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**No. ICC-01/14-01/18
Date: 9 June 2023**

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 CLRV Joint Request for Extension of Time to File a Request for
Leave to Present 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 Regulation 35 of the Regulations of the Court (the ‘Regulations’), issues this ‘Decision on the CLRV Joint Request for Extension of Time to File a Request for Leave to Present Evidence’.

1. On 29 May 2023, the Chamber issued its further directions on the conduct of the proceedings (the ‘Further Directions’).¹ Therein, the Chamber, *inter alia*, set 7 July 2023 as deadline for the Common Legal Representative of the Former Child Soldiers and the Common Legal Representatives of Victims of Other Crimes (together, the ‘CLRV’) to file any request for leave to present evidence, including which witnesses they request leave to call and a summary of their anticipated testimony.² The CLRV were also directed to disclose any evidence they intend to rely on during their presentation of evidence, should leave to do so be granted, by 18 August 2023.³
2. On 1 June 2023, the CLRV filed a request for extension of time (the ‘Request’).⁴ They request an additional nine weeks, until 11 September 2023, to file their respective requests for leave to present evidence, final list of witnesses and summary of their expected testimony, and to disclose all relevant evidence.⁵
3. The CLRV argue that good cause in terms of Regulation 35(2) of the Regulations has been shown as (i) the requested extension is in accordance with the applicable timelines and practice in other cases before the Court, and will not unduly delay the proceedings;⁶ (ii) the extension is sought due to the effect of external circumstances on the CLRV’s field operations, ‘beyond their control and despite their best efforts’, including travel restrictions due to the security situation and

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

² Further Directions, ICC-01/14-01/18-1892, para. 11.

³ Further Directions, ICC-01/14-01/18-1892, para. 12.

⁴ Joint Request for extension of time to file a request for leave to present evidence, ICC-01/14-01/18-1905-Conf (public redacted version notified on 6 June 2023, ICC-01/14-01/18-1905-Red).

⁵ Request, ICC-01/14-01/18-1905-Red, paras 2, 7, 20.

⁶ Request, ICC-01/14-01/18-1905-Red, paras 3, 9-12.

limited access to places where victims reside;⁷ and (iii) the extension would allow the CLRV to conclude relevant consultations with their clients in the field and to properly prepare their requests.⁸ The CLRV state that they will be able to provide a preliminary list of witnesses by 7 July 2023.⁹

4. On 8 June 2023, the Yekatom Defence responded to the Request.¹⁰ The Yekatom Defence defers to the Chamber's discretion, but asks the Chamber, should the Request be granted, to amend the schedule set forth in the Further Directions, 'so as to ensure that the presentation of evidence by the CLRVs, if any, would be subject to the same extension'.¹¹
5. Pursuant to Regulation 35(2) of the Regulations, a chamber may extend a time limit at the request of a participant 'if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard'.
6. The Single Judge is of the view that the question of time limits set by other chambers in other cases, under different circumstances, or the question of 'tak[ing] into account the period of summer recess'¹² does not amount to a showing of good cause which would justify an extension of time in the present case.
7. In this regard, the Single Judge notes the CLRV's submission that the requested extension would not unduly delay the proceedings as any presentation of evidence by the CLRV would take place after the testimony of the witness to be called by the Chamber.¹³ The Single Judge fails to see how the CLRV reached this conclusion. The Chamber has not indicated that the witness to be called by the Chamber would be heard *before* the presentation of evidence by the CLRV, should leave to do so be granted, rather than after. Granting the Request would therefore have real implications for the expeditiousness of the proceedings, such

⁷ Request, ICC-01/14-01/18-1905-Red, paras 3, 13-18.

⁸ Request, ICC-01/14-01/18-1905-Red, para. 3.

⁹ Request, ICC-01/14-01/18-1905-Red, para. 20.

¹⁰ Response to the Joint Request for extension of time to file a request for leave to present evidence, ICC-01/14-01/18-1905-Conf, 01 June 2023, ICC-01/14-01/18-1912-Conf (the 'Yekatom Defence Response') (public redacted version notified the same day, ICC-01/14-01/18-1912-Red).

¹¹ Yekatom Defence Response, ICC-01/14-01/18-1912-Red, paras 2-3, 24.

¹² Request, ICC-01/14-01/18-1905-Red, para. 19.

¹³ Request, ICC-01/14-01/18-1905-Red, para. 12.

as potentially requiring delays in the start of any presentation of evidence by the Defence or reducing the relevant preparation time.

8. Moreover, the time limits included in the Further Directions were set by the Chamber after careful consideration of all circumstances of the case, particularly bearing in mind the fact that trial proceedings have been ongoing for over two years. The Single Judge emphasises in this regard that the Chamber must ensure that the trial is not only fair, but also expeditious.
9. The Single Judge does not consider that the ‘external factors’ mentioned by the CLRV amount to ‘good cause’ in the sense of Regulation 35(2) of the Regulations. In this context, the Single Judge recalls that in order to demonstrate good cause, the party or participant seeking an extension is required to ‘objectively provide justification’ for its inability to comply with its obligations.¹⁴
10. The Single Judge notes in this regard that the CLRV point to victims having expressed concerns for their security and safety when being informed of potential in-person meetings ‘in order to prepare for the presentation of evidence’,¹⁵ and make general reference to field missions being ‘necessary to meaningfully prepare for the presentation of evidence’.¹⁶ At the same time, and bearing in mind the considerations outlined above, the Single Judge trusts that the CLRV will be in a position to balance any stated need for potentially further consulting their clients in person to finalise their requests, with the need to comply with the time limits as initially set by the Chamber. Importantly in this regard, the CLRV indicate that they ‘have already started preparing to file their requests to present evidence’,¹⁷ and seem to already be aware of the nature and extent of any requests they intend to file.¹⁸

¹⁴ See Decision on the Prosecution Request for Extension of Time Limit to Disclose certain Transcripts and Translations, 18 November 2020, ICC-01/14-01/18-734, para. 16, *with reference to Appeals Chamber, The Prosecutor v. Thomas Lubanga Dyilo*, Reasons for the “Decision of the Appeals Chamber on the request of counsel to Mr. Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007” issued on 16 February 2007, 21 February 2007, ICC-01/04-01/06-834 (OA8), para. 7.

¹⁵ Request, ICC-01/14-01/18-1905-Red, para. 14.

¹⁶ Request, ICC-01/14-01/18-1905-Red, para. 17.

¹⁷ Request, ICC-01/14-01/18-1905-Red, para. 19.

¹⁸ See Request, ICC-01/14-01/18-1905-Red, para. 12 (indicating that ‘the amount of the material to be disclosed will be limited and likely in the range of a few dozens of pages’).

11. In light of the above, the Single Judge is of the view that no good cause has been shown pursuant to Regulation 35 of the Regulations and therefore rejects the Request.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

REJECTS the Request.

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



Judge Bertram Schmitt

Single Judge

Dated 9 June 2023

At The Hague, The Netherlands