



**Original: English**

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

**Date: 14 July 2023**

**PRE-TRIAL CHAMBER II**

**Before:**

**Judge Rosario Salvatore Aitala, Presiding  
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**

Order setting the schedule and directions for the confirmation of charges hearing

**Order to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**

**The Office of the Prosecutor**

Mr Karim A. A. Khan  
Mr Mame Mandiaye Niang  
Ms Leonie von Braun

**Counsel for Mr Mokom**

Mr Philippe Larochelle

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparations**

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

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

**States Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**PRE-TRIAL CHAMBER II** of the International Criminal Court issues this ‘Order setting the schedule and directions for the confirmation of charges hearing’.

## **I. PROCEDURAL HISTORY**

1. On 3 February 2023, after previously having postponed the date initially set,<sup>1</sup> the Chamber decided that the confirmation of charges hearing shall commence on 22 August 2023.<sup>2</sup>

2. On 13 February 2023, the Chamber issued the ‘Second order on the conduct of the confirmation of charges proceedings’ (the ‘Second Order’),<sup>3</sup> thereby, *inter alia*, setting the following time limits: (i) by 14 July 2023, any steps pursuant to rule 121(4), (5) and/or (6) of the Rules of Procedure and Evidence (the ‘Rules’) must be taken and, the Defence’s disclosure to the Prosecution of evidence which is already in its possession supporting any claimed alibi or other defence and which it intends to present during the confirmation hearing, is to be completed;<sup>4</sup> (ii) by 18 August 2023, any submissions pursuant to rule 121(9) of the Rules must be filed and any submissions pursuant to rule 122(3) of the Rules shall be made in writing.

3. On 28 June 2023, by way of email, the Chamber instructed the parties and participants to provide observations on the organisation of the confirmation of charges hearing by no later than 11 July 2023.<sup>5</sup>

4. On 3 July 2023, the Office of the Public Counsel for Victims communicated the observations of the common legal representatives of victims (the ‘CLRV’).<sup>6</sup> The CLRV request to be allocated two and a half hours for their opening statements and two hours for their final statements.

5. On 4 July 2023, by way of email, the Defence indicated that it anticipates being able to conclude its oral presentation, including opening and final statements, within

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<sup>1</sup> Order postponing the confirmation of charges hearing, 23 January 2023, [ICC-01/14-01/22-137](#).

<sup>2</sup> Decision setting the date for the confirmation of charges hearing, [ICC-01/14-01/22-151](#).

<sup>3</sup> [ICC-01/14-01/22-157](#), (the ‘Second Order’).

<sup>4</sup> See also Email from the Chamber to the Defence, 5 July 2023 at 17:43, partially granting the Defence’s request to be permitted to disclose ‘migrated’ material it intends to rely upon for the purpose of the confirmation hearing by 14 July 2023, and if not feasible, by 31 July 2023 (see Email from the Defence to the Chamber, 4 July 2023 at 15:54).

<sup>5</sup> See Email from the Chamber to the parties and participants, 28 June 2023 at 09:51.

<sup>6</sup> ICC-01/14-01/22-238.

five hours. It also, *inter alia*, requests to be permitted to file written submissions following the confirmation of charges hearing (the ‘Defence’s Request’).<sup>7</sup>

6. On 11 July 2023, by way of email, the Prosecution conveyed its estimate of needing three hours for the presentation of its oral arguments.<sup>8</sup>

## II. DETERMINATION

### A. Hearing on the confirmation of charges

7. The Chamber recalls the principle of fairness which encompasses the notion of equality of arms and requires that the parties be placed on equal footing, as well as rule 122(8) of the Rules which mandates that the Defence should have the last word.<sup>9</sup> In order to ensure expeditious and efficient proceedings, the oral submissions of the parties and participants must be concise in nature, and repetition of any arguments set out previously should be avoided. The parties and participants may not raise new arguments in their final statements. Final statements are to be used to respond to arguments and questions raised during the hearing.

8. As to the time for the presentation of oral arguments on the merits, it is recalled that the Prosecution already had the opportunity to present its case to the Chamber in writing, whilst the hearing will be the first opportunity for the Defence to present its arguments on the merits of the case. The Defence will therefore be granted more time for the presentation of its oral submissions.

9. In light of the above, and having taken into account the scope of the present case, the Chamber considers it appropriate to grant the following time for oral presentations:

- Prosecution: 20 minutes for its opening statements, two hours to present its arguments on the merits and 30 minutes for its final statements;

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<sup>7</sup> Email from the Defence to the Chamber, 4 July 2023 at 15:54.

<sup>8</sup> Email from the Prosecution to the Defence, 11 July 2023 at 11:12.

