

Pursuant to Pre-Trial Chamber II's instruction dated 02.05.2024, this document is reclassified as Public

**Cour
Pénale
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**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/18

Date: 1 June 2023

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Tomoko Akane
Judge Sergio Gerardo Ugalde Godínez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM
GAWAKA***

**Confidential, *EX PARTE*,
only available to the Registry, Prosecution, and Defence
with Confidential, *EX PARTE*, Annexes A and B, only available to the Prosecution**

**Prosecution's Request to extend the contact restrictions imposed in the "Sixth
Decision on Contact Restrictions" (ICC-01/14-01/22-148-Conf-Exp)**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

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Victims and Witnesses Unit

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Mr Harry Tjonk

**Victims Participation and Reparations
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Other

I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") requests the Pre-Trial Chamber II ("Chamber") to further extend the contact restrictions including the vetting process¹ as currently imposed on Mr Maxime Jeoffroy Eli Mokom Gawaka ("Mr Mokom") in accordance with regulations 101(2) of the Regulations of the Court ("RoC") and regulations 174 and 175 of the Regulations of the Registry ("RoR"). The circumstances justifying the process persist as of the date of this Request. The restrictions also remain necessary to protect witnesses, prospective victims and the ongoing investigation.

II. CONFIDENTIALITY

2. In accordance with regulation 23bis(1) of the RoC, these Observations are filed as "Confidential, *EX PARTE*, only available to the Registry, Prosecution, and Defence", as they respond to filings and decisions of the same classification. Annexes A and B, appended to this filing, are classified as "Confidential, *EX PARTE*, only available to the Prosecution" as they contain confidential information regarding Prosecution witnesses which cannot be shared with the Defence at this stage of the proceedings. A confidential redacted version of the annexes will be filed as soon as practicable. The Prosecution will further file a public redacted version once these decisions and filings are reclassified.

III. SUBMISSIONS

A. The contact restrictions remain necessary to protect witnesses, victims, and the ongoing investigation

3. The circumstances justifying the contact restrictions under regulation 101(2)(b) and (c) of the RoC and regulation 174 of the RoR have not changed. The restrictions

¹ ICC-01/14-01/22-148-Conf-Exp ("Sixth Decision").

including the passive monitoring of phone calls and the vetting process currently imposed on Mr Mokom are therefore necessary to protect witnesses, victims, and the ongoing investigation in the Central African Republic ("CAR").²

4. Before the Sixth Decision, Mr Mokom sought to add an individual to his list of non-privileged contacts where concerns on the part of the Registry and the Prosecution arose.³ This demonstrated that there is a risk that Mr Mokom adds persons to his list of contacts for whom there are concerns as such contacts are possible vectors for attempts to obstruct the proceedings or to breach confidentiality.⁴ The sharing of information between the Prosecution and the Registry continues and is effective. The Prosecution shared potential concerns in relation to a new request of Mr Mokom to add an individual to his contacts as recently as 23 May 2023. It has today shared additional concerns in relation to another name. This continues to demonstrate that the vetting process helps to mitigate obstructive behaviour of the proceedings such as witness interference.
5. Furthermore, as illustrated in Annexes A and B, Prosecution witnesses have and continue to face concrete threats and challenges to their security directly linked to Mr Mokom or at least persons who can be considered his supporters. For example, Witness P-1521 has informed the Prosecution of his threatening experiences linked to the Anti-Balaka.⁵ The threats he communicated still influence his sense of security and demonstrate that supporters of Mr Mokom employ intimidating tactics against cooperating witnesses and their relatives. In addition, Witness P-1503 relays recent threatening situations by a person aligned with Mr Mokom through the *Coalition des Patriotes pour le Changement* ("CPC").⁶ Such behaviour

² ICC-01/14-01/22-148-Conf-Exp, para. 6.

³ ICC-01/14-01/22-212-Conf-Exp, para. 8.

⁴ ICC-01/14-01/22-148-Conf-Exp, para. 6.

⁵ See Annex B.

⁶ See Annex A. See also CAR-OTP-2137-0087.

demonstrates the precarious situation Prosecution witnesses face in the current circumstances and can have long term negative impact on them.

6. Since the Sixth Decision was rendered, the security situation in CAR has further deteriorated. The CPC continues to display its strong military presence in CAR and is actively engaged in armed hostilities.⁷ Before his arrest, Mr Mokom was a founding member of the CPC⁸ and continues to be supported by it.⁹ This continues to pose an objective risk of witness interference should contact restrictions be further lifted. The widespread regional impact of the conflict in Sudan and continued violent clashes between armed groups, and the *Forces Armées Centrafricaines* (FACA) has led to a deterioration of the security situation.¹⁰ The capacity of CAR law enforcement agencies to intervene to secure witnesses in these circumstances is limited in the present circumstances. This also directly impacts on the Prosecution's ability to protect witnesses.
7. Lastly, it is noted that the evidence the Prosecution intends to rely upon at the confirmation hearing has been disclosed. Should the contact restrictions be even further relaxed or lifted, Mr Mokom could directly contact the Prosecution witnesses he has now been made aware of and/or convey information about them to his associates and supporters in CAR, who in turn could interfere or harm the witnesses and victims.

⁷ See https://www.alwihdainfo.com/RCA-la-mise-de-la-CPC-au-gouvernement-pour-preserver-la-paix_a123633.html [last accessed 01/06/23], [Chinese killed in Central African Republic: Xi Jinping calls for "punishing murderers" - Le Temps](#) [last accessed 01/06/23]. See also, ICC-01/14-01/18-1889-Conf-Anx, para. 5.

⁸ See ICC-01/14-01/18-1889-Conf-Anx, para. 5, (noting that "[t]he security environment in the country remains tense due to the violent conflict opposing the CPC to the loyalist forces"); and para. 25, (noting that "[...] the [...] CPC published a communiqué on 3 May 2023 "formally and categorically denying the dissolution" rejecting this "communication disinformation aiming at manipulating the national and international opinion").

⁹ ICC-01/14-159-Conf-Exp, para. 14. See also, [CAR: CPC rebel group coordinated by Maxim Mokom on Chadian border - Ndjoni Sango](#) [last accessed 01/06/23].

¹⁰ ICC-01/14-01/18-1889-Conf.

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B. The contact restrictions are overall proportionate

8. While the Prosecution is concerned about the reports received from witnesses, at this moment, it still considers the current restrictions proportionate to mitigate the risks set out above, as there are no less intrusive measures available to mitigate the risks. However, the Prosecution is monitoring its witnesses carefully and will not hesitate to seize the Chamber with a request for renewal of the active monitoring should additional threats come to its attention.

IV. RELIEF SOUGHT

9. For the above reasons, the Prosecution requests the extension of the current restrictions.



Karim A. A. Khan KC, Prosecutor

Dated this 1st day of June 2023

At The Hague, The Netherlands