

Annex 21

Public

From: Pre-Trial Chamber II communications
Sent: 17 October 2023 15:09
To: OTP CARIIB-MM Communications; D34 Mokom Defence Team; Rabesandratana, Elisabeth; Fall, Yare; Adangabomoussa, Abdou; MDouzima-icc
Cc: Associate Legal Officer-Court Officer; Court Management-Court Records; Chamber Decisions Communication; Pre-Trial Chamber II communications
Subject: ICC-01/14-01/22 – Email putting on the record decision of the Chamber

The Chamber recalls that it has adjudicated requests submitted by the Prosecution and Defence by means other than by email or filing due to the technical issues affecting the Court's operations. For the completeness of the record of the case, the Chamber hereby puts on the record the relevant requests as well as its decision.

On 20 September 2023, the Prosecution submitted the 'Request for variation of the time limit pursuant to regulation 35(II) regarding the response deadline of 26 September 2023', as follows:

The Prosecution hereby requests the Chamber to grant a short extension of 3 days to file its response to the Defence Post-Confirmation Submissions (ICC-01/14-01/22-270Conf) pursuant to regulation 35(II) of the Regulations of the Court.

Good cause is shown as the Prosecution team has not had access to any internet based services and tools either from the headquarters or through remote working since 15 September 2023, which it requires to work effectively to finalise large submissions. This includes e-mail and SharePoint. Furthermore, vital tools such as Ringtail are not working consistently either. This means all internal working processes are slowed and some impossible.

As of today, it is unclear when the situation will improve. Yesterday, the Registry informed that the matter is still under investigation due to its complexity and a timeline will be proposed as to when systems will gradually be made available again.

Against this background the Prosecution believes it prudent to request an extension of time of 3 days, until 29 September 2023, to submit its response. This extension is necessary as it will be more likely that the Prosecution can deliver submissions, which will aid the Chamber and Parties and Participants. This request is also proportionate in these (extraordinary) circumstances, as the extension would be minimal.

The Defence has informed that it would join the Prosecution's request as it is equally impacted by the loss of internet based services.

On the same date, the Defence submitted the 'Mokom Defence Joinder to Prosecution Request for variation of the time limit pursuant to Regulation 35(2) regarding the response deadline of 26 September', as follows:

Following inter partes discussions, the Mokom Defence joins the Prosecution Request for variation of the time limit submitted pursuant to Regulation 35(2) of the Regulations of the Court regarding the response deadline of 26 September. The same network issues affecting the Court also have a substantial impact on the preparation of the Defence response to the 'Prosecution's Additional Submissions following the Confirmation of Charges Hearing (ICC-01/14-01/22-269-Conf)'. As described in the Prosecution Request, good cause is shown for this limited variation of time limit, arising from the ongoing lack of access to internet based services and tools. The Defence therefore also requests an extension of time of 3 days, until 29 September 2023, to submit its response to the Prosecution Additional Submissions.

Should this time limit be varied, the Defence also requests an extension of three days, until 5 October 2023, to submit its reply to the Prosecution's response, pursuant to Regulation 35(2) of the Rules. This additional request is based on the same reasons as advanced above. In addition, even if all connectivity and communications problems are resolved, the Defence would not have

sufficient time to prepare an adequate reply by 2 October 2023, having only filed its response, and received the Prosecution response, on 29 September. The Prosecution indicated during inter partes discussions that it would not oppose this additional Defence request.

On 21 September 2023, the Chamber issued the ‘Decision on Requests to Vary Time Limits’, as follows:

The Chamber notes the ‘Request for variation of the time limit pursuant to regulation 35(II) regarding the response deadline of 26 September 2023’, submitted by the Prosecution on 20 September 2023 (the ‘Prosecution Request’), and the ‘Mokom Defence Joinder to Prosecution Request for variation of the time limit pursuant to Regulation 35 (2) regarding the response deadline of 26 September’, submitted by the Defence for Mr Mokom on the same day (the ‘Defence Request’).

Pre-Trial Chamber II grants the Prosecution Request and the Defence Request in view of the technical issues currently affecting the Court’s operations. Accordingly, the Prosecution and the Defence shall submit their responses to the submissions provided following the confirmation of charges hearing by no later than 16:00 hours on 29 September 2023. Furthermore, the Defence shall submit its reply to the Prosecution’s response by no later than 16:00 hours on 5 October 2023. The Prosecution and the Defence shall submit public redacted versions of their responses and reply, as applicable, as soon as possible.