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**Cour
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**International
Criminal
Court**

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

Date: 23 May 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***

Confidential
with Confidential Annexes A and B
First Joint Report on Agreed Facts

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 first joint report on agreed facts, pursuant to Pre-Trial Chamber II's ("Chamber") 13 February 2023, "Second order on the conduct of the confirmation of charges proceedings".¹
2. Although the Prosecution and Defence agree on a total of eight facts, the Parties have not been able to reach a common agreement regarding any of the remaining 76 stipulations proposed under rule 69 of the Rules of Procedure and Evidence ("Rules").
3. The few facts on which the Defence agrees mostly concern background information on MOKOM and certain geographical locations in the Central African Republic ("CAR").
4. *Confidential* Annex A contains the Prosecution's First Proposal of Agreements as to Evidence ("First 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 ("RoC"), this filing is classified as "Confidential" as it relates 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 22 May 2023 at 20h25, that it prefer the present submission, to which it had no further comment, 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.

7. On 31 March 2023, to advance the proceedings and to reduce the scope of the contested issues in the case, the Prosecution provided the Defence with its First Proposal³ containing 84 factual stipulations.⁴
8. On 14 April 2023, the Defence indicated that it would require more time to provide a substantive response to the First Proposal. The same day, the Prosecution requested a deadline for the Defence's position.⁵ On 28 April 2023 the Defence definitively responded, indicating the extent of its agreement.⁶

IV. SUBMISSIONS

9. The 84 stipulations comprising the First Proposal concern: (i) the Suspect's background; (ii) the contextual elements of the crimes; (iii) the geography of CAR; and (iv) the formation of the Anti-Balaka and its composition during the relevant period.
10. As noted above, the Defence agrees to eight of the proposed stipulations. The Defence further opposes ten of the factual stipulations⁷ and has taken no position

² *Ibid.*

³ The Prosecution intends to provide the Defence with a Second Proposal in due course.

⁴ See Annex A.

⁵ See Annex B.

⁶ *Ibid.*

⁷ See Annex B, (noting that it denies the following facts: D.4, MOKOM was based in ZONGO with members of the PG, FACA, and others loyal to BOZIZE, including some of BOZIZE's sons, Patrick OROFEI ("Patrick OROFEI"), Aimé Abel DENAMGANAI ("DENAMGANAI"), NAMSIO, and DOKABONA; D.5, From ZONGO, MOKOM joined the plan of BOZIZE's inner circle to respond to the Seleka offensive and to return BOZIZE to power; D.6, From ZONGO, MOKOM was in contact with his father, Bernard MOKOM, with NGAISSONA, and with other members of BOZIZE's inner circle; D.15, Prior to the formal establishment of the Anti-Balaka National Coordination in January 2014, MOKOM coordinated Anti-Balaka military operations in the Provinces from his base in ZONGO; D.16, MOKOM signed official Anti-Balaka documents as the organization's "Coordinator of Operations", including mission orders; D.18, The National Coordination included the positions of National General Coordinator (NGAISSONA), Deputy National Coordinator, National Coordinator of Operations (MOKOM), Chief of Staff, Spokesperson and Secretary; D.19, The National Coordination structure also comprised a Zone Coordinator (YAGOUZOU), Chief of Staff (Charles NGREMANGOU ("NGREMANGOU"), and later Richard BEJOUANE ("BEJOUANE") and Olivier

on the remaining sixty-six stipulations. The Parties have not reached any further agreements in respect of the First Proposal or other facts.

11. The facts, as agreed, comprise:

- Suspect Maxime Jeoffroy Eli Mokom Gawaka (“MOKOM”), is a national of CAR”, born on 30 December 1978 in BANGUI, the CAR, (stipulation A.1);
- Bernard MOKOM is MOKOM’s father, (stipulation A.4);
- Rocca MOKOM is MOKOM’s brother, (stipulation A.5);
- MOKOM is of Gbaya ethnicity, (stipulation A.6);
- BANGUI, the capital of CAR, is situated on the opposite bank of the OUBANGUI river less than two kilometres from ZONGO which is in the Democratic Republic of the Congo, (stipulation C.1);
- BOSSANGO is the capital of the OUHAM Prefecture, located around 300 kilometres north of BANGUI and 200 kilometres south of the Chadian border, (stipulation C.2);
- MOKOM fled to ZONGO after the 24 March 2013 coup d’état, (stipulation D.3);
- MOKOM represented the Anti-Balaka in national and international negotiations, including those held in BRAZZAVILLE and NAIROBI, (stipulation D.17).

FEISSONA (“FEISSONA”), Deputy Chief of Staff (Côme AZOUNOU (“AZOUNOU”), Spokesperson(s) (Brice Emotion NAMSIO (“NAMSIO”) and Sebastien WENEZOU (“WENEZOU”), and Secretary (Judicaël OROFE MOGANAZOUM (“Judicaël OROFE”)); D.20, Under the National Coordination, Anti-Balaka commanders and chiefs were formally appointed as Zone-Commanders (‘ComZones’) to control specific areas and discipline their respective groups; D.21, Hierarchically, Anti-Balaka Comzones fell under the authority and responsibility of MOKOM, as the Coordinator for Operations; and D.22, The Anti-Balaka were led on the ground by Anti-Balaka chiefs Rodrigue NGAIBONA (aka “ANDJILO”), Thierry LEBENE (“LEBENE” aka “12 Puissances”), BEJOUANE, DENAMGANAI, AZOUNOU, YAGOUZOU, Guy MAZIMBELE, YEKATOM, Yvon KONATE (“KONATE”), NGREMANGOU, WENEZOU, Samy URBAIN (aka “BAWA”), and others, under the coordination of MOKOM).

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 23rd day of May 2023

At The Hague, The Netherlands