

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 31 January 2024

PRE-TRIAL CHAMBER II

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF

THE PROSECUTOR v. MAXIME JEOFFROY ELO MOKOM GAWAKA

PUBLIC

Public Redacted Version of "Registry Report on the Implementation of the Restrictions on Contact Ordered by the Pre-Trial Chamber II", ICC-01/14-01/22-39-Conf-Exp, filed on 12 April 2022

Source: Registry

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

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REGISTRY

Registrar

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**Victims Participation and Reparations
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I. Introduction

1. In compliance with the “Decision temporarily imposing contact restrictions on Mr Mokom”) issued by Pre-Trial Chamber II (“Chamber”) on 29 March 2022 (“29 March 2022 Decision”),¹ whereby the Registry is ordered to submit a report on the implementation of the restrictions on contact for Mr Maxime Jeoffroy Elo Mokom Gawaka (“Mr Mokom”) by no later than 10 days following the appointment of counsel for Mr Mokom, the Registry hereby submits its report on the implementation of the restrictions on contact currently in place for Mr Mokom.²
2. The Chamber further instructed the Registry by email of 6 April 2022, to submit “its report on the implementation of the contact restrictions imposed on Mr Mokom no later than Tuesday 12 April 2022, at 16:00 hours” (“Instruction”).³

II. Procedural history

3. On 10 March 2022, the Office of the Prosecutor (“Prosecution”) submitted to the Chamber its “Prosecution’s renewed request for contact restrictions pursuant to Regulation 101 of the Regulations of the Court”⁴ requesting, *inter alia*, to limit the telephone calls of Mr Mokom to his Counsel and direct family members.⁵
4. On 14 March 2022, the Chamber issued the “Decision partially granting the ‘Prosecution’s Renewed Request for Contact Restrictions pursuant to Regulation 101 of the Regulations of the Court’” (“14 March 2022 Decision”),⁶

¹ Pre-Trial Chamber II, “Decision temporarily imposing contact restrictions on Mr Mokom” (“29 March 2022 Decision”), 29 March 2022, ICC-01/14-01/22-28-Conf-Exp.

² 29 March 2022 Decision, para 19.

³ Email from Pre-Trial Chamber II to the Registry (“Instruction”) on 6 April 2022 at 10:27.

⁴ Office of the Prosecutor, “Prosecution’s Renewed Request for Contact Restrictions pursuant to Regulation 101 of the Regulations of the Court”, 10 March 2022, ICC-01/14-01/22-18-Conf-Exp.

⁵ *Ibid.*, para. 7.

⁶ Pre-Trial Chamber II, “Decision partially granting the ‘Prosecution’s Renewed Request for Contact Restrictions pursuant to Regulation 101 of the Regulations of the Court’”, 14 March 2022, ICC-01/14-01/22-19-Conf-Exp.

instructing the Registry to “restrict, on a provisional basis, Mr Mokom’s telephone calls, except to his counsel and verified direct family members, until two days after the date of his initial appearance” upon his arrival at the International Criminal Court Detention Centre (respectively “ICC” and “DC”) and until two days after the date of his first appearance in Court.

5. On 14 March 2022, Mr Mokom was surrendered to the ICC and arrived at the DC on the same day.⁷ The Registry implemented the restrictions on contact as ordered by the Chamber in its 14 March 2022 Decision.
6. On 16 March 2022, the Prosecution submitted its “Requête de l’Accusation aux fins de reconsidération de la décision de la Chambre préliminaire II « partially granting the ‘Prosecution’s Renewed Request for Contact Restrictions pursuant to Regulation 101 of the Regulations of the Court’ » (ICC-01/14-157-Conf-Exp)”⁸ requesting the Chamber to, *inter alia*, order the active monitoring of all Mr Mokom’s telephone calls with his direct family members.⁹
7. Following the Chamber’s email instruction of 17 March 2022,¹⁰ the Registry provided on 21 March 2022 its observations on the feasibility of and its ability to ensure the weekly active monitoring of telephone calls of Mr Mokom.¹¹
8. On 25 March 2022, the Prosecution submitted its “Soumissions additionnelles de l’Accusation au soutien de sa requête « aux fins de reconsidération de la décision de la Chambre préliminaire II “partially granting the ‘Prosecution’s Renewed Request for Contact Restrictions pursuant to Regulation 101 of the

⁷ Registry, “Version sous scellées expurgée du « Rapport du Greffe sur l’Arrestation et la Remise de M. Maxime Jeoffroy Eli Mokom Gawaka », 18 mars 2022”, 18 March 2022, ICC-01/14-01/22-23-US-Exp-Red.

⁸ Office of the Prosecutor, “Requête de l’Accusation aux fins de reconsidération de la décision de la Chambre préliminaire II «partially granting the ‘Prosecution’s Renewed Request for Contact Restrictions pursuant to Regulation 101 of the Regulations of the Court’” (ICC-01/14-01/22-18-Conf-Exp)”, 16 March 2022, ICC-01/14-159-Conf-Exp.

⁹ *Ibid.*, para. 7.

¹⁰ Email from the Chamber to the Registry sent on 17 March 2022 at 15:59.

¹¹ Email from the Registry to the Chamber sent on 21 March 2022 at 11:55.

