

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **22 May 2024**

PRE-TRIAL CHAMBER II

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

**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 Request to extend the contact restrictions imposed in the "Fourth Decision on Contact Restrictions (ICC-01/14-01/22-63-Conf-Exp)" (ICC-01/14-01/22-89-Conf-Exp, filed on 16 September 2022)

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. Pursuant to Pre-Trial Chamber II's ("Chamber") decision of 28 June 2022¹ and regulation 101(2) of the Regulations of the Court ("RoC"), the Office of the Prosecutor ("Prosecution") hereby requests the extension of the current contact restrictions in place in relation to MOKOM's non-privileged contact list, including his direct family members.

2. The circumstances justifying the active monitoring of MOKOM's non-privileged contacts, as ordered by the Chamber and currently in place, continue to be necessary to attenuate the serious risks of interference with the ongoing Prosecution investigations and the evidence of prospective witnesses.

II. CONFIDENTIALITY

3. Pursuant to regulation 23*bis*(2) of the RoC, this document is filed as "Confidential *EX PARTE*, only available to the Registry, Prosecution, and Defence" as it concerns decisions and filings of the same classification. The Prosecution will file a public redacted version once these decisions and filings are reclassified.

III. SUBMISSIONS

A. The contact restrictions are necessary and proportionate

4. The current contact restrictions on MOKOM remain necessary to protect the ongoing investigation pursuant to regulation 101(2)(b), and to protect witnesses and victims pursuant to regulation 101(2)(c) and (f). The circumstances justifying these restrictions, as identified in the Prosecution's Application for the Warrants of Arrest,²

¹ [REDACTED].

² [REDACTED].

subsequent Prosecution filings,³ and the Chamber's prior decisions,⁴ have not changed.

5. There are reasonable grounds to believe that MOKOM's unrestricted access to his supporters and associates, including his [REDACTED], could impact ongoing investigations as well as the safety of prospective victims and witnesses in this case.

6. The Prosecution thus incorporates by reference the arguments developed in its previous filings, related to: a) [REDACTED]; b) [REDACTED]; and c) [REDACTED].⁵ The facts underlying those grounds have been extensively detailed in the Prosecution's prior filings and include the following:

- [REDACTED].⁶ [REDACTED].⁷ [REDACTED].
- [REDACTED].⁸
- [REDACTED].⁹ [REDACTED]t.
- *The security situation in CAR remains unstable*: The increasingly fragile political and security situation in CAR, [REDACTED],¹⁰ and during the 29 July 2022 Security Council session,¹¹ as well as the government's imminent budgetary

³ [REDACTED].

⁴ [REDACTED].

⁵ [REDACTED].

⁶ [REDACTED].

⁷ [REDACTED].

⁸ [REDACTED].

⁹ [REDACTED].

¹⁰ [REDACTED].

¹¹ See UN Security Council, S/RES/2648 (2022), 29 July 2022 (https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_RES_2648.pdf, [last accessed 16/09/2022], deciding that "the situation in the CAR continues to constitute a threat to international peace and security in the region." See also the Report of the UN Secretary-General to the Security Council on the situation in the CAR, S/2022/491, 16 June 2022 ([N2237546.pdf \(un.org\)](https://www.un.org), [last accessed 16/09/2022].

crisis,¹² further diminishes the domestic authorities' capacity to protect and secure the interests of witnesses in this case, given the necessary deployment of a substantial portion of their further limited resources to stabilise the country, and increases the risk of witness interference. These circumstances demonstrate that the restrictions in place remain necessary and proportionate, and militate against any mitigation of the current restrictions.

7. Moreover, unmonitored contacts between MOKOM and his associates or supporters could negatively impact prospective witnesses and victims in this case. The Prosecution's case depends on several witnesses whose identities will soon be disclosed to the Defence, as well as those whose identities are already known by virtue of their testimony in the *Yekatom and Ngaissona* trial. Allowing MOKOM to freely contact his supporters and associates, including [REDACTED] involved in the Anti-Balaka,¹³ would necessarily increase the risk of tampering with Prosecution witnesses and potential witnesses, who may become reluctant to cooperate or to remain involved with this case.

B. MOKOM's ostensible compliance with the Chamber's order does not remove the need for the restrictions

8. *Additionally*, the absence of known security incidents since MOKOM's arrest or the Registry's present unawareness of any breach of current contact restrictions¹⁴ does not mean that the *risks* thereof are in any way diminished. Given his leadership roles in the Anti-Balaka and in the CPC — which continues to maintain a dangerous military presence in the country¹⁵ — MOKOM can still exercise his substantial

¹² [REDACTED]. See also Atlanticactu, « Centrafrique: la situation financière s'annonce "très préoccupante" », 6 May 2022 (<https://atlanticactu.com/centrafrique-la-situation-financiere-sannonce-tres-preoccupante/>), [last accessed 16/09/2022].

¹³ [REDACTED].

¹⁴ [REDACTED].

¹⁵ See above, footnote 9. See also [REDACTED].

influence in the CAR through his network of associates and supporters, including direct family members. [REDACTED].¹⁶ [REDACTED]. [REDACTED].

C. The contact restrictions are not unduly broad or burdensome

9. The contact restrictions currently imposed on MOKOM are reasonable and balance the Suspect's rights and the necessity to protect witnesses and victims. *First* the restrictions are not indiscriminate as they only concern non-private related contacts and non-privileged communications. MOKOM is still at liberty to communicate with [REDACTED]: (1) [REDACTED];¹⁷ (2) [REDACTED];¹⁸ and (3) [REDACTED]¹⁹ Discussions related to the case or the use of obscure or coded language during these telephone conversations are, however, prohibited.²⁰ *Second*, the extension of the contact restrictions is not indefinite and is subject to regular review by the Chamber.

IV. RELIEF SOUGHT

10. For the above reasons, the Prosecution requests the extension of the current restrictions ordered by the Chamber regarding MOKOM's non-privileged contacts.



Karim A. A. Khan KC, Prosecutor

Dated this 22nd day of May 2024

At The Hague, The Netherlands

¹⁶ See e.g. ICC-01/14-01/18-723-Red, paras. 4, 67-76, 83, 112, 126-127, 141, 172, 218-221, 252-253, 273-277, 282-290, 303-304, 393.

¹⁷ [REDACTED].

¹⁸ [REDACTED].

¹⁹ [REDACTED].

²⁰ [REDACTED].