

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **16 May 2024**

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 *PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM
GAWAKA***

Public

**Public Redacted Version of "Prosecution's Response to Defence Request for
Disclosure" (ICC-01/14-01/22-292-Conf)**

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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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Prosecution hereby responds to the Defence Request for an Order for Disclosure (“Request”).¹
2. In relation to the second part of the Defence motion seeking an order to the Registrar, the Prosecution leaves any determination to the discretion of the Chamber, but notes that this request may be premature.

II. CONFIDENTIALITY

3. In accordance with regulation 23(1)*bis* of the Regulations of the Court, this Response is filed as “Confidential” as it relates to a Request of the same designation and matters of cooperation. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

4. The Prosecution submits that the Request should be rejected. The purpose of disclosure is to facilitate the adequate preparation of the Defence within ongoing criminal proceedings. While the obligations set out in article 67 of the Rome Statute as well as rules 76 and 77 of the Rules of Procedure and Evidence are not limited to a distinct stage of criminal proceedings before the Court², by their nature they cease to apply when a case has been terminated.
5. A disclosure obligation of the Prosecution is also not triggered by general principles of procedural fairness such as *equality of arms*. Receiving the Judicial Cooperation Agreement between the Office of the Prosecutor and the Central

¹ ICC-01/14-01/22-291-Conf.

² The *Prosecutor v. Jean-Pierre Bemba Gombo*, “Decision on defence disclosure and related issues”, 24 February 2012, ICC-01/05-01/08-2141, para.31; The *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, “Decision on the Prosecution’s Application to Add P-317 to the Prosecution Witness List (ICC-01/04-01/07-1537)”, 3 November 2009, ICC-01/04-01/07-1590, para. 12.

African Republic (“CAR”) authorities would not help resolve the issue raised by the Defence and is therefore not required for the effective exercise of its functions and pursuance of Mr Mokom’s interests. As it is a cooperation document *only* applicable between the Office of the Prosecutor and the CAR government, it has no bearing on the Defence’s cooperation with the CAR authorities. [REDACTED]. Thus, the Defence is not prejudiced by not having access to this specific document.

6. Lastly, though the Prosecution is not the addressee of the second part of the Defence motion, the Prosecution assesses that it seems premature for the Defence to file for an order to the Registrar for additional cooperation steps. [REDACTED].

IV. CONCLUSION

7. For the above reasons, the Prosecution respectfully requests that the Chamber reject the Request.



Karim A. A. Khan KC, Prosecutor

Dated this 16th day of May 2024

At The Hague, The Netherlands