



Original: **English**

No.: **ICC-01/14-01/22**

Date: **22 January 2024**

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 *THE PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM
GAWAKA***

**Public
with Confidential Annexes A and B**

**Public Redacted Version of “Second Joint Report on Agreed Facts”
(ICC-01/14-01/22-256-Conf, 11 August 2023)**

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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I. INTRODUCTION

1. The Parties hereby provide their second joint report on agreed facts, pursuant to Pre-Trial Chamber II's ("Chamber") order of 13 February 2023.¹
2. Although the Prosecution and Defence agree on a total of 14 facts, the Parties have not been able to reach a common agreement regarding any of the remaining 31 stipulations proposed under rule 69 of the Rules of Procedure and Evidence ("Rules").
3. The few facts on which the Defence agrees mostly concern contextual elements of the crimes, background information, and public pronouncements of relevant persons.
4. Confidential Annex A contains the Prosecution's Second Proposal of Agreements as to Evidence ("Second Proposal"). Confidential Annex B contains the Defence's response reflecting its position.

II. CONFIDENTIALITY

5. Pursuant to regulation 23bis(1) of the Regulations of the Court, this filing and annexes are classified as "Confidential" as they relate to *inter partes* communications and information that should not yet be released to the public. A public redacted version will be filed as soon as practicable.

III. PROCEDURAL BACKGROUND

6. On 13 February 2023, the Chamber instructed the Parties to liaise on whether they can agree on issues and facts relevant to the charges and considered that agreed facts under rule 69 of the Rules constitute a "tool directly instrumental to

¹ ICC-01/14-01/22-157, para. 29. The Defence has indicated *via* an email sent on 9 August 2023 at 16h38 that they agree that the present submission be filed as a Prosecution submission'

the overall efficiency and expeditiousness of the proceedings”.² The Chamber further directed the Parties to submit a first report on agreed facts by 26 May 2023. On 23 May 2023, the Prosecution filed the “First Joint Report on Agreed Facts”.³

7. On 28 June 2023, to advance the proceedings and to reduce the scope of the contested issues in the case, the Prosecution provided the Defence with its Second Proposal containing 45 factual stipulations.⁴
8. On 5 July 2023, the Defence indicated that it would require more time to provide a substantive response to the Second Proposal. On 18 July 2023, the Prosecution requested a deadline for the Defence’s position.⁵ On 28 July 2023 the Defence definitively responded, indicating the extent of its agreement.⁶ On 3 August 2023, the Prosecution accepted the Defence’s suggested reformulations of stipulations F.2, F.5 and it further proposed a rephrasing of stipulation G.10.⁷ On the same day, the Defence agreed to the revised stipulation G.10.⁸

IV. SUBMISSIONS

9. The 45 stipulations comprising the Second Proposal concern: (i) the Suspect’s background; (ii) the contextual elements of the crimes; (iii) the background of relevant persons; and (iv) the public pronouncements of relevant persons during the relevant period.
10. As noted above, the Defence agrees to 14 of the proposed stipulations. The Defence has taken no position on the remaining 31 stipulations. The Parties have

² *Ibid.*

³ ICC-01/14-01/22-205-Conf.

⁴ See Confidential Annex A.

⁵ See Confidential Annex B.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

not reached any further agreements in respect of the Second Proposal or other facts.

11. The facts, as agreed, comprise:

- [REDACTED] (stipulation B.39);
- [REDACTED] (stipulation B.40);
- [REDACTED] (stipulation B.41);
- [REDACTED] (stipulation B.42);
- [REDACTED], (stipulation B.60);
- [REDACTED] (stipulation B.61);
- MOKOM was amongst the participants of the BANGUI Forum that took place from 4 to 11 May 2015 (stipulation B.62);
- The NAIROBI Agreement, dated 8 April 2015 was signed by MOKOM on behalf of the Anti-Balaka (stipulation B.63);
- [REDACTED] (stipulation F.1);
- [REDACTED] (“CAR”) (reformulated stipulation F.2)⁹;
- NGAISSONA was a Minister of Youth and Sports under BOZIZE (stipulation F.3);
- Bernard MOKOM was the *Sous-Préfet* of Gamboula (reformulated stipulation F.5)¹⁰;

⁹ See confidential Annex B.

¹⁰ *Ibid.*

- In a media interview published on 8 December 2014, MOKOM is quoted as stating that to *“que le mouvement Anti Balaka est venu pour libérer le peuple centrafricain [...] les Anti Balaka représentent tous centrafricain qui se sont levés pour défendre leur patrie”* (reformulated stipulation G.10)¹¹;
- In a media interview published on 8 December 2014, MOKOM is quoted as saying that he is not a politician, but a military man (stipulation G.11).

V. CONCLUSION

12. None of the facts agreed among the Parties are of a nature warranting a more complete presentation in the interests of justice or the interests of the victims. The Chamber should thus consider them as proved, pursuant to rule 69 of the rules.
13. Notably, the Chamber is not encumbered from taking judicial notice of facts of common knowledge, including but not limited to locations within CAR, pursuant to article 69(6). Moreover, it may do so either on its own accord or upon request by the Parties or participants, as appropriate.



Karim A. A. Khan KC, Prosecutor

Dated this 22 January 2024

At The Hague, The Netherlands

¹¹ *Ibid.*