

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **01/12/2023**

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

THE PROSECUTOR V. MAXIME JEOFFROY ELI MOKOM GAWAKA

***Public
with Confidential Annexes A and B***

Public Redacted Version of “Defence Submissions Further to the “Registry’s Report pursuant to the ‘Decision on ‘Defence Urgent Request for an Order Concerning the Arrest of P-0405’””, ICC-01/14-01/22-304-Conf, 29 November 2023

Source: Philippe Larochelle, Counsel for Mr. Mokom

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 the Applicant

Unrepresented Victims

**Unrepresented
 (Participation/Reparation)**

Applicants

The Office of Public Counsel for Victims

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Oswaldo Zavala Giler

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section Other**

I. SUBMISSIONS

1. The Defence repeats and relies on the procedural history as regards the arrest of P-0405, as set out in its *Defence Urgent Request for an Order Concerning the Arrest of P-0405* of 3 November 2023.¹

2. Following the Decision of the Pre-Trial Chamber on 10 November 2023,² the Registry filed a report on 17 November 2023.³ In this Report, the Registry informed the Pre-Trial Chamber that [REDACTED] information about the reasons for the arrest of P-0405, and to indicate where he is currently detained.⁴ The Registry Report also indicated that:

[REDACTED].

3. The Defence has no information about whether [REDACTED], or whether the Registry has followed up the 15 November 2023 request.

4. On 27 November 2023, [REDACTED] in Bangui reported that [REDACTED].⁵ Upon learning of P-0405's location, the Defence asked its Bangui-based legal assistant to try to make contact with him. The legal assistant has produced a report of this meeting, which confirms the [REDACTED] that P-0405 has been tortured extensively, and is in an extremely frail state of health.⁶ It also gives a reasonable basis to conclude that P-0405's arrest is **directly related** to his interactions with the Mokom Defence team. Indeed, the torture only began after his captors found the [REDACTED].

5. The report of the meeting with P-0405 is annexed to the present filing, with an unofficial English translation. It has also been provided to the United Nations Special Rapporteur for Torture, in support of an urgent request.

¹ ICC-01/14-01/22-290-Conf.

² ICC-01/14-01/22-290-Conf.

³ Registry's Report pursuant to the "Decision on 'Defence Urgent Request for an Order Concerning the Arrest of P-0405' (ICC-01/14-01/22-290-Conf), ICC-01/14-01/22-293-Conf ("Registry Report").

⁴ Registry Report, paras 3-4.

⁵ Annex A.

⁶ Annex B.

II. LEVEL OF CONFIDENTIALITY

6. Pursuant to Regulation 23*bis*(1) of the Regulations of the Court, the Defence files these submissions as confidential, since they refer to confidential documents and information. A public redacted version will be filed as soon as practicable.

III. CONCLUSION AND RELIEF SOUGHT

7. The Defence presented the statements of four witnesses in this case. The Defence seized the Victims and Witnesses Unit (VWU) of the Registry with a request for protection for only one of these witnesses: P-0405. At the time of the present filing, corroborated information indicates that P-0405 is being tortured, and at risk of death. His location is known.

8. On the basis of the above submissions, the Defence requests that the Pre-Trial Chamber:

ORDER that the VWU, and the Office of the Prosecutor, use their good offices to urgently ensure P-0405's well-being; and

SUMMON a representative of the Central African authorities to appear before the Pre-Trial Chamber to make urgent submissions [REDACTED].

Respectfully submitted,



Philippe Larochelle,
Counsel for Maxime Mokom

The Hague, The Netherlands
Friday, December 01, 2023