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**Cour
Pénale
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**International
Criminal
Court**

Original: English

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

Date: 27 July 2023

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 *PROSECUTOR v. ALFRED YEKATOM AND
PATRICE-EDOUARD NGAÏSSONA***

Confidential

**Prosecution's Response to the Ngaissona Defence's Request for reconsideration of
the "Further Directions on the Conduct of the Proceedings (Presentation of
Evidence by the CLRV and the Defence)" (ICC-01/14-01/18-1892)**

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") defers to the discretion of Trial Chamber V ("Chamber") in the disposition of the Ngaissona Defence's Request for reconsideration of the 29 May 2023 "Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLRV and the Defence)"¹ ("Request").²

2. However, should the Chamber postpone the 17 November 2023 deadline by four weeks, it should similarly postpone the 11 December 2023 deadline by six weeks, as requested. A lesser amount of time *between* these two deadlines would not provide the Prosecution with sufficient time to adequately prepare for the testimonies of the first Defence witnesses in the case.

II. CONFIDENTIALITY

3. Pursuant to regulation 23*bis*(2) of the Regulations of the Court ("RoC"), this document is filed as "Confidential", as it responds to a filing of the same designation. The Prosecution has no objection to its reclassification as "Public."

III. SUBMISSIONS

4. The Prosecution takes note of the Ngaissona Defence's Request and defers to the discretion of the Chamber in deciding on the reconsideration of (i) the 17 November 2023 deadline directing the Defence to submit its lists of witnesses and evidence, provide witness statements or summaries, file any applications pursuant to rule 68(2) and (3) of the Rules of Procedure and Evidence ("Rules"), and complete disclosure of all items it intends to use ("17 November deadline");³ and (ii) the 11 December 2023 deadline to call the first Defence witness ("11 December deadline").⁴ The Defence

¹ ICC-01/14-01/18-1892.

² ICC-01/14-01/18-1997-Conf-Red.

³ ICC-01/14-01/18-1892, para. 21.

⁴ ICC-01/14-01/18-1892, para. 23.

requests the postponement of the 17 November deadline by four weeks, to 15 December 2023, and the 11 December deadline by six weeks, to 22 January 2024.

5. The current schedule foresees a three week period between, *inter alia*, (i) the submission of the Defence lists of witnesses and evidence, witness statements or summaries, and the disclosure of all items the Defence intends to use during its evidence presentation; and (ii) the testimony of the first Defence witness, initially scheduled for 11 December 2023. Accordingly, after receiving the relevant material from the Defence, the Prosecution has these three weeks to prepare for the Defence witnesses to be called during the week before the Court's winter recess⁵ and, at the very least, a further three weeks to prepare for Defence witnesses scheduled to testify thereafter.

6. However, should the postponement of the 17 November deadline be granted, the Prosecution will receive the Defence's lists of witnesses and evidence, witness statements or summaries, applications pursuant to rule 68(2) and (3) of the Rules, and disclosure of all items intended to be used just the day before Court winter recess. Should the Defence witnesses be called immediately after the winter recess, the Prosecution will potentially have only three weeks to prepare for the testimonies of multiple Defence witnesses, as the evidentiary block will likely extend past one week of hearings. For these reasons, if the Chamber postpones the 17 November deadline by four weeks, it should also postpone the 11 December deadline by six weeks, as this would allow the Prosecution at least five weeks after receipt of the relevant material from the Defence, to prepare for the testimonies of the first Defence witnesses.

7. A lesser amount of time between the two deadlines would not provide the Prosecution with sufficient time to adequately prepare for the testimonies of the first

⁵ The week of 11-15 December 2023.

Defence witnesses, or conduct any necessary investigations,⁶ in particular taking into consideration reduced working capacity during the winter recess. Although certain preparations may be carried out by the Prosecution already upon the receipt of the Defence's preliminary list of witnesses on 25 August 2023, these preparations will necessarily be limited because witnesses can be added and/or removed from the preliminary list and their statements or detailed summaries will not be disclosed at the same time, thus limiting the amount of relevant information available to the Prosecution.

IV CONCLUSION

8. For the foregoing reasons, the Prosecution defers to the discretion of the Chamber in the disposition of the Request. However, should the request to postpone the 17 November deadline be granted, the 11 December deadline should also be postponed by at least six weeks, as requested by the Ngaissona Defence.



Karim A. A. Khan KC, Prosecutor

Dated this 27th day of July 2023
At The Hague, The Netherlands

⁶ In relation to rule 79(1) and (2) notice and disclosure, *see e.g.*, ICC-01/14-01/18-818-Conf; ICC-01/14-01/18-851-Conf and Annex; ICC-01/14-01/18-911, paras. 8, 9, 17; ICC-01/14-01/18-1159-Conf, para. 11; *see also* ICC-01/14-01/18-473-Red, para. 33; and ICC-01/14-01/18-T-042-CONF-ENG ET, p. 17, ln. 6-24.