

ANNEX 41

PUBLIC

From: Trial Chamber V Communications
Sent: 19 April 2022 15:46
To: Massidda, Paolina; Trial Chamber V Communications
Cc: OTP CAR IIB Prosecution Team; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V45 LRV Team; [REDACTED]; Vanderpuye, Kweku; [REDACTED] Chamber Decisions Communication; V44 LRV Team; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Subject: Decision on the Ngaissona Defence's Request for a time extension to respond to ICC-01/14-01/18-1353 and ICC-01/14-01/18-1358

Dear Counsel,

The Single Judge takes note of the Ngaissona Defence's request for a time extension to respond to the 'Prosecution's Request to grant Maxime Jeoffroy Eli Mokom Gawaka access to the record of the Yekatom and Ngaissona case' (ICC-01/14-01/18-1353) (the 'Mokom Request') and to the 'Prosecution's Request for Authorisation to Disclose Transcripts of the Testimony of P-0287, P-0801, P-0808, P-0876, P-0889, P-0992, P-0966, P-0975, P-1339, P-1521, P-1719, P-2232, P-2269, P-2658, P-2843 to the Defence in the case of Prosecutor v. Mahamat Said Abdel Kani' (ICC-01/14-01/18-1358) (the 'Said Request').

In light of the reasons provided, the Single Judge considers that good cause has been shown to extend the time limit pursuant to Regulation 35(2) of the Regulations of the Court. However, having regard to the scope of the filings and noting the Prosecution's position on the matter, the Single Judge finds that a more limited extension is sufficient.

Noting that Mr Mokom's confirmation of charges hearing is scheduled for 31 January 2023, the Single Judge extends the deadline to respond to the Mokom Request until 23 May 2022. Further noting that Mr Said's trial will start on 26 September 2022 and the fact that the request is limited to a number of transcripts, the Single Judge extends the deadline to respond to the Said Request until 9 May 2022.

Kind regards, TC V

From: Massidda, Paolina [REDACTED]
Sent: 14 April 2022 13:33
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Prosecution Team [REDACTED] D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team [REDACTED] V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED] Vanderpuye, Kweku [REDACTED]
Subject: RE: Request for variation of the deadline to response to ICC-01/14-01/18-1353

Dear All,
 The CLR of the victims of the other crimes as well do not intend to respond to the Prosecution's Request.

Kind regards,
 Paolina Massidda

From: [REDACTED]
Sent: 14 April 2022 13:24
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Prosecution Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]

[REDACTED] D30 Ngaissona Defence Team

[REDACTED] V44 LRV Team OPCV [REDACTED]

V45 LRV Team

[REDACTED] Vanderpuye, Kweku [REDACTED]

>

Subject: RE: Request for variation of the deadline to response to ICC-01/14-01/18-1353

Dear Trial Chamber V,

Dear all,

The Defence for Mr Yekatom hereby respectfully informs the Chamber that it does not intend to respond to the 'Prosecution's Request to grant Maxime Jeoffroy Eli Mokom Gawaka access to the record of the Yekatom and Ngaissona case' (ICC-01/14-01/18-1353).

Kind regards,

[REDACTED]
Case manager – Yekatom Defence

From: Vanderpuye, Kweku [REDACTED]

Sent: 14 April 2022 10:57

To: [REDACTED] Trial Chamber V Communications [REDACTED]

Cc: OTP CAR IIB Prosecution Team [REDACTED] D29 Yekatom Defence Team

[REDACTED]; D30 Ngaissona Defence Team

[REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team

Subject: RE: Request for variation of the deadline to response to ICC-01/14-01/18-1353

Dear Trial Chamber V,

Dear All,

The Prosecution does not oppose the Ngaissona Defence's regulation 35 request *in principle*. However, the length of the extension sought is not substantiated by the circumstances.

In respect of both access filings, and particularly concerning the Accused SAID where the trial phase has commenced, expeditious access to the materials directly impacts the defendants' preparedness. Normatively, this should not be impaired where avoidable. As such, the Prosecution considers that an extension of approximately eight weeks is disproportionate. Instead, balancing the factors at issue and the impact on the SAID and MOKOM Defence's, the Prosecution considers that an extension of two weeks is more appropriate.

Kind regards,

Kweku Vanderpuye

From: [REDACTED]

Sent: 13 April 2022 16:54

To: Trial Chamber V Communications [REDACTED]

Cc: OTP CAR IIB Prosecution Team [REDACTED] D29 Yekatom Defence Team

[REDACTED] D30 Ngaissona Defence Team

[REDACTED]; V44 LRV Team OPCV [REDACTED]

V45 LRV Team

Subject: Request for variation of the deadline to response to ICC-01/14-01/18-1353

Dear Trial Chamber,

I am writing on behalf of Counsel for Mr Ngaïssona to request, pursuant to Regulation 35(2) of the Regulations of the Court, an extension of the deadlines for the Defence to respond to 'Prosecution's Request to grant Maxime Jeoffroy Eli Mokom Gawaka access to the record of the Yekatom and Ngaïssona case' (ICC-01/14-01/18-1353) and 'Prosecution's Request for Authorisation to Disclose Transcripts of the Testimony of P-0287, P-0801, P-0808, P-0876, P-0889, P-0992, P-0966, P-0975, P-1339, P-1521, P-1719, P-2232, P-2269, P-2658, P-2843 to the Defence in the case of Prosecutor v. Mahamat' (ICC-01/14-01/18-1358). The present deadlines to respond are **21 April 2022** and **25 April 2022** respectively.

The Defence requests that the deadline for both are extended until at least **15 June 2022**.

There is good cause to extend the deadlines to respond due to the volume of material to examine as well as the timing and surrounding circumstances of the Prosecution request.

Firstly, the Prosecution's Mokom request concerns the entire case file. This *inter alia* comprises 146 items disclosed by the Ngaïssona Defence that total 1160 pages. Similarly, there are roughly at least 310 Ngaïssona Defence filings and 119 finalised transcripts. While the Defence reviews the material for the Mokom case, it will be possible to review the transcripts for the Mahamat case and this will be an efficient use of time. However, it is not possible to respond to the Prosecution filing with generalities. The Defence needs time to examine the materials. Without a review, the Defence cannot anticipate what fair trial issues might arise through disclosure of confidential material into another case.

Secondly, the Defence also has several pending voluminous responses for which the Trial Chamber has previously accepted that just cause exists to extend the deadlines. This includes 'Prosecution's submission of call data records and related evidence via the "bar table"' (ICC-01/14-01/18-1296 – **13 May 2022**) and the 'Request for leave to add 103 Items to the List of Evidence' (ICC-01/14-01/18-1330-Conf – **27 April 2022**). The Defence notes that the deadlines for these responses fall between witness blocks but notes that the period between blocks is critical for completing Defence preparation tasks including work related to next block of witnesses. Moreover, the Prosecution has asked the Defence to review 356 Yahoo! email items related to a proposed bar-table motion and respond by **25 April 2022**. These emails comprise roughly 1142 pages.

Finally, the Easter holiday falls within the middle of the time available to work on a response. This period is a time of religious significance for some members of the Defence. Also, before the date of notification of the Prosecution request, some team members had already scheduled the scarce time to spend with their families. Thus the staff available for working during the holiday is more limited than an ordinary period.

For the above reasons the Defence requests that the deadlines for ICC-01/14-01/18-1353 and ICC-01/14-01/18-1358 are extended until at least **15 June 2022**.

Kind regards,

 on behalf of Counsel

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