



Original: **English**

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

Date: **9 March 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 *THE PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM
GAWAKA***

**Public
with Confidential Annexes**

Prosecution's Submission of the Document Containing the Charges

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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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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States Representatives

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REGISTRY

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Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. NOTIFICATION

1. Pursuant to Pre-Trial Chamber II's ("Chamber") 27 June 2022 "Order on the conduct of the confirmation of charges proceedings",¹ supplemented by the Chamber's Order on disclosure and related matters issued on 7 November 2022² and by the Chamber's Second order on the conduct of the confirmation of charges proceedings issued on 13 February 2013³, the Prosecution submits its Document Containing the Charges ("DCC"), the French translation of the DCC, the Annex which is comprised of two parts, and the List of Evidence ("LoE").

II. CONFIDENTIALITY

2. The Annexes, appended to this filing, are classified as "Confidential", pursuant to regulation 23bis(2) of the Regulations since they refer to documents and evidence which are currently subject to the same classification.

III. SUBMISSION OF THE DCC

3. The Prosecution hereby submits the following documents:

- the DCC, its English version being authoritative (Annex A);
- the French translation of the DCC (Annex B);
- the Annex to the DCC (Annex C):
 - Part 1 (C.1), which mirrors the structure of the DCC, providing an explanation of the supporting evidence for the allegations presented in the DCC;⁴
 - Part 2 (C.2), which contains the Call Data Records ("CDR") Analysis, and which is referenced in Part 1 (C.1)⁵;
- the LoE (Annex D).

¹ ICC-01/14-01/22-62, paras. 32-33.

² ICC-01/14-01/22-104, para. 9.

³ ICC-01/14-01/22-157, paras. 35-37.

⁴ ICC-01/14-01/22-62, para. 36; ICC-01/14-01/22-104, para. 10.

⁵ ICC-01/14-01/22-157, para. 37.

4. The Annex provides summary details of facts and evidence presented in support of the charges contained in the DCC, for the purpose of confirming those charges in this case. While it is annexed to the DCC, as ordered by the Pre-Trial Chamber, the specifications therein do not form part of the DCC, but rather explain the Prosecution's case and identify the necessary supporting evidence in view of the stage and limited scope of the confirmation proceedings.

5. Where necessary to avoid duplication, in addition to particular facts and evidence presented in support of particular paragraphs of the DCC, cross-references are made to facts and evidence presented in support of other paragraphs of the DCC. The cross-reference refers to the number in the far left column of the Annex.

6. Regarding the LoE, the Prosecution draws attention to the fact that the ERNs referred to in Annex C.2 (CDR Analysis) and the ERNs referred to in the Attribution Table (CAR-OTP-00001197, referenced in Annex C.2) are not in the LoE. This is to ensure the LoE remains concise and not duplicative.

7. The Prosecution advises that, regrettably, despite its best efforts to comply with the Chamber's order "to ensure that the evidence that will be referenced in the annex to the DCC corresponds *exactly* to the evidentiary items listed in the List of Evidence and the Witnesses Table"⁶, there are references to witnesses' Statements in the Annex to the DCC that are not contained in the Witness Table submitted on 23 February 2023.⁷ With that said, all Statements referenced in the Annex have been and are available to the Defence.

8. Although the Prosecution considers that the Annex provides sufficient notice of the Statement references on which it relies, should the Chamber so require it, the Prosecution can provide list of the references not included in the Witness Table.

⁶ ICC-01/14-01/22-104, para. 10 (emphasis added).

⁷ ICC-01/14-01/22-167 and ICC-01/14-01/22-167-Conf-AnxB.

9. Relatedly, the Prosecution respectfully requests the Chamber's authorisation, considering the early stage of the process and the absence of any appreciable prejudice, to:

- Amend the disclosure metadata of 21 Rule 77 documents to INCRIM;
- Amend the disclosure notes relating to the identification of the relevant passage(s) for 39 INCRIM items; and
- Formally disclose t 9 trial transcripts referenced in the Annex as follows: ICC-01/14-01/18 trial transcripts T-019, T-025, T-026, T-100, T-101, T-117, T-119, T-166, and T-190.⁸



Karim A. A. Khan KC, Prosecutor

Dated this 9th day of March 2023
At The Hague, The Netherlands

⁸ With the exception of transcript T-166, all of these transcripts are either public or the Defence has been granted access to them pursuant to the order of Trial Chamber V. The Prosecution undertakes to disclose them as appropriate upon registration.