

Initial Appearance

(Open Session)

ICC-01/14-01/22

1 International Criminal Court  
2 Pre-Trial Chamber II  
3 Situation: Central African Republic II  
4 In the case of The Prosecutor v. Maxime Jeoffroy Eli Mokom  
5 Gawaka - ICC-01/14-01/22  
6 Presiding Judge Rosario Salvatore Aitala, Judge Antoine Kesia-Mbe Mindua and  
7 Judge Tomoko Akane  
8 Initial Appearance - Courtroom 1  
9 Tuesday, 22 March 2022  
10 (The hearing starts in open session at 2.32 p.m.)  
11 THE COURT USHER: [14:32:17] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE AITALA: [14:31:25] Good afternoon, everyone.  
15 We are here today for the first appearance hearing of Mr Mokom, Mr Maxime  
16 Jeoffroy Eli Mokom Gawaka, who was surrendered to the Court last week on  
17 14 March 2002.  
18 I welcome everyone inside and outside the courtroom.  
19 Mr Court Officer, would you please call the case.  
20 THE COURT OFFICER: [14:32:57] Good afternoon, Mr President. Good afternoon,  
21 your Honours.  
22 This is the second situation in the Central African Republic, in the case of The  
23 Prosecutor versus Maxime Jeoffroy Eli Mokom Gawaka, case reference  
24 ICC-01/14-01/22.  
25 And for the record, we are in open session.

1 PRESIDING JUDGE AITALA: [14:32:18] Thank you very much.

2 Now I invite the parties to introduce themselves. Mr Prosecutor, would you please  
3 introduce yourself and your colleagues.

4 MR NIANG: [14:33:19](Interpretation) Good afternoon, your Honour, your Honours.

5 The Office of the Prosecutor today is represented by myself, Mame Mandiaye Niang,  
6 deputy prosecutor. And I have next to me the senior trial lawyer, Mr Kweku

7 Vanderpuye. And I have the two senior trial lawyers, Massimo Scaliotti and Madam

8 Olivia Struyven. And I also have our case manager, Mr Yassin Mostfa. Thank you.

9 PRESIDING JUDGE AITALA: [14:33:09] *Merci beaucoup*. Thank you very much.

10 Mr Counsel for Mr Mokom, will you please introduce yourself. I think you're by  
11 yourself, so will you please introduce yourself. Thank you.

12 MR KAUFMAN: [14:33:51] Good afternoon, your Honour. My name is Nicholas  
13 Kaufman, and I have the extreme privilege today to represent a former minister of the  
14 Central African government, Mr Maxime Mokom, who is sitting behind me.

15 Your Honour, since I'm appearing here on my own today, may I seize the opportunity  
16 to greet my friends from the Prosecution, Mr Kweku Vanderpuye, who I have known  
17 for years to be a fierce and fair Prosecutor. May I congratulate Mr Niang on his  
18 recent election to the post of co-deputy prosecutor. I wish him all the best in the  
19 judicious execution of his role. And of course, I would have welcomed the Chief  
20 Prosecutor, Mr Karim Khan, a friend of mine for years, but I do realise he has a lot on  
21 his plate these days.

22 PRESIDING JUDGE AITALA: [14:34:03] Thank you very much.

23 Now, Pre-Trial Chamber II comprises of Judge Antoine Kesia-Mbe Mindua, sitting on  
24 my right, and Judge Tomoko Akane, sitting on my left. I am Rosario Salvatore Aitala  
25 and I am the Presiding Judge of Pre-Trial Chamber II.

1 Now, Mr Mokom, good afternoon. Would you please stand up and state your full  
2 name, as well as your date and place of birth.

3 MR MOKOM: [14:34:33](Interpretation) My name is Maxime Jeoffroy Eli Mokom  
4 Gawaka. And I was born on 30 December in Bangui.

5 PRESIDING JUDGE AITALA: [14:34:57] Of which year, sir?

6 MR MOKOM: [14:35:01](Interpretation) 1978 in Bangui.

7 PRESIDING JUDGE AITALA: [14:35:06] Thank you very much. You can sit.

8 Now, Mr Mokom, please listen to me carefully because now I will explain what is the  
9 nature and the purpose of this hearing, which is called the initial appearance hearing.  
10 So this is mainly for you to hear.

11 Today's hearing is neither a trial, not a hearing regarding the confirmation or the  
12 non-confirmation of charges against you. Evidence will not be adduced or presented  
13 and your individual criminal responsibility will not be discussed today.

14 Pursuant to Article 60(1) of the Rome Statute, and to Rule 121(1) of the Rules of  
15 Procedure and Evidence of the International Criminal Court, the scope of today's  
16 hearing is limited to three matters:

17 The first is the Chamber must satisfy itself that the person subject to the arrest -- to the  
18 warrant of arrest, yourself in this case, is informed of the crimes he is alleged to have  
19 committed.

20 Secondly, the Chamber must be satisfied that this person is informed of his rights  
21 under the Rome Statute of the International Criminal Court.