Regulations of the Court” (ICC-01/14-157-Conf-Exp) », par application de l’ordre de la Chambre préliminaire II du 22 mars 2022”¹² reiterating its request to order the active monitoring of Mr Mokom’s telephone conversations with direct family members, and requesting that the active monitoring be extended to visits and written communications with direct family members.¹³

9. On 29 March 2022, the Chamber issued its Decision directing the Registry to provisionally put in place the following restrictions on Mr Mokom contacts (“restrictions on contacts”):¹⁴ 1) the active monitoring of Mr Mokom’s non-privileged telephone calls, non-privileged visits and written correspondence, 2) the limitation of his non-privileged contacts to “direct family members, whose identities and contact details have been duly verified”, 3) the limitation of non-privileged communication to the languages of French and Sango, 4) the limitation of his non-privileged telephone calls to “three hours in French and one hour in Sango per week”, 5) the prohibition to “use obscure or coded language”, 6) the prohibition to discuss the present case or any other case currently pending before the Court with his non-privileged contacts, and 7) the prohibition to access telephone facilities at the disposal of other detained person at the DC. The Chamber ordered the Chief Custody Office of the DC (“CCO”) to stop any telephone calls, visits or intercept written correspondence violating the 23 March 2022 Decision.

10. The Chamber also ordered the Registry to submit a report on the implementation of the restrictions on contacts, “including a description of the

¹² Office of the Prosecutor, “Soumissions additionnelles de l’Accusation au soutien de sa requête « aux fins de reconsidération de la décision de la Chambre préliminaire II “partially granting the ‘Prosecution’s Renewed Request for Contact Restrictions pursuant to Regulation 101 of the Regulations of the Court’ (ICC-01/14-157-Conf-Exp) », par application de l’ordre de la Chambre préliminaire II du 22 mars 2022”, 25 March 2022, ICC-01/14-01/22-25-Conf-Exp.

¹³ *Ibid.*, paras. 19, 21-22.

¹⁴ 29 March 2022 Decision, paras. 15-17.

procedure for verifying and evaluating the identities and contact details of Mr Mokom's direct family members".¹⁵

III. Classification

11. In accordance with regulation 23 *bis*(1) of the Regulations of the Court ("RoC"), the present report is classified as confidential *ex parte* as: (a) it refers to decisions of the same level of classification, and (b) it contains confidential operational working methods of the Registry and personal information pertaining to Mr Mokom's private life.

IV. Applicable law

12. For the purpose of the present submission, the Registry has considered regulations 99(1)(i), 100 and 101 of the RoC, and regulations 168, 169, 173, 174, 175, 179 and 180 of the Regulations of the Registry ("RoR").

V. Submissions

13. The Registry will first address the implementation of the current restrictions on contacts, and will then provide information on the description of the procedure for verifying and evaluating the identities and contact details of Mr Mokom's direct family members.¹⁶

A) *Implementation of the current restrictions on contacts*

14. As set out in the 29 March 2022 Decision and as detailed above, the Chamber ordered restrictions on contacts for Mr Mokom's non-privileged visitors, non-privileged telephone calls, and written correspondence and that his non-privileged communications be actively monitored.¹⁷ In this regard, no incidents have been reported.

¹⁵ 29 March 2022 Decision, para. 19.

¹⁶ *Ibid.*, para. 19.

¹⁷ *Ibid.*, paras. 15-16.

In relation to non-privileged telephone calls

15. Pursuant to regulation 90(2) of the RoC, the Acting Chief Custody Officer (“Acting CCO”) in the Detention Section (“DS”) is delegated with the task of implementing the active monitoring measures within the Registry.
16. The Acting CCO reports to the Chamber that Mr Mokom has been able to make non-privileged telephone calls with [REDACTED] verified direct family member. The DS will continue to implement the verification procedure explained below should Mr Mokom request additional non-privileged telephone contacts.
17. Pursuant to the restrictions on contacts as ordered by the Chamber, Mr Mokom is authorized to make actively monitored telephone calls for a maximum of three hours in French and one hour in Sango per week.¹⁸ The [REDACTED] Language Services Section Sango Language Assistant (“LSS” and Sango LA” respectively) is used for both French and Sango non-privileged telephone conversations of Mr Mokom. Since the 29 March 2022 Decision, the Registry has scheduled two slots of two hours a week requesting Mr Mokom to primarily speak in French, with Sango as an additional language. [REDACTED]. Thus, the Registry has been able to provide active monitoring of non-privileged telephone calls four hours a week in French and/or Sango.

B) Description of the procedure for verifying and evaluating the identity and contact details of Mr Mokom’s contacts


18. The Chamber decided to restrict Mr Mokom’s non-privileged communications to “direct family members, whose identities and contact details have been duly verified”.¹⁹

¹⁸ 29 March 2022 Decision, para. 16.

¹⁹ 29 March 2022 Decision, para. 15.

19. As regards “direct family members”, the Registry informs the Chamber that, for the purposes of active monitoring, the Registry considers that this includes children, recognized partners or spouses, parents of the detained persons, and occasionally brothers and sisters.

20. The first level verification process carried out at the DC follows the standard DC procedures for verifying the telephone contact forms submitted by a detained person under regulation 173(4) of the RoR. [REDACTED] the CCO, who then takes a decision, on behalf of the Registry, on whether the contact is approved for the detained person’s telephone contact list, in accordance with the abovementioned regulation.



Marc Dubuisson, Director Division of Judicial Services
on behalf of Mr Osvaldo Giler Zavala, Registrar

Dated this 31 January 2024

At The Hague, the Netherlands