

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **21 November 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 *THE PROSECUTOR v.*
*ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

Public Redacted Version of the 'Yekatom Defence Request for Variation of Time Limit pursuant to Regulation 35 to Present Additional Evidence for Potential Sentencing', 4 September 2024, ICC-01/14-01/18-2671-Conf

Source: Defence for Mr. Alfred Rombhot Yekatom

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

The Office of the Prosecutor

Mr Karim Asad Ahmad Khan
Mr Mame Mandiaye Niang
Mr Kweku Vanderpuye

Counsel for Mr. Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé
Ms Sarah Bafadhel

Counsel for Mr. Ngaïssona

Mr Geert-Jan Alexander Knoops
Ms Marie-Hélène Proulx
Ms Lauriane Vandeler

Legal Representatives of Victims

Mr Dmytro Suprun

Legal Representatives of Applicants

Mr Abdou Dangabo Moussa
Ms Elisabeth Rabesandratana
Mr Yaré Fall
Ms Marie-Edith Douzima-Lawson
Ms Paolina Massidda

Unrepresented Victims

**Unrepresented Applicants
(Participation / Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**
Ms Marie O'Leary

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

INTRODUCTION

1. The Defence for Mr Alfred Rombhot Yekatom ("Defence") respectfully requests an extension of time under regulation 35 of the Regulations of the Court ("RoC") to file additional statements, of no more than ten witnesses, relevant for sentencing by 15 October 2024. As set out below, the Defence believes that good cause exists and that the extension would cause no appreciable prejudice to the Prosecution.
2. The Defence clarifies that this Request is in addition to the statements collected for sentencing purposes, which are to be submitted by 6 September 2024.

PROCEDURAL BACKGROUND

3. On 18 July 2024, Trial Chamber V ("Chamber") issued its "Decision on the Sentencing Procedure and Amended Directions on the Conduct of the Proceedings" deciding to render any potential decision on sentencing pursuant to Article 76 of the Statute simultaneously with its judgement under Article 74 and setting a calendar for sentencing ("Sentencing Decision").¹ *Inter alia*, the Chamber set the deadline for participants to file any requests to present additional evidence for potential sentencing by 6 September 2024.²

APPLICABLE LAW

4. Regulation 35 of the Regulations of the Court:

1. Applications to extend or reduce any time limit as prescribed in these Regulations or as ordered by the Chamber shall be made in writing or orally to the Chamber seized of the matter setting out the grounds on which the variation is sought.

2. The Chamber may extend or reduce a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard. After the lapse of a time limit, an extension of time may only be granted if the participant

¹ ICC-01/14-01/18-2600.

² ICC-01/14-01/18-2600, para. 5.

seeking the extension can demonstrate that he or she was unable to file the application within the time limit for reasons outside his or her control.

SUBMISSIONS

5. Upon receiving the Trial Chamber's Sentencing Decision, the Defence immediately sought to obtain instructions from Mr. Yekatom as well as review the pool of witnesses previously met and internal notes, to identify those who had provided information pertinent to Rule 145 of the Rules of Procedure and Evidence ('Rule'). This process was time-consuming and could only be conducted by one team member, as the other members were either on leave due to the judicial recess or engaged in fulfilling other Chamber deadlines.
6. During the first week of August 2024, several missions were organized after identifying a pool of witnesses to meet. These included missions to [REDACTED]. A small team was dispatched to conduct these missions while simultaneously attempting to reach out to other witnesses located in France, Italy, Cameroun and Central Africa and to arrange additional meetings.
7. Because of logistics and/or lack of availability of some witnesses, the Defence could not meet with all the individuals identified as relevant for potential sentencing. However, necessary steps have already been taken to meet them which constitutes good cause for an extension of deadline up to 15 October (A), the Defence intending to communicate the Statements on a rolling basis until this date which would not cause any prejudice to the Prosecution (B).

A. An extension of the deadline is substantiated by good cause

i) Witnesses who require special authorization to meet

8. Despite the mission in Bangui from [REDACTED], several other witnesses remain unreachable. One such witness, a [REDACTED], is now stationed in a remote area, hundreds of kilometres from Bangui. After contacting him [REDACTED], the Defence was informed that government authorization was

required for him to travel to Bangui. The Defence drafted a request for assistance, which was forwarded to the [REDACTED] via the Counsel Support Section (CSS). A *note verbale* was sent by the Registry Legal Office on 15 August 2024. To date, the Defence is still awaiting a response from the CAR government. The witness has indicated that he cannot leave his post before September, as he is currently the only officer in charge while his colleague is on leave.

