

ANNEX 2

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 02 May 2023 15:21
To: Dimitri, Mylene; OTP CAR IIB; Trial Chamber V Communications; D29 Yekatom Defence Team; OTP CAR IIB Case Management; OTP CAR IIB Operations; Associate Legal Officer-Court Officer; [REDACTED]; [REDACTED] V44 LRV Team; V45 LRV Team; V44 LRV Team OPCV; D30 Ngaissona Defence Team; Chamber Decisions Communication
Subject: Decision on the Yekatom Defence objection to scheduling of P-1990 in block 22 and request to limit block 22 to witnesses in April anticipated witness order

[ICC] RESTRICTED

Dear counsel,

The Single Judge takes note of the Yekatom Defence's opposition to the addition of P-1990 to the schedule of block 22, arguing that it is 'not in a position to start preparation for P-1990 at this late stage'.

Further, the Single Judge notes the Yekatom Defence's request to instead schedule any of the other witnesses included in the anticipated upcoming witness order sent on 3 April 2023 (see email from the Prosecution, 3 April 2023, at 13:01).

The Single Judge also takes note of the Prosecution's indication that there are no other alternatives available for block 22 and that if P-1990 is not called, it will not be in a position to call another witness.

At the outset, the Single Judge is mindful of the concerns raised by the Yekatom Defence, in particular of the fact that the addition of P-1990 as a witness to be called pursuant to Rule 68(3) of the Rules of Procedure and Evidence has become apparent only recently (see First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules, 17 April 2023 (date of original 6 April 2023), ICC-01/14-01/18-1833-Corr-Red (the 'First Rule 68(2)(b) Decision'), paras 327-328).

However, the Single Judge also notes that (i) the anticipated testimony of witness P-1990 is limited to certain discrete issues (see *also* First Rule 68(2)(b) Decision, para. 327), including as regards the alleged presence of Mr Yekatom at Yamwara School, regarding which the Chamber has already heard several witnesses; (ii) the Prosecution estimates limited time for additional questioning; and (iii) this witness's testimony is scheduled for the end of block 22, leaving four weeks for the preparation of his questioning.

Moreover, the Single Judge is cognisant of the fact that the presentation of evidence by the Prosecution started more than two years ago, and that the Chamber specifically instructed the Prosecution to further streamline the presentation of its evidence (see Order regarding the Remainder of the Prosecution's Presentation of Evidence and Order pursuant to Article 64(6)(d) of the Statute, 31 January 2023, ICC-01/14-01/18-1739-Red, paras 4-5).

In light of the above, the Single Judge considers it appropriate, in the specific circumstances at hand, to hear the testimony of witness P-1990 in block 22, and rejects the Yekatom Defence request.

Kind regards,
 TC V

From: Dimitri, Mylene [REDACTED]
Sent: 02 May 2023 15:16
To: OTP CAR IIB [REDACTED]; Trial Chamber V Communications [REDACTED];

D29 Yekatom Defence Team [REDACTED]; OTP CAR IIB Case Management
 [REDACTED] OTP CAR IIB Operations [REDACTED]; Associate
 Legal Officer-Court Officer [REDACTED]
 [REDACTED] V44 LRV Team
 [REDACTED]; V45 LRV Team [REDACTED] V44 LRV Team OPCV [REDACTED]
 [REDACTED]; D30 Ngaïssona Defence Team [REDACTED]
Subject: RE: Prosecution's Witness Order and Schedule for Block 22 - Updated Schedule Block 22

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear all,

It appears that the Ngaïssona Defence has not been included in the original message sent by the Prosecution. This oversight was unfortunately carried on when the Yekatom Defence responded to the Prosecution's email. Apologies for this oversight.

Kind regards,
 Mylène Dimitri

From: OTP CAR IIB [REDACTED]
Sent: 02 May 2023 09:47
To: Dimitri, Mylene [REDACTED]; OTP CAR IIB [REDACTED]; Trial Chamber V
 Communications [REDACTED] D29 Yekatom Defence Team
 [REDACTED]; OTP CAR IIB Case Management [REDACTED]
 [REDACTED]; OTP CAR IIB Operations [REDACTED]; Associate Legal Officer-Court Officer
 [REDACTED]
 [REDACTED] V44 LRV Team [REDACTED]; V45 LRV Team
 [REDACTED] V44 LRV Team OPCV [REDACTED]
Subject: RE: Prosecution's Witness Order and Schedule for Block 22 - Updated Schedule Block 22

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear all,

We take note of the Defence's objection regarding the prospective testimony of P-1990.

Unfortunately, there are no other alternatives available for block 22. There are 2 summonses that are yet to be executed, and the Prosecution is mindful of the Chamber's instructions to expedite the presentation of the Prosecution's case. If P-1990 is not called in block 22, we will not be in a position to call another witness.

