

From: Trial Chamber V Communications
Sent: 22 January 2021 15:32
To: [REDACTED]
Cc: [REDACTED]
Subject: Decision on the Prosecution Request for Leave to Reply (ICC-01/14-01/18-836-Conf)

Dear counsel,

The Chamber takes note of the 'Prosecution's Consolidated Request for Leave to Reply to the YEKATOM and NGAISSONA Defence's Responses to the Prosecution's Fourth and Fifth Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(b)' (ICC-01/14-01/18-836-Conf) (the 'Request for Leave to Reply'), as well as the Ngaïssona Defence's response thereto (ICC-01/14-01/18-844-Conf).

Pursuant to Regulation 24(5) of the Regulations of the Court, '[p]articipants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations. Unless otherwise permitted by the Chamber, a reply must be limited to new issues raised in the response which the replying participant could not reasonably have anticipated'.

The Chamber notes that the issues for which the Prosecution seeks leave to reply essentially concern the factors to be considered by the Chamber in determining the 'acts and conduct of the accused' under Rule 68(2)(b) of the Rules, and the relevance of potentially exonerating evidence in assessing whether prior recorded testimony may be submitted under this sub-rule.

In the Chamber's view, these issues are not new and could have been anticipated by the Prosecution at the time of filing its Fourth and Fifth Requests pursuant to Rule 68(2)(b) of the Rules (ICC-01/14-01/18-794 and ICC-01/14-01/18-795). Furthermore, the Chamber does not consider that it requires additional submissions from the Prosecution on these matters in order to adjudicate the Fourth and Fifth Requests.

Accordingly, the Request for Leave to Reply is rejected.

Kind regards, TC V