

ANNEX 34

PUBLIC

From: Trial Chamber V Communications
Sent: 04 April 2022 16:01
To: [REDACTED] Trial Chamber V Communications; [REDACTED]
Cc: OTP CAR IIB Case Management; OTP CAR IIB Managers; D30 Ngaissona Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; D29 Yekatom Defence Team; Chamber Decisions Communication; Associate Legal Officer-Court Officer
Subject: Decision on the Ngaissona Defence's Extension Request following the Chamber's direction in relation to the Ngaissona Defence's Response to ICC-01/14-01/18-1332-Conf

Dear Counsel,

The Single Judge notes at the outset that the Ngaissona Defence sent its response to ICC-01/14-01/18-1332-Conf on the day the response deadline expires, and did so only at 14:22. Noting the substantive matters raised in its response, the Ngaissona Defence could have foreseen that this filing should have been submitted via a formal filing on the record. In this regard, the Single Judge recalls his previous direction that responses to a formal filing on the record shall only be done per email if they are non-substantive (see email from the Chamber on 1 July 2020, at 12:27). The Single Judge expects that the participants bear this in mind in the future.

Nonetheless, in light of the reasons provided, the Single Judge considers that good cause has been shown to extend the time limit as requested, pursuant to Regulation 35(2) of the Regulations of the Court. The extension is therefore granted.

Kind regards, TC V

From: [REDACTED]
Sent: 04 April 2022 15:29
To: Trial Chamber V Communications [REDACTED] Vandeler, Lauriane
Cc: OTP CAR IIB Case Management [REDACTED] OTP CAR IIB Managers
[REDACTED] D30 Ngaissona Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED] D29 Yekatom Defence Team [REDACTED] Chamber Decisions Communication [REDACTED]
Subject: RE: Chamber's direction in relation to the Ngaissona Defence's Response to ICC-01/14-01/18-1332-Conf

Dear Trial Chamber,

I am writing on behalf of Counsel to respectfully request a variation of the deadline to submit the formal filing, ordered below, pursuant to Regulation 35(2) of the Regulations of the Court. The Defence requests a deadline of 5 April 2022 at 16h.

The Defence submits that there is good cause to extend the deadline. The current deadline is 16h today (4 April 2022). The Trial Chamber order to submit written submissions was issued at 15h today. This has left only 1h to prepare the submissions into a written filing. Preparing the written filings in a rushed manner may impact upon the clarity of the arguments. Also, an extension of the deadline will cause no prejudice as it is limited in scope and the parties and participants are already aware of the arguments that will be raised. Therefore the Defence submits there is good cause to extend the deadline until 5 April 2022 at 16h.

Kind regards,

on behalf of Counsel

From: Trial Chamber V Communications <[REDACTED]>
Sent: 04 April 2022 15:00
To: [REDACTED]; Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Case Management [REDACTED] OTP CAR IIB Managers
 [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; V44
 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED] V45 LRV Team
 [REDACTED]; D29 Yekatom Defence Team <[REDACTED]> Chamber
 Decisions Communication [REDACTED]
Subject: Chamber's direction in relation to the Ngaissona Defence's Response to ICC-01/14-01/18-1332-Conf

Dear Counsel,

The Single Judge notes that the Ngaissona Defence makes substantive submissions in response to a filing on the record (ICC-01/14-01/18-1332-Conf). In light of this, the Defence is instructed to formally file its response on the record.

Kind regards, TC V

From: [REDACTED]
Sent: 04 April 2022 14:22
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Case Management [REDACTED]; OTP CAR IIB Managers
 [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; V44
 LRV Team [REDACTED] V44 LRV Team OPCV [REDACTED]; V45 LRV Team
 [REDACTED]; D29 Yekatom Defence Team [REDACTED]
Subject: Response to ICC-01/14-01/18-1332-Conf

Dear Trial Chamber V,

The Ngaissona Defence wishes to inform the Chamber that it defers to its discretion regarding the merits of the *"Prosecution's Request for the Formal Submission of the Prior Recorded Testimony of P-1077 pursuant to Rule 68(3)"* (ICC-01/14-01/18-1332-Conf), dated 24 March 2022.

However, the Defence opposes the formal submission of the following documents as associated exhibits:

- CAR-OTP-2003-1654: this dossier, which comprises 255 pages, is a compilation of various separate intelligence reports, out of which only page 1736, which is a separate information bulletin from the Direction of Police Administration Services dated 12 November 2014, was shown to the witness. It is clear from the context of P-1077's transcript (CAR-OTP-2107-3554-R01, at 3560, lns 202-211) that the witness was not aware of being shown a dossier but was only told being shown a "bulletin announcement", "dated 12 November 2014", with "ERN number CAR-OTP-2003-1736" (which the Chamber will note is not the ERN number of the dossier but the relevant page within that dossier). The Chamber recalled on several occasions that "it cannot be excluded that there may be circumstances warranting that only part(s) of a single item be submitted into evidence and that such requests will be assessed by the Chamber on a case-by-case basis" (see Decision on Submitted Materials for P-2841, email from the Chamber on 2 July 2021, at 14:07; Decision on Submitted Materials for P-2328, email from the Chamber on 1 October 2021, at 12:28; Decision on Submitted Materials for P-0965, email from the Chamber on 21 February 2022, at 08:42). Given the nature of item CAR-OTP-2003-1654, the Defence is of the view that only page 1736 should be considered as an associated exhibit to P-1077's prior recorded testimony.

- CAR-OTP-2066-1601: this document is a 209 page Facebook record, from which only page 1656, which is a separate Anti-Balaka declaration dated 4 April 2014, was shown to the witness. Again, it is clear from the context of P-1077's transcript (CAR-OTP-2107-3584-R01, at 3594, lns 372-377) that the witness was not aware of being shown a Facebook record but was only told being shown Anti-Balaka communiqués, among which a "communiqué de presse with an ERN number CAR-OTP-2066-1656" (see CAR-OTP-2107-3584-R01, at 3596, lns 415-423). To the extent that this declaration exists as a standalone document under other ERN numbers (see for instance CAR-OTP-2066-2102), and in light of the nature and scope of Facebook records, the Defence submits that it would be more appropriate to introduce this Anti-Balaka declaration as exhibit to P-1077's prior recorded testimony under a different ERN number.

Kind regards,

[REDACTED]

Legal Assistant - Ngaïssona Defence

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