9. Additionally, the Defence has identified two more individuals located in Bangui who are part of the military and [REDACTED]. Requests for assistance were sent by the Defence on [REDACTED]. The Defence is awaiting responses from the CAR government. Given that the Defence has not received any updates through CSS and their focal point in Bangui it has now become apparent that it is impossible that these individuals can be met before the 6 September deadline. Therefore, good cause exists to extend the deadline in relation to these two individuals.

ii) Yekatom's Muslim wife in Douala, Cameroon and members of her family

10. The Defence has also reached out to the mother of one of Mr Yekatom's daughters, who resides in Cameroon. The Defence would also meet with two of her siblings who had interactions with Mr Yekatom. Given that Cameroon is not a State Party, the Defence initiated correspondence with CSS on 12 August 2024, requesting assistance to reach out to the Cameroonian authorities. CSS responded on 20 August, indicating that [REDACTED]. Subsequently, and following various correspondence exchanges, CSS has since indicated that the earliest date for the mission to Cameroon is 23 September 2024. All contacts have been made with the potential witnesses to make sure that they are available to meet at this time. CSS is now organising interpretation assistance and has already established contact with the Cameroonian authorities. Upon completion of the mission, the Defence will swiftly submit the collected

statements. Therefore, good cause exists to extend the deadline to allow the Defence to meet these witnesses in Cameroun.

iii) Witnesses of Mr. Yekatom's implication in social cohesion

11. Several other witnesses were identified and contacted by the Defence to discuss Mr Yekatom's involvement in social cohesion during and after the charged events. One witness, who held an official position during Mr Yekatom's mandate at the National Assembly, has been contacted but due to a serious illness could not immediately respond to the meeting request with the Defence in time for the 6 September 2024. The potential witness is presently in recovery and has agreed to a meeting in Paris. However, due to the logistics associated with mission plan requests, the meeting cannot be scheduled before the second half of September. Again, upon collection of the statement and associated material, if any, the Defence will swiftly disclose the material.
12. Other witnesses in France and the Central African Republic, who are either individuals with official functions or persons of Muslim faith involved in various initiatives for social cohesion in which Mr. Yekatom participated, have also been contacted and have agreed to meet with the Defence. However, due to work or personal obligations, it has not been possible to organize these meetings and obtain their statements before the 6 September deadline. There is good cause to extend the deadline to allow the Defence to meet with these witnesses and gather the necessary statements regarding this important aspect of Mr. Yekatom's behavior and actions, which are relevant for consideration during sentencing, if required.

B. An extension of the deadline would not occasion any prejudice to the Prosecution

13. In light of the above, the Defence respectfully submits that good cause has been shown to extend the 6 September 2024 deadline to submit a request for

additional evidence for sentencing, specifically regarding the witnesses mentioned above.

14. The Defence requests an extension up to 15 October as it is a reasonable date to allow the different missions and meetings to take place. In the meantime, the Defence will endeavour to communicate the statements collected on an ongoing basis and will file the request before this deadline if it appears that the investigations are completed before the date. In any case, the Prosecution will not suffer from any prejudice: first, the content of the forthcoming statements relate to Mr Yekatom's good character and does not require complex analysis, second, the deadline on 15 October gives the Prosecution sufficient time to familiarize with the content of the testimonies ahead of the filing of the submissions on sentencing scheduled for 13 December.

15. Further, the Defence recalls that the Prosecution previously noted that the Sentencing Decision did not preclude the Defence from seeking different remedies, including extensions of time, as may be appropriate in the circumstances.³

CONCLUSION

16. Despite its best efforts to meet the deadline of 6 September, the Defence has faced delays that could not be overcome and were out of its control. Considering that good cause has been shown to allow an extension of the deadline to submit additional evidence for sentencing purposes and that this extension would not cause any prejudice to the Prosecution, it is requested that the Trial Chamber grants the request for extension until 15 October 2024.

17. The Defence files this request at this stage following various efforts to minimize the number of witnesses requiring an extension and ensuring that the request

³ ICC-01/14-01/18-2610, para. 19.

is limited to the statements deemed strictly necessary for the purposes of sentencing. As such, the Defence has sought to meet with as many of the listed witnesses as possible up until the very last minute. Indeed, the Chamber will note in the upcoming filing, due on 6 September, that some statements were signed as late as 3 September, and team members only returned from the Democratic Republic of Congo to the Netherlands two days ago.

CONFIDENTIALITY

18. The request is filed on a confidential basis due to the references to confidential investigations. A public redacted version will be filed in due course.

RELIEF SOUGHT

19. In light of the above, the Defence respectfully requests Trial Chamber V to vary the time limit for the Defence to file additional statements, of no more than ten witnesses, relevant for sentencing by 15 October 2024.

RESPECTFULLY SUBMITTED ON THIS 21st DAY OF NOVEMBER 2024



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands