

ANNEX 14
Public Redacted
Version

From: Trial Chamber V Communications
Sent: 22 November 2023 11:16
To: OTP CAR IIB; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; 'V44 LRV Team'; V44 LRV Team OPCV; V45 LRV Team
Cc: Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Clarifications regarding Decision on Yekatom Defence Request for Extension of Time to File a Rule 68(2) Request for D29-5016

[ICC] RESTRICTED

Dear Counsel,

The Single Judge takes note of the request for clarification below.

The Single Judge clarifies that the decision granting an extension of time under Regulation 35 of the Regulations also covers the provision of D29-5016's underlying statement as well as any associated item. This is the reason why the Single Judge instructed the Yekatom Defence 'not to rely on any material related to D29-5016 during the examination of witnesses in the hearing weeks scheduled for December 2023 and between 15 January and 2 February 2024'. The Single Judge further notes that these are the same conditions which were applied to the Ngaissona Defence in deciding on a similar request (*see* ICC-01/14-01/18-2181, para. 8).

In any event, as to the examination of prospective testifying witnesses by the Prosecution, the Single Judge is of the view that, should the Yekatom Defence expect to call in January or February 2024 a witness whose evidence overlaps with that of D29-5016, the Prosecution will have had sufficient time by then to assess the materials that will be disclosed by 15 December 2023.

For the reasons stated above, the Single Judge does not consider it necessary to receive further views from the Prosecution on the matter.

Kind regards,

TC V

From: OTP CAR IIB [REDACTED]
Sent: 17 November 2023 16:27
To: Trial Chamber V Communications [REDACTED] D29 Yekatom Defence Team
[REDACTED]; D30 Ngaissona Defence Team
[REDACTED] OTP CAR IIB [REDACTED]; 'V44 LRV Team'
[REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team
[REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED]; Chamber Decisions Communication [REDACTED]
Subject: RE: Decision on Yekatom Defence Request for Extension of Time to File a Rule 68(2) Request for D29-5016

[ICC] RESTRICTED

Dear Trial Chamber V,

The Prosecution takes note of the Chamber's Decision concerning Defence witness CAR-D29-P-5016.

The Prosecution understands the Decision to relate to the filing of the prospective Rule 68(2) application only, and does not extend to the deadline for Defence's provision of the underlying Statement as well as any other attendant requirements set out in the Chamber's Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLRV and the Defence of 29 May 2023 (ICC-01/14-01/18-1892, para. 21)).

Should the intention be to extend the deadlines also in respect of the provision of such material, the Prosecution respectfully requests to be heard. The withholding of such information until 15 December 2023 may impede the cross-examination of the prospective testifying witnesses, especially if the Defence intends to lead evidence overlapping CAR-D29-P-5016's or to which his Statement is otherwise material.

For this reason, we would very much appreciate clarification of the intended scope of the Decision. Thank you.

Thank you and kind regards,

On behalf of OTP Trial Team

From: Trial Chamber V Communications [REDACTED]
Sent: 17 November 2023 15:56
To: D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team [REDACTED] OTP CAR IIB [REDACTED] 'V44 LRV Team' [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED]; Chamber Decisions Communication [REDACTED]; Trial Chamber V Communications [REDACTED]
Subject: Decision on Yekatom Defence Request for Extension of Time to File a Rule 68(2) Request for D29-5016

[ICC] RESTRICTED

Dear Counsel,

The Single Judge takes note of the request below.

In light of the explanations provided, the Single Judge is satisfied that good cause exists for an extension of time pursuant to Regulation 35 of the Regulations of the Court. He therefore grants the request.

The Yekatom Defence is further instructed not to rely on any material related to D29-5016 during the examination of witnesses in the hearing weeks scheduled for December 2023 and between 15 January and 2 February 2024.

Kind regards,

TC V

From: [REDACTED]
Sent: 17 November 2023 14:17
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V45 LRV Team [REDACTED] V44 LRV Team OPCV [REDACTED]
Subject: Yekatom Defence Request for Extension of Time to Submit a Rule 68(2) Application for witness CAR-D29-P-5016

Dear Trial Chamber V,

The Yekatom Defence (“Defence”) hereby requests an extension of time, pursuant to Regulation 35 of the Regulations of the Court, to submit a Rule 68(2) application for one witness, namely P-5016. Pursuant to the Further Directions on the Conduct of the Proceedings, the Chamber instructed the Defence to file by 17 November 2023 any applications pursuant to Rule 68(2) and (3). The Defence however submits that there exists good cause to extend the time limit for the submission of a Rule 68(2) application for P-5016.

Indeed, P-5016 is a witness included in the Defence Preliminary Witness List, filed on 25 August 2023 (*see ICC-01/14-01/18-2060-Conf-AnxA, page 6, witness #10*). The Defence had included him as a potential 68(3) witness, but now intends to submit his prior recorded statement pursuant to Rule 68(2).

P-5016 was met by the Defence on [REDACTED] for a first interview in BANGUI. [REDACTED] the Defence tried to reach him daily by telephone without success. The Defence was diligent in trying to secure his presence to a second meeting in BANGUI, to have his statement read back in a language he understands and signed so as to fulfil the requirements of Rule 68(2).

Considering that contacting him by phone prior to scheduling a meeting in BANGUI had not proved successful, the Defence needed to organize a mission in his locality, [REDACTED] and establish in-person contact. Due to all other undergoing investigative steps, this mission only recently took place. An appointment with him was set for [REDACTED] [REDACTED] which was giving the Defence sufficient time to proceed with the disclosure of his statement and its inclusion in the various relevant filing all due today. However, after a few attempts to reach him [REDACTED] P-5016 informed the Defence of [REDACTED]

In light of the above, the Defence submits that there is good cause to extend the time limit for the submission of the Rule 68(2) application for P-5016. Due to those circumstances, the Defence respectfully requests to be granted until 15 December 2023 to file its application pursuant to Rule 68(2). This additional time would permit the Defence to plan a new mission, and finalize P-5016’s statement.

The Defence notes the Chamber’s Decision on the Ngaïssona Defence Request for Extension of Time (ICC-01/14-01/18-2181) in which the Ngaïssona Team was allowed to submit on a rolling basis 68(2) applications up until 15 December 2023 so long as they concerned “witnesses and material that are not to be called and/or relied upon in the hearing weeks scheduled for December 2023 and between 15 January and 2 February 2024”. Should the Request be granted, the Defence could abide by the same conditions with regard to P-5016.

The Defence apologises for this last minute request resulting from unforeseen circumstances, and any inconvenience caused.

Kind regards,

[REDACTED]
Yekatom Defence

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