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**No. ICC-01/14-01/18
Date: 22 September 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 Prosecution's Requests for Extension of Time for Public
Redacted Versions of Prior Recorded Testimonies and for Publication of
Summaries**

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 Prosecution’s Requests for Extension of Time for Public Redacted Versions of Prior Recorded Testimonies and for Publication of Summaries’.

I. Procedural history and submissions

1. On 3 June 2021, the Chamber, for the purposes of publishing prior recorded testimonies introduced in the case, instructed the calling participants to propose public redacted versions of each prior recorded testimony, or indicate that it may be made public in its entirety, within 21 days of fulfilling the requirements for introduction under Rule 68 of the Rules of Procedure and Evidence (the ‘Rules’).¹
2. On 20 August 2021, the Chamber amended the deadline for the calling participant to propose redacted versions to 30 days after the last day of the last witness’s testimony.²
3. On 29 August 2023, the last witness of the Prosecution’s presentation of evidence completed his testimony.
4. On 11 September 2023, the Prosecution requested an extension of time until 15 November 2023 to propose the public redacted versions of prior recorded testimonies introduced under Rule 68(2) of the Rules (the ‘Request for Extension of Time’).³ The Prosecution submits that good cause exists due to the large number and volume of prior recorded testimonies, logistical constraints in respect of 17 witnesses whose prior recorded testimonies still need to be certified, and

¹ See email from the Chamber, 3 June 2021, at 15:58.

² See email from the Chamber, 20 August 2021, at 10:16.

³ Prosecution’s Request for Variation of Time Limit pursuant to Regulation 35 for the Proposal of Public Redacted Versions of Prior Recorded Testimony Introduced under Rule 68(2), ICC-01/14-01/18-2090, paras 1, 28.

resource constraints to proceed with proposing public redacted versions.⁴ It further contends that no prejudice would be caused to the defence.⁵

5. On 13 September 2023, the Prosecution requested permission to publish redacted summaries, instead of the redacted full interview transcripts, of the prior recorded testimonies of witnesses P-0446, P-0876, P-0889, P-0965, P-1042 and P-1077 (the ‘Request to Publish Summaries’).⁶ The Prosecution submits that (i) the application of redactions would diminish the comprehensibility of interview transcripts, which are contemporaneous and not thematically organised, and may defeat the primary purpose of informing the public; (ii) the redaction of 3,700 pages of interview transcripts and their review by other participants would be exceedingly time-consuming; and (iii) the use of redacted summaries of the interview transcripts would be sufficient to fully address the public’s interests in the proceedings.⁷
6. According to the Prosecution, the Ngaïssona Defence agrees with the publication of summaries, while the Yekatom Defence (together, the ‘Defence’) does not due to the possibility of incompleteness and inaccuracy of these summaries.⁸

II. Analysis

A. The Request for Extension of Time

7. 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’.
8. In light of the arguments advanced by the Prosecution,⁹ the Single Judge considers that good cause has been shown to extend the applicable time limit for providing public redacted versions. The Single Judge therefore grants an extension of time until 15 November 2023.

⁴ Request for Extension of Time, ICC-01/14-01/18-2090, paras 16-26.

⁵ Request for Extension of Time, ICC-01/14-01/18-2090, para. 27.

⁶ See email from the Prosecution, 13 September 2023, at 20:08.

⁷ See email from the Prosecution, 13 September 2023, at 20:08.

⁸ See email from the Prosecution, 13 September 2023, at 20:08.

⁹ See email from the Prosecution, 13 September 2023, at 20:08.

9. Further, bearing in mind the need for the other participants to provide their views on the proposed redactions in relation to all prior recorded testimonies introduced under Rule 68 of the Rules, and the expected time demands of the presentation of evidence by the Defence,¹⁰ the Single Judge considers that a final deadline of 29 March 2024 is adequate and sufficient for the participants to provide such views. The Single Judge expects the participants to provide their views on a rolling basis up to the final deadline to the extent possible.

B. The Request to Publish Summaries

10. The Single Judge recalls that the presentation of evidence shall be held in public to the extent possible.¹¹ This principle also applies to testimony which was previously obtained and introduced under Rule 68 of the Rules.¹² He further notes that the principle of public hearings, as enshrined in Articles 64(7) and 67(1) of the Statute, is not absolute.
11. The Single Judge observes that the nature of redacted versions of interview transcripts makes them difficult to read and understand. Summaries, in contrast, would be more accessible for the public, even with redactions. In this sense, the Single Judge is of the view that publishing summaries would promote the purpose of the principle of public hearings.
12. The Single Judge therefore grants the Prosecution's request to propose redacted versions of the summaries of the interview transcripts that concern witnesses P-0446, P-0876, P-0889, P-0965, P-1042 and P-1077. In light of the submission of the Yekatom Defence, the Chamber directs the parties to exchange *inter partes* on the content and extent of the summaries of these interviews, including redactions thereof, as proposed by the Prosecution. The parties are to seize the Chamber only in case of dispute.

¹⁰ See email from the Ngaïssona Defence, 26 July 2023, at 15:09.

¹¹ Initial Directions on the Conduct of the Proceedings, 26 August 2020, ICC-01/14-01/18-631, para. 45.

¹² See email from the Chamber, 3 June 2021, at 15:58.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request for Extension of Time;

EXTENDS the deadline for the Prosecution to propose public redacted versions of prior recorded testimonies introduced under Rule 68(2) of the Rules until 15 November 2023;

ORDERS the participants to provide their views on the redactions to prior recorded testimonies and summaries suggested by the Prosecution on a rolling basis and no later than 29 March 2024;

GRANTS the Request to Publish Summaries; and

ORDERS the Prosecution to propose public redacted versions of the summaries of the interview transcripts that concern witnesses P-0446, P-0876, P-0889, P-0965, P-1042 and P-1077.

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

A handwritten signature in dark ink, appearing to read 'Bertram Schmitt', is written over a horizontal line.

Judge Bertram Schmitt
Single Judge

Dated 22 September 2023

At The Hague, The Netherlands