



Original: English

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

Date: 21/12/2022

**PRE-TRIAL CHAMBER II**

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

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

*The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*

PUBLIC

**Mr. Mokom's Response to the  
Prosecution's Submission on its Approach to Material in the *Yekatom and  
Ngaïssona* Case to which Access may be authorised**

**Source:** Gregory Townsend, Duty Counsel

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 Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
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**The Office of Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**  
Peter Lewis

**Counsel Support Section**

**Deputy Registrar**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section** **Other**

## Introduction

1. On behalf of Mr. Mokom and pursuant to Regulation 24(1) of the Regulations of the Court, I file this response to the '*Prosecution's Submission on its Approach to Material in the Yekatom and Ngaïssona Case to which Access may be authorised*'.<sup>1</sup>
2. Following the recent Appeals Chamber's Judgement on Mr. Mokom's legal representation,<sup>2</sup> permanent Counsel for Mr. Mokom should soon be appointed and have the opportunity to file further submissions on the Prosecution's Submission.

## Submissions

3. The Prosecution submits that the identification of material in the *Yekatom and Ngaïssona* case to which Trial Chamber V may grant the *Mokom* Defence access and on which the Prosecution will rely for the purposes of the confirmation of charges hearing ('the accessed material') may be provided by the Prosecution to the Defence according to the 'timely provision of a rule 121(3) "list of evidence"',<sup>3</sup> namely no later than 30 days before the date of the confirmation hearing.
4. I submit that any accessed material which the Prosecution will seek to rely upon for the confirmation of charges hearing must be provided by the Prosecution more than 30 days before the date of the confirmation hearing.
5. As already held by the Pre-Trial Chamber, the confirmation of charges hearing, scheduled since March 2022 to be held from 31 January 2023, will have to be

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<sup>1</sup> Office of the Prosecutor, '*Prosecution's Submission on its Approach to Material in the Yekatom and Ngaïssona Case to which Access may be authorised*', 9 December 2022, ICC-01/14-01/22-118 (the '*Prosecution's Submission*').

<sup>2</sup> Appeals Chamber, '*Public redacted Judgment on the appeal of Maxime Jeoffroy Eli Mokom Gawaka against the decision of Pre-Trial Chamber II of 19 August 2022 entitled "Decision on legal representation further to the Appeals Chamber's judgment of 19 July 2022"*', 19 December 2022, ICC-01/14-01/22-124-Red.

<sup>3</sup> ICC-01/14-01/22-118, para. 9.

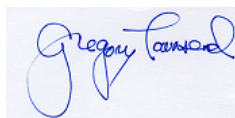
postponed.<sup>4</sup> Moreover, the current proceedings have suffered delays which have given ample time to the Prosecution to prepare its case and review all the accessed material that it will rely upon during the confirmation proceedings. In this vein, the Pre-Trial Chamber has already stated that the Prosecution has had more preparation time in this case than it normally has.<sup>5</sup>

6. To enable Mr. Mokom to prepare efficiently for the confirmation of charges hearing, I submit that the Pre-Trial Chamber should instruct the Prosecution to provide, on a rolling basis, a list of the accessed material that it will be relying upon for the confirmation of charges hearing, based on specific deadlines set by the Pre-Trial Chamber. Moreover, the Pre-Trial Chamber should instruct the Prosecution to indicate (in a table) the relevant sections of the accessed material that it will rely upon for the confirmation of charges hearing, just as it does for all disclosed items.<sup>6</sup>

### Conclusion

7. In conclusion, on behalf of Mr. Mokom, I request that the Pre-Trial Chamber **INSTRUCT** the Prosecution to provide on a rolling basis a list of the relevant sections of the accessed material that it will rely upon for the confirmation of charges hearing, based on specific deadlines set by the Pre-Trial Chamber.

Respectfully submitted,



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Gregory Townsend,  
Duty Counsel

The Hague, The Netherlands  
Wednesday, December 21, 2022

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<sup>4</sup> Pre-Trial Chamber II, 'Order to Mr Mokom to provide submissions on interim release', 7 November 2022, ICC-01/14-01/22-105, para. 11.

<sup>5</sup> ICC Transcript, 23 September 2022, ICC-01/14-01/22-T-004-Red-ENG, p. 22, l. 23-24.

<sup>6</sup> Pre-Trial Chamber II, 'Order on disclosure and related matters', 7 November 2022, ICC-01/14-01/22-104, para. 8.