

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 12 August 2024

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung
Judge Beti Hohler, Alternate Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public

Prosecution's Response to Request for Leave to Reply to "Prosecution's Response to the 'Yekatom Defence Request for Partial Reconsideration of 'Decision on the Sentencing Procedure and Amended Directions on the Conduct of the Proceedings (ICC-01/14-01/18-2600)' (ICC-01/14-01/18-2614)"

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. Trial Chamber V's ("Chamber") should reject the Yekatom Defence's request for leave to reply to the Prosecution's response to its application for reconsideration of the 18 July 2024 Decision on the Sentencing Procedure and Amended Directions on the Conduct of the Proceedings.¹ The requested reply is unnecessary, and would not assist the Chamber's resolution of the issues before it.²

II. SUBMISSIONS

2. As the Appeals Chamber has noted in conformity with the express language of Regulation 24 (5) of the Regulations of the Court, "participants may reply to a response only with the leave of the relevant chamber."³ Thus, a decision of whether to grant leave is discretionary in nature.⁴ In the exercise of that discretion, Chambers normatively consider several factors on a case by case basis, principle among these is whether a reply is 'necessary' or would assist the Chamber in its determination of the matter before it. The Request fails to meet this threshold in respect of the two proposed issues.⁵

3. A reply on either issue would not assist the Chamber because (a) it is well-disposed to determine the issue raised in the underlying Defence request – *i.e.*, whether to reconsider its own decision to dispense with a bifurcated sentencing procedure; (b) the underlying 18 July 2024 Decision⁶ is in accord with the Court's appellate jurisprudence to which it expressly refers – and which the Defence does not contest; and (c) the Chamber has more than sufficient information before it to determine the narrow question of whether and to what extent it may reconsider its 18 July 2024

¹ ICC-01/14-01/18-2619 ("Request").

² The Prosecution further observes that the Defence has impermissibly advanced substantive submissions on the matters it proposes to address in a prospective reply *prior* to obtaining the Chamber's leave therefor.

³ ICC-01/05-01/13-2275-Red, para. 54, 70.

⁴ ICC-01/14-01/18-799, para. 8; *see* ICC-01/05-01/13-2275-Red, para. 54, 70; *see also* ICC-01/04-02/06-2530, para. 7.

⁵ ICC-01/14-01/18-2619, para. 3.

⁶ ICC-01/14-01/18-2600.

Decision. What is apparent in the Request, is that the Defence rather seeks to re-litigate the merits of that Decision, as opposed to narrowly address the merits of its reconsideration request.⁷

4. While the Request contends that the Prosecution's Response raising the possibility of the Chamber rendering an interim verdict could not be anticipated, it should be noted that the Prosecution's Response does not propose that the Chamber implement such a procedure,⁸ but merely notes that it is an avenue open to the Chamber in the exercise of its discretion to accommodate the various interests. Insofar as the Prosecution Response did not affirmatively seek such relief, there is no need for a reply. Similarly, to the extent that the Defence asserts that the Prosecution's representation of the underlying request for reconsideration is incorrect,⁹ the Chamber, as a highly experienced bench, is perfectly capable of understanding the underlying reconsideration request and Prosecution response thereto.

5. In sum, the Defence has not shown that leave to reply is warranted to address any issue before the Chamber.

⁷ See ICC-01/14-01/18-2619, para. 6.

⁸ See ICC-01/14-01/18-2619, para. 6.

⁹ ICC-01/14-01/18-2619, paras. 2, 3.

III. REQUESTED RELIEF

6. For the above reasons, the Prosecution respectfully requests that the Request be rejected.



Karim A. A. Khan KC, Prosecutor

Dated this 12th day of August 2024
At The Hague, The Netherlands