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**No. ICC-01/14-01/18
Date: 2 December 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 Ngaißsona Defence Request for Variation of Time Limit

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart
Kweku Vanderpuye

Counsel for Alfred Yekatom

Mylène Dimitri
Thomas Hannis

Counsel for Patrice-Edouard Ngaïssona

Geert-Jan Alexander Knoop

Legal Representatives of Victims

Abdou Dangabo Moussa
Elisabeth Rabesandratana
Yaré Fall
Marie-Edith Douzima-Lawson
Paolina Massidda
Dmytro Suprun

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

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 35 of the Regulations of the Court (the ‘Regulations’), issues this ‘Decision on the Ngaïssona Defence Request for Variation of Time Limit’.

I. Procedural history and submissions

1. On 27 November 2020, the Prosecution submitted its second and third requests for formal submission of prior recorded testimonies pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence (the ‘Rule 68(2) Applications’).¹
2. On 1 December 2020, following a request by the Yekatom Defence (the ‘Yekatom Defence Request’),² the Single Judge suspended the commencement of the Yekatom Defence’s time limit to respond to the Rule 68(2) Applications, and indicated that he would review this ruling upon receipt of further information on 4 December 2020.³
3. On the same day, the Ngaïssona Defence requested a variation of the time limit to respond to the Rule 68(2) Applications, pursuant to Regulation 35 of the Regulations (the ‘Request’). Specifically, it requests an extension until 21 December 2020 or, in the event that the Chamber grants the Yekatom Defence Request ‘to stay the time limit to respond’, to be granted the same relief so that both defence teams ‘are on the same schedule’.⁴ The Ngaïssona Defence submits that good cause exists because: (i) responding to applications pursuant to Rule 68(2)(b) of the Rules is ‘labour-intensive work which is exacerbated by the fact

¹ Prosecution’s Second Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b), ICC-01/14-01/18-744-Conf (with confidential Annexes A and B); Prosecution’s Third Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b), ICC-01/14-01/18-745-Conf (with confidential Annexes A and B).

² Email from the Yekatom Defence to the Chamber and the Registry, 27 November 2020, at 18:47 (redacted version sent to the Chamber, all participants and the Registry on 30 November 2020, at 09:26).

³ Email from the Chamber, 1 December 2020, at 16:37.

⁴ Defence Request Pursuant to Regulation 35 to vary time Limit for the Response to the Prosecution’s Second and Third Requests for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b), ICC-01/14-01/18-748-Conf, para. 2, p. 8.

that the two [Rule 68(2) Applications] have the same deadline’; and (ii) its limited resources are focused on evidence review for trial preparation.⁵

II. Analysis

4. Pursuant to Regulation 35(2) of the Regulations, a chamber may extend a time limit at the request of a participant ‘if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard’. In this instance, the Single Judge does not find it necessary to await responses to adjudicate the Request.
5. In view of the volume of the Rule 68(2) Applications and the time required to respond to them, as well as the Ngaïssona Defence’s concurrent work load to prepare for trial, the Single Judge considers that good cause has been shown to extend the applicable time limit for the Ngaïssona Defence’s response. Having considered the aforementioned circumstances and the submissions in the Request, the Single Judge further finds the requested extension until 21 December 2020 reasonable. The Single Judge therefore grants the request for extension of time until 21 December 2020.
6. The Single Judge notes the Ngaïssona Defence’s submission that it should be granted the same relief as the Yekatom Defence, namely a suspension of the commencement of the time limit to respond to the Rule 68(2) Applications, in order for the two defence teams to be ‘on the same schedule’.⁶ However, the Single Judge considers that the Request and the Yekatom Defence Request must be assessed on their own merits. This includes not only the determination of whether good cause exists, but also the assessment as to the scope of any extension that may be warranted in each specific instance. While the Single Judge considered that a suspension of the commencement of Mr Yekatom’s time limit to respond was warranted due to the specific circumstances raised in the Yekatom Defence Request, such circumstances are not applicable to Mr Ngaïssona. This request is therefore rejected.

⁵ Request, ICC-01/14-01/18-748-Conf, para. 2.

⁶ Request, ICC-01/14-01/18-748-Conf, para. 2, p. 8.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

PARTLY GRANTS the Request;

EXTENDS the deadline for the Ngaïssona Defence to respond to the Rule 68(2) Applications until 21 December 2020; and

ORDERS the Ngaïssona Defence to file a public redacted version of the Request or request reclassification within one week of notification of the present decision.

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



Judge Bertram Schmitt

Single Judge

Dated this 2 December 2020

At The Hague, The Netherlands