22 And thirdly, the Chamber must set the date on which it intends to hold the hearing to  
23 confirm or to decline to confirm the charges.

24 Now, Mr Mokom, first of all, have you been informed of the crimes you are alleged to  
25 have committed?

1 MR MOKOM: [14:37:08](Interpretation) Yes.

2 PRESIDING JUDGE AITALA: [14:37:12] Thank you.

3 I will now have the charges brought against you being read in the courtroom by the  
4 court officer.

5 Mr Court Officer, would you please read out the charges as presented in the public  
6 redacted version dated 22 March, today, of the warrant of arrest against Mr Mokom  
7 issued on 10 December 2018.

8 THE COURT OFFICER: [14:38:34] Thank you, your Honour.

9 On 10 December 2018, Pre-Trial Chamber II concluded that there were reasonable  
10 grounds to believe that Mr Mokom is criminally responsible pursuant to

11 Article 25(3)(a) and (c) of the Rome Statute for crimes against humanity and war  
12 crimes committed in the context of and associated with a non-international armed  
13 conflict. This concerns various locations in the Central African Republic.

14 The relevant crimes against humanity are found in Article 7(1)(a), (b), (d), (e), (f), (h),  
15 (i) and (k), and Article 25(3)(f) of the Statute; and the relevant war crimes in

16 Article 8(2)(c)(i) and (2)(e)(i), (iii), (iv), (v), (vii), (viii), (xi), and (xii), and

17 Article 25(3)(f) of the Statute. Specified per location, for the alleged contact in

18 Bangui, including Cattin and Boeing, from 5 December 2013 to 20 December 2013, it

19 concerns the crimes against humanity of murder, deportation or forcible transfer of

20 population, and persecution; and the war crimes of murder, intentionally directing an

21 attack against the civilian population, intentionally directing an attack against

22 buildings dedicated to religion, destroying or seizing the property of an adversary,  
23 and displacement of the civilian population.

24 For Bossangoa in Ouham prefecture from 5 December 2013 to April 2014, it concerns

25 the crimes against humanity of murder and attempted murder, deportation or

1 forcible transfer of population, imprisonment or other severe deprivation of physical  
2 liberty, other inhumane acts, and persecution; and the war crimes of murder and  
3 attempted murder, intentionally directing an attack against the civilian population,  
4 intentionally directing an attack against buildings dedicated to religion, pillaging,  
5 destroying or seizing the property of an adversary, and displacement of the civilian  
6 population.

7 For Yaloke and Gaga in Ombella-M'Poko prefecture from on or about 17 January 2014  
8 to at least mid-2015, it concerns the crimes against humanity of murder, deportation  
9 or forcible transfer of population, extermination, imprisonment or other severe  
10 deprivation of physical liberty, other inhumane acts, and persecution; and the war  
11 crimes of murder, intentionally directing an attack against the civilian population,  
12 intentionally directing an attack against buildings dedicated to religion, pillaging,  
13 destroying or seizing the property of an adversary, and displacement of the civilian  
14 population.

15 For Bossemptele in Ouham-Pende prefecture from 18 January 2014 to at least  
16 July 2014, it concerns the crimes against humanity of murder, deportation or forcible  
17 transfer of population, imprisonment or other severe deprivation of physical liberty,  
18 other inhumane acts, and persecution; and the war crimes of murder, mutilation,  
19 intentionally directing an attack against the civilian population, intentionally  
20 directing an attack against buildings dedicated to religion, pillaging, destroying or  
21 seizing the property of an adversary, and displacement of the civilian population.

22 For Boda and Lobaye prefecture from on or about 29 January 2014 to at least  
23 September 2014, it concerns the crimes against humanity of murder, deportation or  
24 forcible transfer of population, imprisonment or other severe deprivation of physical  
25 liberty, other inhumane acts, and persecution; and the war crimes of murder,

1 intentionally directing an attack against the civilian population, pillaging, destroying  
2 or seizing the property of an adversary, intentionally directing an attack against  
3 personnel, installations, material, units or vehicles involved in a humanitarian  
4 assistance, and displacement of the civilian population.

5 For Carnot in Mambere-Kadei prefecture from late January 2014 to at least  
6 February 2016, it concerns the crimes against humanity of murder, deportation or  
7 forcible transfer of population, imprisonment or other severe deprivation of physical  
8 liberty, other inhumane acts, and persecution; and the war crimes of murder,  
9 intentionally directing an attack against the civilian population, intentionally  
10 directing an attack against buildings dedicated to religion, pillaging, destroying or  
11 seizing the property of an adversary, and displacement of the civilian population.

12 For Berberati in Mambere-Kadei prefecture from on or about 10 February 2014 to at  
13 least December 2014, it concerns the crimes against humanity of murder, deportation  
14 or forcible transfer of population, imprisonment or other severe deprivation of  
15 physical liberty, other inhumane acts, and persecution; and the war crimes of murder,  
16 intentionally directing an attack against the civilian population, intentionally  
17 directing an attack against buildings dedicated to religion, pillaging, destroying or  
18 seizing the property of an adversary, and displacement of the civilian population.