With this in mind, we defer to the Chamber regarding P-1990's testimony,

Kind regards,

[REDACTED]

From: Dimitri, Mylene [REDACTED]
Sent: 28 April 2023 16:48
To: OTP CAR IIB [REDACTED]; Trial Chamber V Communications [REDACTED]
 D29 Yekatom Defence Team [REDACTED]; OTP CAR IIB Case Management [REDACTED]
 [REDACTED]; OTP CAR IIB Operations [REDACTED]; Associate
 Legal Officer-Court Officer [REDACTED]; [REDACTED]
 [REDACTED] V44 LRV Team
 [REDACTED] V45 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]
 [REDACTED]
Subject: Re: Prosecution's Witness Order and Schedule for Block 22 - Updated Schedule Block 22

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Trial Chamber V,
 Dear all,

The Yekatom Defence object to the latest addition of P-1990.

The Yekatom Defence is fully engaged in the preparation of witnesses as the recent evidentiary blocks and the upcoming blocks concern witnesses mainly related to the charges against Mr. Yekatom.

To this end, the Prosecution Witness Order sent 30 days prior to each Block triggers Defence preparations in the field and in terms of material being used and subjects being addressed during the testimony.

On 14 April 2023 the Prosecution announced that P-1819 would be testifying during Block 22 (see Prosecution email 14 April 2023 at 18h04). The Yekatom Defence started organising and preparing for P-1819.

On 19 April 2023, the Prosecution updated the scheduled by replacing P-1819 for P-1437. The Yekatom Defence therefore halted P-1819's preparation and started to look at that of P-1437.

This afternoon, the Prosecution contacted the Yekatom Defence to request whether or not they could add P-1990 in lieu of P-1437. Defence Counsel informed Prosecution Counsel that it was not in a position to start preparation for P-1990 at this late stage as P-1990 has only been subject of a decision very recently and that his preparation involved extensive trial transcript revisions, audio visual material and satellite imagery. Defence Counsel then suggested to pick any witness among the witnesses that appeared in the latest Anticipated upcoming witness order sent on 3 April 2023.

The Yekatom Defence therefore respectfully request that in order to allow the Defence sufficient time and resources to prepare, Block 22 shall be limited to witnesses appearing in the latest Anticipated upcoming witness order sent on 3 April 2023.

Kind regards,
 Mylène Dimitri

From: OTP CAR IIB [REDACTED]
Sent: 28 April 2023 16:03
To: OTP CAR IIB [REDACTED]; Trial Chamber V Communications [REDACTED]
 D29 Yekatom Defence Team [REDACTED]; OTP CAR IIB Case Management [REDACTED]

██████████; OTP CAR IIB Operations ██████████; Associate
 Legal Officer-Court Officer ██████████; ██████████
 ██████████; V44 LRV Team
 ██████████ V45 LRV Team ██████████; V44 LRV Team OPCV ██████████
 ██████████

Subject: RE: Prosecution's Witness Order and Schedule for Block 22 - Updated Schedule Block 22

[ICC] RESTRICTED

Dear Trial Chamber V,

Dear All,

Please find below the updated tentative schedule for Block 22, which is expected to commence with the continuation of P-1974's testimony. We also draw your attention to the fact that P-1990 has been scheduled as the last witness in the Block, expected to testify on 30-31 May.

Provisional Block 22 schedule (15 May - 1 June - no hearings on 18-19, and 25 May)

<i>Order</i>	<i>Witness number</i>	<i>HQ / Video- link</i>	<i>Language</i>	<i>Estimated duration - OTP</i>	<i>Estimated duration - YEKATOM</i>	<i>Estimated duration - NGAISSONA</i>	<i>Estimated duration – CLRV 1</i>	<i>Estimated duration – CLRV 2</i>	<i>Estimated duration – CLRV 3</i>
66	CAR-OTP-P-1974	AVL	French	2.00	8-10h	1-2 h	0.5	0	
67	CAR-OTP-P-2041	AVL	Sango	2.00	3-4 h	0-1 h	0	30 min	
68	CAR-OTP-P-1666 (<i>dual status a/66058/19</i>)	HQ	Sango	5.00	5 h	0-1 h	0	30 min	
69	CAR-OTP-P-2084	HQ	French	2.00	10 h	1 h	15 min	30 min	1
70	CAR-OTP-P-1990	AVL		1.5	6 h	0-1 h	0	30 min	

Kind regards,

On behalf of OTP Trial Team

From: OTP CAR IIB ██████████
Sent: 19 April 2023 17:19
To: Trial Chamber V Communications ██████████; D29 Yekatom Defence Team
 ██████████ OTP CAR IIB Case Management ██████████
 ██████████; OTP CAR IIB Operations ██████████ Associate Legal Officer-Court Officer
 ██████████
 ██████████; V44 LRV Team ██████████; V45 LRV Team
 ██████████ V44 LRV Team OPCV ██████████
Cc: OTP CAR IIB ██████████
Subject: RE: Prosecution's Witness Order and Schedule for Block 22 - Updated Schedule Block 22

[ICC] RESTRICTED

Dear Trial Chamber V,

Dear All,

Please find below an updated schedule for Block 22, taking into consideration the updated estimates from the Yekatom Defence.

