submits its *Request*.⁵ Later the same day, the Single Judge instructs the parties to submit any response by Thursday, 22 October 2020.⁶
4. On 20 October 2020, the Defence sought three points of clarification from the Prosecution concerning the scope and nature of the motions subject to the *Request*.⁷
5. On 21 October 2020, the Prosecution clarified as requested.⁸

APPLICABLE LAW

6. Regulation 38(1)(b), in its relevant part, provides that:

¹ [ICC-01/14-01/18-686-Conf](#).

² [ICC-01/14-01/18-589](#), para. 14.

³ [ICC-01/14-01/18-589](#), para. 24.

⁴ [ICC-01/14-01/18-589](#), para. 10.

⁵ [ICC-01/14-01/18-686-Conf](#).

⁶ Email decision on 19 October 2020.

⁷ Email from Yekatom Defence Legal Assistant to the Prosecution Senior Trial Attorney on 20 October 2020 at 16:37. The email can be made available to the Chamber upon instruction.

⁸ Email from the Prosecution Senior Trial Attorney to Yekatom Defence Legal Assistant on 21 October 2020 at 2:21. The email can be made available to the Chamber upon instruction.

Unless otherwise ordered by the Chamber, the page limit shall not exceed 120 pages for [a trial brief] and responses thereto, if any [...].

7. Regulation 37(2) provides that:

The Chamber may, at the request of a participant, extend the page limit in exceptional circumstances.

8. Regulation 35(2), in its relevant part, provides that:

The Chamber may extend [...] a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard.

SUBMISSIONS

A. Trial Brief

9. The Defence does not oppose the proposed extension of the Trial Brief to 250 pages. Nor does it seek the same extension for the response thereto, or for any Trial Brief it may submit. At this stage, it anticipates that the current limit of 60 pages suffices.⁹

B. Rule 68(2)(b) applications

10. The Defence does not oppose a page extension of the Rule 68(2)(b) applications to consolidate up to 10 witnesses per application, even though no specific number of pages is proposed by the Prosecution.
11. As an offset, the Defence requests that the time limit to respond to such applications be extended to 15 days, should the proposed extension be granted.¹⁰ The five extra days would allow for an adequate analysis of a consolidated application concerning up to 10 witnesses. Whilst it does not see the need for a page extension at this juncture, the Defence reserves the right to request so where appropriate.

⁹ Regulation 38(1)(b).

¹⁰ Regulation 35(2).

C. Rule 81(2) application(s) re CDR

12. The Defence does not oppose the proposed extension (or its alternative) of the Rule 81(2) application in respect of CDR to protect the Seleka investigation.
13. Nevertheless, the Defence doubts the necessity as well as the feasibility of the foreshadowed redaction altogether, ergo the purported benefit to the judicial economy of a page extension.¹¹ Whereas the Defence cannot meaningfully advise the Chamber in the abstract, any concrete arguments will be elaborated in the response to the forthcoming application(s).
14. The Defence appreciates the workload of the Prosecution in the upcoming weeks. Given the technical nature of the subject matter, the Defence foresees the utility of *inter partes* consultation in streamlining this particular application. It therefore invites the Prosecution to engage with the Defence during the preparation of its application(s) with a view to not use the maximum page limit, if granted.

D. Rule 81(2) application re witness-related material

15. The Defence does not oppose the proposed extension (or its alternative) of the Rule 81(2) application in respect of witness-related material to protect the Seleka investigation.
16. The Defence notes that the present *Request* and the forthcoming application are, and will be, made only three weeks prior to the disclosure deadline. Despite its concern about the tardiness of the request, the Defence is confident that the Chamber could accommodate the Prosecution's request while safeguarding the rights of Mr. Yekatom and maintaining the 9 November 2020 deadline.

CONFIDENTIALITY

¹¹ [ICC-01/14-01/18-686-Conf](#), para. 16.

17. This response is filed on a confidential basis corresponding to the classification of the *Request*. The Defence does not oppose to its reclassification as public.
18. Rather, the Defence contends that the *Request* should be reclassified as public. For an investigation of the events in the 2010s, the fact that telephone records are queried cannot be said to be so sensitive that its exposure could place the entire investigation in jeopardy,¹² especially considering that the same enquiry into the Anti-Balaka is already known to the public.¹³

RELIEF SOUGHT

19. In light of the above, the Defence respectfully requests the Trial Chamber to:
- EXTEND** the time limit to respond to a consolidated Rule 68(2)(b) application to 15 days.

RESPECTFULLY SUBMITTED ON THIS 22ND DAY OF OCTOBER 2020



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Mr. Thomas Hannis
Associate Counsel for Mr. Yekatom

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¹² [ICC-01/14-01/18-686-Conf](#), para. 5.

¹³ See, e.g., [ICC-01/14-01/18-335-Red2](#).