

From: Trial Chamber V Communications
Sent: 05 January 2021 13:02
To: [REDACTED] Trial Chamber V Communications
Cc: D30 Ngaissona Defence Team; OTP CAR IIB Managers; OTP CAR IIB Case Management; V44 LRV Team; V45 LRV Team; V44 LRV Team OPCV; Office of the Director DJSS; D29 Yekatom Defence Team
Subject: RE: Request for reconsideration of the Decision on the Initial Directions on the Conduct of the Proceedings (ICC-01/14-01/18-631)
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Counsel,

The Single Judge instructs that the request be filed formally on the record. Responses to the filing, if any, should be filed within 5 days of notification.

Kind regards, TC V

From: [REDACTED]
Sent: 05 January 2021 11:02
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Cc: D30 Ngaissona Defence Team ; OTP CAR IIB Managers ; OTP CAR IIB Case Management ; V44 LRV Team ; V45 LRV Team ; V44 LRV Team OPCV ; Office of the Director DJSS ; D29 Yekatom Defence Team
Subject: Request for reconsideration of the Decision on the Initial Directions on the Conduct of the Proceedings (ICC-01/14-01/18-631)

Dear Trial Chamber V,

The Yekatom Defence respectfully requests the Trial Chamber to reconsider its Decision on the Initial Directions on the Conduct of the Proceedings (ICC-01/14-01/18-631) on the limited aspect of the timing of the Defence opening statements. The Defence thoroughly considered the direction of the Chamber that the decision regarding the timing of the opening statements must be made jointly by the respective Defence teams; and the instruction of the Chamber to the effect that it will not hear opening statements from the Defence teams at multiple points during the trial.

Unfortunately, the two teams have been unable to reach an agreement on the timing of the opening statements. The Ngaissona Defence insists on presenting its opening statement at the start of the Trial, the Yekatom Defence is just as insistent about giving our opening statement after the Prosecution has completed its case-in-chief.

In order to be in a position to prepare a meaningful opening statement, the Yekatom Defence needs to have additional time to investigate on the specific allegations presented by the Prosecution. Due to the ongoing logistical difficulties related to the Covid crisis and the unsettled security situation in Central Africa, coupled with the very recently disclosed OTP witnesses whose identities and statements had been withheld from the Defence, the Yekatom Defence's investigations are still ongoing.

The Yekatom Defence submits that the impasse encountered in discussions with the Ngaissona Defence, the recently disclosed witness statements covering a wide range of locations (see for ex. P-2582), and the prevailing circumstances impacting the speed of the Defence investigations, considered together,

represent significant changes in circumstances and new and compelling reasons that justify reconsideration of the Chamber's Decision.

The Yekatom Defence respectfully submits that it will be prejudiced if it were forced to proceed with an opening statement as early as February 2021 as we will be unable at that time to fully and accurately describe our anticipated evidence in order for the Chamber to know what to expect and to be able to understand the evidence when it is later presented.

In addition, given the Prosecution's estimated timetable it seems likely that their case-in-chief will not be finished before early 2022. We firmly believe that our client's interest is best served if we can present our opening statement after that because, as often happens during Trial, the actual evidence produced varies significantly from what is presented in opening statements. At the end of the OTP's case-in-chief we can make a more informed and more concise opening statement about what our evidence will be. In addition, if presented at that stage, it will be easier for the Trial Chamber to recall what we say at that time. Forcing us to make our opening statement at the beginning of the trial just because the other defence team insists on doing their opening at that stage would be unfair and prejudicial to Mr. Yekatom.

If the Chamber so wishes we stand ready to file the present request through a formal filing. Please advise at your earliest convenience as to how you would like us to proceed.

Kind regards,



Case manager
Yekatom Defence

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