

ANNEX 42

PUBLIC

From: Trial Chamber V Communications
Sent: 31 January 2022 18:21
To: [REDACTED]; Trial Chamber V Communications
Cc: D30 Ngaïssona Defence Team; D29 Yekatom Defence Team; OTP CAR IIB Managers; OTP CAR IIB Case Management; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Subject: Decision on the Ngaïssona's Request for an Extension of Time to Respond to Filing ICC-01/14-01/18-1228-Conf

Dear Counsel,

In the absence of objections, and further noting that the witness's testimony is not scheduled for the upcoming evidentiary block and that this is the first time the Ngaïssona Defence submits such a request, the Single Judge grants the limited extension until 7 February 2022.

The Single Judge trusts that the Ngaïssona Defence will avoid such oversights in the future.

Kind regards, TC V

From: [REDACTED]
Sent: 31 January 2022 16:04
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaïssona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; OTP CAR IIB Managers [REDACTED] OTP CAR IIB Case Management [REDACTED] V44 LRV Team [REDACTED] V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
Subject: Request for an Extension of Time to Respond to Filing ICC-01/14-01/18-1228-Conf

Dear Trial Chamber V,

The Defence of Mr Ngaïssona ("Defence") respectfully requests an extension of time to respond to the "Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-2658 pursuant to Rule 68(3)", ICC-01/14-01/18-1228-Conf ("Prosecution's Request"), which was filed on 21 December 2021. Pursuant to the Chamber's email decision of 14 December 2021, which suspended all time limits related to motions filed during the winter recess, any response to the Prosecution's Request would have been due by 20 January 2022. Regrettably and due to an oversight, the Defence did not file a response.

During the winter recess and at the time of receipt of the Prosecution's Request, the Defence's resources were diminished due to various team members being on leave. Nonetheless, the Defence worked tirelessly in order to prepare for the examination of Prosecution witness P-0889, who was set to start testifying on 17th January and for whom the Defence had anticipated conducting a 10-hours cross-examination. At the same time, the Defence's resources were engaged in: (i) the preparation of a response to the "Prosecution's Request for leave to add Six Items to the List of Evidence", due by 10 January 2021; (ii) the assessment of five other Rule 68(3) Requests (ICC-01/14-01/18-1210-Conf, ICC-01/14-01/18-1213-Conf, ICC-01/14-01/18-1217-Conf, ICC-01/14-01/18-1218-Conf, ICC-01/14-01/18-1219-Conf), all of which were filed in the week leading up to the winter recess, with responses due between the 10th and 14th January; and (iii) the preparation of a response to the "Confidential Redacted Version of 'Request for Reconsideration regarding In-Court Protective Measures for Prosecution Witness P-0889'", due by 11th January. While being fully cognisant that these factors do not constitute a justification for an oversight, the Defence is hopeful that they can provide some context as to the circumstances which led to the Defence not responding to the Prosecution's Request.

The Defence respectfully requests to be granted a limited extension of time, until Monday 7th February, in order to respond to the Prosecution's Request. The Defence has consulted inter partes with the Prosecution, who has indicated that it would not oppose the sought extension. Given that the Chamber has not yet ruled upon the Prosecution's Request and that witness P-2658 is not scheduled to testify in the 9th or 10th evidentiary blocks, the Defence submits that the prejudice caused by granting a limited extension of time would be limited. The Defence is mindful that, pursuant to Regulation 35 of the Regulations of the Court, the granting of an extension of time following the expiration of a time-limit can only take place under special circumstances. However, the Defence respectfully notes that it has never made a request of this kind since the beginning of trial, and underscores that it does not intend to make others, save exceptional circumstances.

The Defence apologises for any inconvenience caused with the present request and thanks the Chamber, Parties and Participants for their consideration.

Sincerely Yours,

██████████ – Case Manager, on behalf of the Ngaïssona Defence team

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