<sup>9</sup> See Pre-Trial Chamber II, *The Prosecutor v. Mahamat Said Abdel Kani*, Order setting the schedule for the confirmation of charges hearing, 14 September 2021, [ICC-01/14-01/21-172](#), para. 15; Pre-Trial Chamber II, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”)*, Order setting the schedule for the confirmation of charges hearing and convening annual hearing on detention, 5 May 2021, [ICC-02/05-01/20-378](#), para. 12.

- Defence: 20 minutes for its opening statements, four hours to present its arguments on the merits and 30 minutes for its final statements;
- CLRV: 20 minutes for their opening statements, two hours to present their arguments on the merits and 30 minutes for their final statements.

10. In relation to rule 122(3) of the Rules observations, if any, the Chamber will set aside time at the hearing, before it hears the matter on the merits, for further discussions on this matter, if necessary.

11. Furthermore, noting that the Defence is not opposed to having an abridged version of the document containing the charges (the ‘DCC’) read out at the confirmation of charges hearing,<sup>10</sup> the Chamber recalls that the Prosecution shall submit the abridged version of the DCC to the Chamber by email by no later than 18 August 2023.<sup>11</sup>

12. As to the Defence’s Request, the Chamber will decide whether further written submissions from the parties and the participants are necessary at the end of the confirmation of charges hearing.

## **B. Schedule**

13. The confirmation of charges hearing which will commence on 22 August 2023 will be organised as follows:

### **Tuesday, 22 August 2023**

#### **First session: 9:30 – 11:00**

- 9:30 – 10:00: Opening of the hearing by the Judges and reading of the charges under rule 122(1) of the Rules (30 minutes)
- 10:00 – 10:20: Discussion on rule 122(3) of the Rules, if necessary (20 minutes)

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<sup>10</sup> Email from the Defence to the Chamber, 30 March 2023 at 17:50.

<sup>11</sup> [Second Order](#), para. 27.

- 10:20 – 10:40: Prosecution’s opening statements (20 minutes)
- 10:40 – 11:00: CLRV’s opening statements (20 minutes)

*11:00 – 11:30: Break (30 minutes)*

Second session: 11:30 – 13:00

- 11:30 – 11:50: Defence’s opening statements (20 minutes)
- 11:50 – 13:00: Prosecution’s submissions on the merits (70 minutes)

*13:00 – 14:30: Break (90 minutes)*

Third session: 14:30 – 16:00

- 14:30 – 15:20: Prosecution’s submissions on the merits (50 minutes)
- 15:20 – 16:00: CLRV’s submissions on the merits (40 minutes)

### **Wednesday, 23 August 2023**

First session: 9:30 – 11:00

- 9:30 – 10:50: CLRV’s submissions on the merits (80 minutes)
- 10:50 – 11:00: Defence’s submissions on the merits (10 minutes)

*11:00 – 11:30: Break (30 minutes)*

Second session: 11:30 – 13:00

- 11:30 – 13:00: Defence’s submissions on the merits (90 minutes)

*13:00 – 14:30: Break (90 minutes)*

Third session: 14:30 – 16:00

- 14:30 – 16:00: Defence’s submissions on the merits (90 minutes)

**Thursday, 24 August 2023**

First session: 9:30 – 11:00

- 9:30 – 10:20: Defence’s submissions on the merits (50 minutes)
- 10:20 – 10:50: Prosecution’s final statements (30 minutes)
- 10:50 – 11:00: CLRV’s final statements (10 minutes)

*11:00 – 11:30: Break (30 minutes)*

Second session: 11:30 – 13:00<sup>12</sup>

- 11:30 – 11:50: CLRV’s final statements (20 minutes)
- 11:50 – 12:20: Defence’s final statements (30 minutes)

14. The schedule for the confirmation hearing is subject to change if warranted by developments in the proceedings, as deemed necessary by the Chamber. Moreover, for the sake of efficiency, in the event that a party or participant does not fully utilise the time allotted to it in the schedule, the next presentation shall commence, even if that presentation is scheduled for the following session or day. The parties and participants therefore must be able to present their submissions at any time. In the event that the parties wish to use audio or video material, they must liaise with the Registry ahead of time.

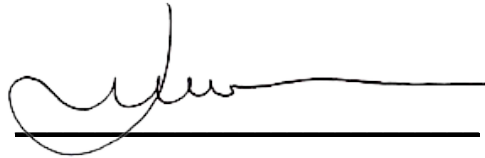
**FOR THESE REASONS, THE CHAMBER HEREBY**

**ADOPTS** the schedule and directions for the confirmation of charges hearing as set out above.

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<sup>12</sup> The remainder of this session, as well as the next session, is reserved in the calendar in the event that any further time is required.

Done in English. A French translation will follow. The English version remains authoritative.



**Judge Rosario Salvatore Aitala**

**Presiding**



**Judge Tomoko Akane**



**Judge Sergio Gerardo**

**Ugalde Godínez**

Dated this Friday, 14 July 2023.

At The Hague, The Netherlands.