

ANNEX 31

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 05 July 2023 15:01
To: OTP CAR IIB; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team
Cc: Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Decision on the Prosecution request for extension of page limit

[ICC] RESTRICTED

Dear counsel,

The Single Judge takes note of the Prosecution's request below, as well as of the Ngaissona Defence's response thereto.

The Single Judge considers that the Prosecution's argument of needing 'sufficient opportunity to provide the Chamber with the necessary information and evidence' underlying its anticipated request goes beyond a mere mentioning of the criteria to be fulfilled pursuant to Rule 68(2)(d) of the Rules of Procedure and Evidence. Therefore, and in light of the reasons provided, the Single Judge is of the view that exceptional circumstances exist to grant an extension of the page limit as requested by the Prosecution, in accordance with Regulation 37(2) of the Regulations of the Court.

Furthermore, the Single Judge is of the view that the parties should, in turn, be given sufficient opportunity to respond to the anticipated request by the Prosecution. The Single Judge therefore, pursuant to Regulation 37(1) of the Regulations of the Court, grants an extension of the page limit for responses to the anticipated request, if any, to the same page limit as requested by the Prosecution.

Kind regards,
 TC V

From: [REDACTED]
Sent: 05 July 2023 11:30
To: Vanderpuye, Kweku [REDACTED] Trial Chamber V Communications
 [REDACTED] D29 Yekatom Defence Team [REDACTED]; D30
 Ngaissona Defence Team [REDACTED]; V44 LRV Team [REDACTED];
 V45 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]
 [REDACTED]
Cc: OTP CAR IIB [REDACTED]
Subject: Re: Request for Extension of Page Limits

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Trial Chamber,

The Defence does not oppose a modest increase of 5 pages to the permitted page limit. However, the Defence opposes the requested increase to 33 pages.

The Prosecution hasn't shown the necessary 'exceptional circumstances' for an increase in page count according to Regulation 37(2) of the Regulations of the Court ('RoC'). Their justification solely relies on meeting the requirements of Rule 68(2)(d), without providing further explanation. Merely mentioning the criteria is not enough to justify a page extension. The reasons given by the Prosecution to support their request are applicable to most requests under that rule. If meeting the criteria for such requests was expected to require more argumentation, the RoC would specify a higher default page count (see Regulation 38 RoC) for these kinds of requests.

Kind regards,

██████████ on behalf of Counsel for Mr Ngaïssona

From: Vanderpuye, Kweku ██████████

Sent: Tuesday, July 4, 2023 6:57 PM

To: Trial Chamber V Communications ██████████ D29 Yekatom Defence Team

██████████ D30 Ngaïssona Defence Team

██████████; V44 LRV Team ██████████ V45 LRV Team

██████████; V44 LRV Team OPCV ██████████

██████████

Cc: OTP CAR IIB ██████████

Subject: Request for Extension of Page Limits

[ICC] RESTRICTED

Dear Trial Chamber V,

Dear All,

The Prosecution requests and extension of page limits per Regulation 37(2) in respect of its forthcoming Request for the Formal Submission of the Prior Recorded Testimony of P-1847 pursuant to Rule 68(2)(d).

The Prosecution considers that an extension of up to 33 pages will afford it a sufficient opportunity to provide the Chamber with the necessary information and evidence justifying the introduction of the Prior Recorded Testimony, and as necessary to the Chamber's proper determination of the matter. Substantiation of the Rule 68(2)(d) Request exceptionally requires an analysis of the witness's Prior Statements and testimony, a detailed explanation of the attendant facts, circumstances, and evidence, as well as an exposition of the applicable law.

We understand the 7 July 2023 deadline for procedural motions set out in the Further Directions on the Conduct of the Proceedings (ICC-01/14-01/18-1892, para. 6) may apply to the Rule 68(2)(d) Request, although it is not clear however that it "must be resolved before the conclusion of [the] presentation of evidence." Nevertheless, we seek the Chamber's consideration of the instant request without the need for a formal filing. Thank you.

Kind regards,

Kweku Vanderpuye



Cour
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Court

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