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No. ICC-01/14-01/18

Date: 24 July 2020

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 Request for Extension of Page Limit for Motion
concerning Non-Standard Redactions under Rule 81(2)**

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 37 of the Regulations of the Court (the ‘Regulations’), issues this ‘Decision on the Prosecution Request for Extension of Page Limit for Motion concerning Non-Standard Redactions under Rule 81(2)’.

1. On 16 July 2020, the Chamber issued the ‘Decision Setting the Commencement Date of the Trial’, whereby it (i) directed the Office of the Prosecutor (the ‘Prosecution’) to disclose immediately and no later than 31 August 2020 the evidence related to the witnesses listed on its Preliminary Witness List,¹ and (ii) set 9 November 2020 as the final deadline for disclosure of all material in the Prosecution’s possession which falls under its disclosure obligations.²
2. On 21 July 2020, the Chamber received the ‘Prosecution’s Request for Extension of Page Limit for Motion concerning Non-Standard Redactions under Rule 81(2)’ (the ‘Request’).³ The Prosecution submits that it intends to file an application for non-standard redactions under Rule 81(2) of the Rules of Procedure and Evidence for seven witnesses and their related material due to be disclosed, and requests an extension of the page limit for said application from 20 to 33 pages.⁴
3. The Single Judge recalls that, according to Regulation 37(2) of the Regulations, a chamber may extend the standard limit of 20 pages for a document, at the request of a participant, in ‘exceptional circumstances’.
4. The Single Judge notes the Prosecution’s submission that the volume of material related to the seven witnesses is such that the 20 page limit would not

¹ See Order to provide a Preliminary Witness List, 22 May 2020, ICC-01/14-01/18-528, whereby the Single Judge directed the Prosecution to file a preliminary list of witness that it is certain to call to testify.

² ICC-01/14-01/18-589, paras 10-11.

³ ICC-01/14-01/18-593-Conf-Exp, confidential *ex parte*, only available to the Prosecution and the Registry.

⁴ Request, ICC-01/14-01/18-593-Conf-Exp, paras 1, 4-6.

allow it to fully substantiate its arguments.⁵ The Single Judge recalls that the Prosecution is, indeed, required to provide detailed justifications for each redaction sought, setting out the relevance of the material or information to its ongoing investigations and explaining the risks associated with its disclosure to the Defence. Such detailed justifications are necessary in order for the Chamber to properly assess each request for non-standard redactions, on a case-by-case basis, with due regard to the competing interests at stake.⁶ In light of the above, the Single Judge considers that an extension of the page limit is warranted.

5. Lastly, the Single Judge notes that the Prosecution has filed the Request as confidential *ex parte*, only available to the Prosecution and the Victims and Witnesses Unit. While the Single Judge is mindful that the Request relates to a forthcoming application which shall be filed on an *ex parte* basis,⁷ he sees no reason why the Request itself should carry this level of classification. The Request contains no information which, if disclosed to the Defence and the victims, could prejudice the Prosecution's ongoing investigations. Accordingly, the Single Judge orders the Registry to reclassify the Request as confidential.

⁵ Request, ICC-01/14-01/18-593-Conf-Exp, para. 5.

⁶ See Appeals Chamber, *The Prosecutor v. Germain Katanga*, Judgment on the appeal of Mr Germain Katanga against the decision of Pre-Trial Chamber I entitled 'First Decision on the Prosecution Request for Authorisation to Redact Witness Statements', 13 May 2008, ICC-01/04-01/07-476, paras 52, 58, 65.

⁷ Rule 81(2) of the Rules of Procedure and Evidence.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request; and

ORDERS the Registry to reclassify the Request, ICC-01/14-01/18-593-Conf-Exp, as confidential.

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

A handwritten signature in black ink, appearing to read 'BSchmitt', is written over a horizontal line.

Judge Bertram Schmitt

Single Judge

Dated this Friday, 24 July 2020

At The Hague, The Netherlands