

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No: ICC-01/14-01/18

Date: 8 August 2019

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
THE PROSECUTOR *v.* ALFRED ROMBHOT YEKATOM
AND PATRICE-EDOUARD NGAÏSSONA**

Confidential

**Joint Defence Response to Prosecution "Request for the Extension of Page Limits
for the Prosecution's Document Containing the Charges" (ICC-01/14-01/18-265-
Conf)**

Source: Defence of Alfred Rombhot Yekatom and Defence of Patrice-
Edouard Ngaïssona

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

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I. Introduction

1. In its *Request for the Extension of Page Limits for the Prosecution's Document Containing the Charges* (the "Request"), dated 7 August 2019, the Prosecution requested that the Pre-Trial Chamber grant it an extension of the page limit to 250 pages for its Document Containing the Charges (the "DCC").
2. The Prosecution submitted that "exceptional circumstances" justify its request, arguing that the case "will comprise over 100 counts", involves "events in several towns and villages", and affect "a high number of victims and involve a range of acts".¹ It further argued the "need to ensure that the Suspects and the Chamber are fully and clearly informed of the nature and scope of the criminal conduct and charges alleged in the DCC".²
3. The Defence for Mr Ngaïssona and the Defence for Mr Yekatom (the "Defence") present the following joint observations.

II. Confidentiality

4. This document is filed as "Confidential" pursuant to regulation 23bis(1) of the Regulations, as it responds to a filing of the same classification.

III. Submissions

5. The Defence does not oppose the Request, provided that it will enable the Prosecution to file a clear and concise DCC with all references to the supporting evidence in a concise and comprehensive manner and in French, as ordered by the Pre-Trial Chamber.³ However, the Defence has serious concerns as to the timing by which the Prosecution puts the Defence on notice

¹ ICC-01/14-01/18-265-Conf, para. 4.

² Ibid, para. 6.

³ ICC-01/14-01/18-56-Conf, par. 19

of such an expansion of its case, a mere twelve days before the ultimate date upon which the Prosecution must file its DCC.

6. The case is now expanding drastically with over 100 counts, five prefectures and various towns and villages. Such a significant change of the Prosecution's case, with little than over one month before the confirmation of charges hearing, impedes the Defence's ability to meaningfully exercise its rights pursuant to Article 61 (6) of the Statute, namely, its ability to (a) object to the charges; (b) challenge the evidence presented by the Prosecution; and (c) present evidence.
7. In its request to postpone the confirmation of charges hearing and all related disclosure deadlines of 2 May 2019, the Prosecution announced that it intended "to mitigate the potential prejudice of a postponement: (1) if the Chamber considers it necessary, it aims to file the [DCC] by 17 May 2019 or as soon thereafter as practicable".⁴
8. Had the Pre-Trial Chamber been aware that the Prosecution would expand its case so significantly, to comprise over 100 counts and request an extension of 250 pages, it may have considered agreeing to the Prosecution's proposal to file its DCC by 17 May 2019⁵ to avoid giving the Defence a mere four weeks to prepare for the confirmation of charges hearing following its reception of the DCC. Similarly, in the *Al Hassan* case, in its Decision on the Prosecution's request for an extension of the page limit for the DCC, the Pre-Trial Chamber ordered the Prosecution to file its DCC no later than 60 days before the confirmation of charges hearing and to file the Arabic translation of the DCC no later than 30 days before the confirmation hearing.⁶

⁴ ICC-01/14-01/18-186-Conf-Red, para. 4.

⁵ ICC-01/14-01/18-186-Conf-Red-Corr, paras. 4, 33.

⁶ ICC-01/12-01/18-310, p. 13.

9. Equally, had the Defence been on notice about such an expansion of the Prosecution case, the Chamber would have received stronger substantive arguments from the Defence on whether it is in the interest of justice to order the DCC on 17 May 2019 (and the Pre-Trial Brief by 31 May 2019)⁷ in spite of any postponement of the confirmation hearing.
10. The Defence reiterates that it opposes any postponement of the confirmation hearing. However, the Prosecution's last-minute notice of expansion of its case will prejudice the Defence preparation for the confirmation of charges hearing and any written observations it shall file subsequently, bearing in mind the number of counts that the Prosecution announced in its Request.

IV. Conclusion

11. For the above reasons, the Defence respectfully:

RESERVES its right to intervene and present additional observations and requests after the notification of the Prosecution's DCC and before the confirmation of charges hearing scheduled for 19 September 2019.

RESPECTFULLY SUBMITTED ON THIS 8th DAY OF AUGUST 2019,



Me Mylène Dimitri
Lead Counsel for
Mr Alfred Rombhot Yekatom



Mr Geert-Jan Knoops
Lead Counsel for
Mr Patrice-Edouard Ngaïssona

⁷ ICC-01/14-01/18-194-Conf-Cor; ICC-01/14-01/18-192-Conf.