Provisional Block 22 schedule (15 May - 1 June - no hearings on 18-19, and 25 May)

<i>Order</i>	<i>Witness number</i>	<i>HQ / Video-link</i>	<i>Language</i>	<i>Estimated duration - OTP</i>	<i>Estimated duration - YEKATOM</i>	<i>Estimated duration - NGAISSONA</i>	<i>Estimated duration – CLRV 1</i>	<i>Estimated duration – CLRV 2</i>	<i>Estimated duration – (combined)</i>
67	CAR-OTP-P-2041	AVL	Sango	2.00	3-4 h	0-1 h	0	30 min	
68	CAR-OTP-P-1666 (dual status a/66058/19)	HQ	Sango	5.00	5 h	0-1 h	0	30 min	
69	CAR-OTP-P-2084	HQ	French	2.00	10 h	1 h	15 min	30 min	1
70	CAR-OTP-P-1437	HQ	Sango	4.00	8 h	2-3	0		

Kind regards,

On behalf of the OTP Trial Team

From: OTP CAR IIB [REDACTED]
Sent: mercredi 19 avril 2023 17:08
To: [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V45 LRV Team [REDACTED]
 [REDACTED] V44 LRV Team OPCV [REDACTED] OTP CAR IIB [REDACTED]
 [REDACTED]
Subject: RE: [Yekatom] Revised Yekatom Time Estimates for Block 22 - Updated

[ICC] RESTRICTED

Dear Trial Chamber V,

Dear All,

Please find below an updated schedule for Block 22, taking into consideration the updated estimates from the Yekatom Defence.

Provisional Block 22 schedule (15 May - 1 June - no hearings on 18-19, and 25 May)

<i>Order</i>	<i>Witness number</i>	<i>HQ / Video-link</i>	<i>Language</i>	<i>Estimated duration - OTP</i>	<i>Estimated duration - YEKATOM</i>	<i>Estimated duration - NGAISSONA</i>	<i>Estimated duration – CLRV 1</i>	<i>Estimated duration – CLRV 2</i>	<i>Estimated duration – (combined)</i>
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67	CAR-OTP-P-2041	AVL	Sango	2.00	3-4 h	0-1 h	0	30 min	
68	CAR-OTP-P-1666 (dual status a/66058/19)	HQ	Sango	5.00	5 h	0-1 h	0	30 min	
69	CAR-OTP-P-2084	HQ	French	2.00	10 h	1 h	15 min	30 min	1
70	CAR-OTP-P-1437	HQ	Sango	4.00	8 h	2-3	0		

Kind regards,

On behalf of the OTP Trial Team

From: [REDACTED]
Sent: mercredi 19 avril 2023 16:10
To: OTP CAR IIB [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; V44 LRV Team [REDACTED] V45 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]
Subject: [Yekatom] Revised Yekatom Time Estimates for Block 22

Dear Prosecution,

In light of the updated upcoming Block 22, the Yekatom Defence wishes to inform you of its updated time estimates for witnesses P-2084 and P-1437. The adjusted time estimates are indicated in the table below.

Concerning witness P-2084, the Defence anticipates a higher time estimate due to ongoing Defence investigations specifically related to Count 29 and [REDACTED] notably in light of new information brought to its attention following P-2018's testimony.

As regards witness P-1437, the Defence submits that its time estimate has changed, given the evidence heard on the Boeing Market attacks, since having provided them.

We hope that these slight changes in our time estimates will not cause any issues with the schedule for Block 22 and apologize for any inconveniences that may ensue.

The Defence also takes this opportunity, ahead of the probable rescheduling of P-1819, to highlight that, due to the nature of this witness, its estimate might not be as accurate as usual and to add one hour to its current estimate ie. from 9 to 10 hours.

Provisional Block 22 schedule (15 May - 1 June - no hearings on 18-19, and 25 May)

Order	Witness number	HQ / Video-link	Language	Estimated duration - OTP	Estimated duration - YEKATOM	Estimated duration - NGAISSONA	Estimated duration - CLRV 1	Estimated duration - CLRV 2	Estimated duration - (combined)
67	CAR-OTP-P-2041	AVL	Sango	2.00	3-4 h	0-1 h	0	30 min	
68	CAR-OTP-P-1666 (dual status a/66058/19)	HQ	Sango	5.00	5 h	0-1 h	0	30 min	
69	CAR-OTP-P-2084	HQ	French	2.00	10 h	1 h	15 min	30 min	1
70	CAR-OTP-P-1437	HQ	Sango	4.00	8 h	2-3	0		

Best regards,

[REDACTED]

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