

ANNEX 53
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Version

From: Trial Chamber V Communications
Sent: 27 January 2023 17:35
To: [REDACTED] Trial Chamber V Communications; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Cc: OTP CAR IIB; D30 Ngaissona Defence Team; D29 Yekatom Defence Team; V44 LRV Team OPCV; V44 LRV Team OPCV; V45 LRV Team
Subject: Decision on the Urgent Yekatom Defence Request for extension of time to respond to Prosecution's Request ICC-01/14-01/18-1702-Conf

Dear Counsel,

The Single Judge takes note of the Yekatom Defence's request to extend the deadline to respond to ICC-01/14-01/18-1702-Conf until 10 of February 2023 and the Ngaissona Defence's support thereof (see emails below).

In light of the reasons provided and noting that there are no objections to the request, 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.

Responses should therefore be filed by 10 February 2023. The extension is granted for all participants.

Kind regards, TC V

From: [REDACTED]
Sent: 27 January 2023 14:43
To: [REDACTED] Trial Chamber V Communications
Cc: OTP CAR IIB [REDACTED] D30 Ngaissona Defence Team [REDACTED]
D29 Yekatom Defence Team [REDACTED] V44 LRV Team OPCV [REDACTED]
[REDACTED] V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED]
Subject: RE: Urgent Yekatom Defence Request for extension of time to respond to Prosecution's Request 1702-Conf

Dear Trial Chamber V,
Dear all,

The Ngaissona Defence supports the Yekatom Defence's request for an extension of time to respond to the Prosecution's "Request for leave to add one item to the List of Evidence" (ICC-01/14-01/18-1702-Conf) until 10 February 2023.

As mentioned in the Yekatom Defence's email, both Defence teams received the courtesy copies yesterday, therefore additional time is required to analyse them before responding to the Prosecution's request. The Ngaissona Defence respectfully requests the Chamber to benefit from the same extension of time, should it be granted.

Kind regards,

[REDACTED]

[REDACTED]

Case Manager – Ngaissona Defence Team
International Criminal Court (ICC)

[REDACTED]
[REDACTED]
www.icc-cpi.int

From: [REDACTED]
Sent: 27 January 2023 14:14
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB [REDACTED] D30 Ngaissona Defence Team [REDACTED]
D29 Yekatom Defence Team [REDACTED] V44 LRV Team OPCV [REDACTED]
[REDACTED] V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED]
[REDACTED]
Subject: Urgent Yekatom Defence Request for extension of time to respond to Prosecution's Request 1702-Conf

Dear Trial Chamber V,
Dear all,

Pursuant to regulation 35 of the Regulations of the Court, the Defence for Mr Yekatom respectfully requests the Chamber to allow a further extension of time to respond to the Prosecution's "Request for leave to add one item to the List of Evidence" (ICC-01/14-01/18-1702-Conf). The Prosecution is seeking in this request the addition of a list extracted from [REDACTED] phone (the "Contact List").

On 20 December 2022, the Chamber previously granted a first extension request from the Ngaissona Defence, supported by the Yekatom Defence, to respond to the above mentioned filing by 30 January 2023.

Since the Chamber's extension decision, beginning with a first e-mail on 5 January 2023, both Defence teams have been in contact with the Prosecution seeking specific information on the extracted Contact List. On 19 January 2023, the Prosecution was asked further information, an answer was only provided yesterday, 26 January 2023 at 16:53, after a follow up from the Ngaissona Defence.

This Prosecution's email dated 26 January 2023 included several courtesy copies of photographs of [REDACTED]'s phone, described by the Prosecution as "*photographs of certain SMS/WhatsApp messages were taken preliminarily to assess the relevance of the phone's potential content to the investigation. They are attached for your convenience, and will be formally disclosed on Friday 3 February*".

The information that the Prosecution was able to go though [REDACTED] phone directly on its handset is new information which is particularly relevant for the Yekatom Defence and could not have been anticipated, as such it is not addressed in the response which was being prepared in liaison with the Ngaissona Defence. The Yekatom Defence intends to make specific submissions on this new information due to its direct impact on the Contact List for which addition to the List of Evidence is sought.

The Defence stresses that for those submissions to be complete, it needs access to the Metadata of the documents attached as courtesy copy in the Prosecution's email, Metadata which will only be available on 3 February 2023 upon their disclosure by the Prosecution on Nuix.

In light of this new fact only being brought to the Defence's knowledge yesterday, and of the future disclosure of the documents on 3 February 2023, the Defence respectfully requests an extension of time to respond to Prosecution filing 1702-Conf to 10 February 2023. This extension will allow the Defence to provide submissions on the good forensic practices regarding seized phones, which are, in the Defence view, crucial for the adjudication of the Prosecution's request by the Chamber.

Kind regards,

[REDACTED]
Legal Consultant
Yekatom Defence

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