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**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-01/14-01/18**
Date: **31 October 2023**

APPEALS CHAMBER

Before: Judge Piotr Hofmański
Judge Luz del Carmen Ibáñez Carranza
Judge Marc Perrin de Brichambaut
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD NGAÏSSONA***

Confidential

Prosecution Response to "Consolidated Defence Request for an Extension of Page and Time Limits"

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Introduction

1. The Ngaïssona Defence urgently requests the Appeals Chamber for an extension of the page and time limits (“Request”)¹ for its upcoming briefs in the appeals against the “Decision on the Prosecution Request for Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(d) of the Rules”² and against the “Third Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(c) of the Rules”.³ The briefs of 20 pages each, are currently due on 6 November 2023.⁴

2. The Prosecution does not object to a reasonable extension of the page and time limits for the documents supporting the Ngaïssona Defence’s appeals. In any event, should the Appeals Chamber grant any extensions of the page and/or time limits, the Prosecution respectfully requests equal page and time extensions for its briefs in response.

Confidentiality

3. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this filing is classified as confidential, as it responds to the Requests that are subject to the same classification. The Prosecution does not object to the reclassification of this filing as public.

Submissions

4. Regarding page limits, the Ngaïssona Defence requests to be granted 5 additional pages to file its appeal brief against the Rule 68(2)(c) Decision and 15 additional pages to file its appeal brief against the Rule 68(2)(d) Decision.⁵ A modest extension of the page limit may be justified by the novelty of the issues for which the Trial Chamber granted leave to appeal.⁶ However, the Ngaïssona Defence does not substantiate its argument that the issues are complex because the Prosecution requested a 15-page extension to introduce the prior recorded testimony of P-1847 pursuant to rule 68(2)(d) and that it made two separate requests totalling 32 pages to introduce the prior recorded testimony of witnesses P-2269 and P-2602.⁷ The Ngaïssona Defence does not explain how the Prosecution’s submissions contained in those

¹ ICC-01/14-01/18-2171-Conf.

² ICC-01/14-01/18-2126-Conf (“Rule 68(2)(d) Decision”).

³ ICC-01/14-01/18-2127-Conf (“Rule 68(2)(c) Decision”).

⁴ Request, para. 4.

⁵ Request, paras. 3, 12, 19.

⁶ Request, para. 11.

⁷ Request, para. 12.

requests relate to the discrete issues for which it was granted leave to appeal. Accordingly, although there may be exceptional circumstances to justify an extension of the page limits pursuant to regulation 37(2) of the Regulations of the Court, a lesser extension of the page limit may be more appropriate in the circumstances.

5. Regarding time limits, the Ngaïssona Defence requests the Appeals Chamber to suspend the 10-day time limit prescribed by Regulation 65(4) of the Regulations until 20 November 2023, such that the Defence may submit both appeal briefs by 1 December 2023.⁸ The Ngaïssona Defence argues that its workload and competing obligations constitute good cause to extend the time limits.⁹ It further submits that “under normal working conditions”, it would seek a modest extension of the 10-day time limits given that the two appeal briefs will have to address a total of 9 grounds of appeal.¹⁰ Although Ngaïssona Defence has currently a busy schedule, its working conditions are not abnormal. Therefore, a more modest extension of time by one week may be more appropriate in the circumstances. If such an extension was granted, the appeals briefs would be due on 13 November 2023.

6. In any event, should the Appeals Chamber grant the Ngaïssona Defence any extensions of the page and/or time limits, the Prosecution respectfully requests equal page and time extensions for its briefs in response. This would enable the Prosecution to analyse and to respond to any additional arguments put forward by the Ngaïssona Defence, while also simultaneously responding to both appeal briefs. The Ngaïssona Defence does not oppose an extension of the page and time limits for the Prosecution to file its response briefs.¹¹

⁸ Request, paras. 15, 19.

⁹ Request, paras. 13-14.

¹⁰ Request, para. 14.

¹¹ Request, para. 17.

Conclusion

7. For the reasons set out above, the Prosecution does not object to a reasonable extension of the page and time limits for the documents in support of the Ngaissona Defence's appeals. In any event, should the Appeals Chamber grant any extensions of the page and/or time limits, the Prosecution requests equal page and time extensions for its briefs in response.



Karim A.A. Khan KC, Prosecutor

Dated this 31st day of October 2023

At The Hague, The Netherlands