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

Date: **31 March 2022**

PRE-TRIAL CHAMBER II

Before: Judge Salvatore Aitala, Presiding Judge
Judge Antoine Kesia-Mbe Mindua
Judge Rosario Tomoko Akane

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

Public

**Prosecution's Observations on the Modalities and Procedure for Evidence
Disclosure**

Source: Office of the Prosecutor

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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I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) provides its observations on the modalities and procedure for evidence disclosure, as ordered by Pre-Trial Chamber II (“Chamber”) on 22 March 2022.¹

2. The Prosecution requests the Chamber to adopt in this case the following protocols governing disclosure, as issued in the related case of *Prosecutor v. Yekatom and Ngaissona* (ICC-01/14-01/18), namely the: (i) E-Court Protocol;² and (ii) Redaction Protocol;³ (“Proposed Disclosure Protocols”).

3. Adopting the two Proposed Disclosure Protocols in this case will ensure: (i) an effective and expeditious pre-confirmation process; (ii) prompt disclosure; (iii) non-duplication of work; and (iv) predictability of proceedings.

II. SUBMISSIONS

A. Adoption of Proposed Disclosure Protocols

4. *First*, as the Prosecution’s previous filing (incorporated by reference herein) notes, adopting the Proposed Disclosure Protocols will ensure a uniform practice across the related *Yekatom* and *Ngaissona* case, given their substantial overlap.⁴ It will advance the expeditiousness of proceedings and this established practice is also in line with the Chambers Practice Manual⁵.

5. *Second*, applying the Proposed Disclosure Protocols in this case will facilitate the

¹ ICC-01/14-01/22-T-001-CONF-ENG, p. 12, l. 16-19.

² ICC-01/14-01/18-64-Anx. *See also*, ICC-01/14-01/18-64-Red, paras.11-18; ICC-01/14-01/18-459, para. 8; and ICC-01/14-01/18-677-Anx4.

³ ICC-01/14-01/18-64-Red, paras. 23-32. *See also*, ICC-01/14-01/18-459, para. 8; and ICC-01/14-01/18-677-Anx3.

⁴ ICC-01/14-01/22-24, paras. 4-7.

⁵ Chambers Practice Manual (2022), paras. 20-30; and 98-100.

immediate disclosure of materials already assessed and disclosed by the Prosecution during the Pre-Trial phase of the *Yekatom* and *Ngaissona* case. Moreover, it will facilitate the same with respect to materials disclosed during the trial phase of that case, given that Trial Chamber V fully adopted the same protocols on 19 March 2020.⁶

6. *Third*, implementing the Proposed Disclosure Protocols will ensure the necessary consistency throughout the three cases arising from the CARII situation (*i.e.*, *Said Abdel Kani*, *Yekatom* and *Ngaissona*, and *Mokom*). This will further assist the Prosecution in meeting its disclosure obligations in a timely manner and streamline the pre-confirmation procedure by avoiding unnecessary or duplicative processes, particularly in the area of redactions duly implemented in the *Yekatom* and *Ngaissona* case, as well as their categorisation.

7. *Finally*, adopting the Proposed Disclosure Protocols will enhance the predictability of proceedings, given the redaction categories defined by the Chamber in its 23 January 2019 Decision⁷ are well-founded in the case-law and practice of this Court across instances.⁸

B. Status Conferences and timing of disclosure

8. The Prosecution is at the Chamber's disposal to participate in status conferences in relation to disclosure and related matters which could increase efficiency in the conduct of the proceedings leading to the confirmation of the charges hearing.⁹

9. The Prosecution is ready to start disclosing evidence to the Defence as soon as the modalities of disclosure have been established and a permanent Counsel

⁶ ICC-01/14-01/18-459, para. 8.

⁷ ICC-01/14-01/18-64-Red, paras. 23-32.

⁸ ICC-01/14-01/18-64-Red, para. 28.

⁹ Chambers Practice Manual (2022), para. 19.

appointed.¹⁰

III. CONCLUSION

10. For the above reasons, the Prosecution requests that the Chamber adopt the Proposed Disclosure Protocols in this case, as issued in the related case of *Yekatom and Ngaissona*.



Karim A. A. Khan QC, Prosecutor

Dated this 31st day of March 2022
At The Hague, The Netherlands

¹⁰ ICC-01/14-01/22-26-Conf-Exp, p. 9.