

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: **28 November 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 Request for Variation of Time Limit pursuant to Regulation 35 to
respond to the current and prospective Defence's Requests for the Formal
Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b) and Rule 68 (3)**

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") seeks a one week extension of time under Regulation 35 of the Regulations of the Court ("RoC") to respond to both the current¹ and prospective² Defence's Requests for the formal submission of prior recorded testimonies ("Defence's Requests") pursuant to Rule 68(2)(b) and Rule 68(3) of the Rules of Procedure and Evidence ("Rules"). There is good cause to grant the requested extension. The 10-day deadline for responding to the Defence's Requests would not afford the Prosecution a meaningful opportunity to respond comprehensively to the requests due to their volume and complexity. In addition, as the requested extension is short, granting it would cause no appreciable prejudice.

II. CONFIDENTIALITY

2. Pursuant to regulation 23bis(2) of the RoC, this document is classified as "*Confidential*" because it responds to a filing of the same designation. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

a. Good cause exists

3. Under regulation 35(2) of the RoC, a Chamber may extend a time limit where good cause is shown.³ In the current instance, the 38 witnesses for whom the two Defence teams intend to submit prior recorded testimony — 32 witnesses proposed under rule 68(2) and six witnesses under rule 68(3)⁴ — the volume of these testimonies, as well as the Prosecution's ongoing preparations for the Defence cases,

¹ ICC-01/14-01/18-2213-Conf, and ICC-01/14-01/18-2214-Conf.

² ICC-01/14-01/18-2215, para. 2. *See also*, email from the Chamber sent on 17 November 2023 at 15.56, titled "Decision on Yekatom Defence Request for Extension of Time to File a Rule 68(2) Request for D29-5016".

³ ICC-01/04-01/06-834, para. 7.

⁴ ICC-01/14-01/18-2215-Conf-Anx1 (noting that eight witnesses will be called under Rule 68(2)(b) and five witnesses under Rule 68(3)). *See also*, ICC-01/14-01/18-2212-Conf, para. 5 (noting that 24 witnesses will be called under Rule 68(2) and one witness called pursuant Rule 68(3)).

including in anticipation of the examination of witnesses in the upcoming evidentiary blocks, all justify the modest extension requested.

4. Furthermore, since the Prosecution has not yet acquired the previously recorded testimonies of several witnesses,⁵ it cannot prepare responses to the Defence's prospective Requests in advance.

b. There is no prejudice to the Defence

5. In the circumstances, granting the requested extension would cause no prejudice. A one-week extension to submit responses to the current and prospective Defence's Requests is reasonable, and will allow the Prosecution sufficient time to thoroughly present its arguments and assist the Chamber in reaching its determination. This extension will not impede the expeditiousness of the proceedings, particularly given that the current deadlines fall just before the judicial recess.

⁵ ICC-01/14-01/18-2181. *See also*, email from the Chamber sent on 22 November 2023 at 11.16, titled “Clarifications regarding Decision on Yekatom Defence Request for Extension of Time to File a Rule 68(2) Request for D29-5016”.

IV. RELIEF SOUGHT

6. For the reasons set out above, the Prosecution requests that the Chamber grants the extension of one week to respond to the current and prospective Defence's Requests.



Karim A. A. Khan KC, Prosecutor

Dated this 28th day of November 2023
At The Hague, The Netherlands