19 For the incident at Yamwara school base in Boeing, it concerns the crimes against  
20 humanity of imprisonment or other severe deprivation of physical liberty, torture,  
21 persecution, enforced disappearance, and other inhumane acts; and the war crimes of  
22 torture, cruel treatment, and mutilation.

23 For Mbaïki in Lobaye prefecture from on or about 30 January 2014 to on or about  
24 6 February 2014, it concerns the crimes against humanity of deportation or forcible  
25 transfer of population, and persecution; and the war crimes of intentionally directing

1 an attack against buildings dedicated to religion, destroying or seizing the property of  
2 an adversary, and displacement of the civilian population.

3 Then, finally, not linked to a specific location, the war crime of enlistment of children  
4 under the age of 15 and using them to participate actively in hostilities from at least  
5 December 2013 to at least August 2014.

6 PRESIDING JUDGE AITALA: [14:47:06] Thank you very much, Mr Court Officer.

7 Now, Mr Mokom, have you been informed of the rights which are accorded to you as  
8 a suspect by the Rome Statute of the International Criminal Court?

9 MR MOKOM: [14:47:27](Interpretation) Yes.

10 PRESIDING JUDGE AITALA: [14:47:29] Thank you. Thank you very much. You  
11 may sit.

12 I will anyhow highlight some of those rights to you, but also to the public, as they are  
13 particularly important at this stage of the proceedings.

14 Well, first of all, you have the right to be informed promptly, expeditiously, and in  
15 detail of the nature, the cause, and the content of the charges in a language that you  
16 fully understand and speak. In this respect, would you please indicate to the  
17 Chamber which language or languages you fully understand and speak.

18 MR MOKOM: [14:48:21](Interpretation) French and Sango.

19 PRESIDING JUDGE AITALA: [14:48:22] Thank you very much.

20 Secondly, you have the right to defend yourself and the right to be provided with  
21 legal assistance without payment if you lack sufficient means to pay for it. You have  
22 the right to have free of cost the assistance of a component interpreter, and the rights  
23 to be provided to those translations, as in the view of the Chamber are necessary to  
24 meet the requirement of fairness.

25 You have the right to have adequate time and facilities for the preparation of your

1 Defence and to communicate freely with counsel of your choosing.  
2 You have the right to remain silent and you cannot be compelled to testify against  
3 yourself or to confess guilt. You have the right to make an unsworn oral written  
4 statement in your defence, but not now.  
5 You have the right to receive from the Office of the Prosecutor, as soon as possible,  
6 material showing or tending to show your innocence or mitigating your guilt or  
7 affecting the creditability of incriminating evidence.  
8 At the confirmation of charges hearing, you will also have the right to object to the  
9 charges, to challenge the evidence which will be presented by the Prosecution, and to  
10 present evidence yourself. And in the case the charges are not confirmed by the  
11 Pre-Trial Chamber, there will be no trial and the proceedings will be terminated.  
12 Finally, you have the right to apply for interim release pending trial.  
13 Now, Mr Mokom, do you have any observation to make before the Judges, before the  
14 Chamber, about the conditions of your transfer to the International Criminal Court or  
15 about the conditions of your detention so far in the Court's detention centre here in  
16 The Hague?  
17 MR KAUFMAN: [14:51:45] If your Honour pleases, maybe I will address this matter.  
18 Mr Mokom has given me permission to address the Chamber on the matter.  
19 PRESIDING JUDGE AITALA: [14:51:11] I would like to hear from Mr Mokom first,  
20 then you can complement.  
21 Mr Mokom.  
22 MR MOKOM: [14:51:24](Interpretation) Your Honour, my counsel will speak to you  
23 about that.  
24 PRESIDING JUDGE AITALA: [14:51:34] So you don't have any remark to make?  
25 Well, if you -- sir, this is the point -- your counsel will be allowed to speak, but if



1 there's anything, any concern that you have, we would like to hear it from you. Then  
2 your counsel will complement, being a legal expert. But if there's anything that you  
3 want us to hear, we would like to hear it from you.

4 MR MOKOM: [14:52:09](Interpretation) The counsel is responsible for telling you  
5 that, your Honour.

6 PRESIDING JUDGE AITALA: [14:52:12] All right. Have a seat.

7 Mr Kaufman, please.

8 MR KAUFMAN: [14:52:54] Your Honour, may I say at the outset that my client  
9 doesn't have any observations regarding the conditions of his detention at the ICC.  
10 However, I do have a few observations on Mr Mokom's transfer to the International  
11 Criminal Court and his treatment at the hands of the authorities of the Republic of  
12 Chad.

13 Now, it didn't escape my notice that the learned Prosecutor, Mr Khan, issued a press  
14 release a few days ago in which he expressed his heartfelt gratitude to the Chadian  
15 authorities for facilitating the transfer of Mr Mokom to this Court, but I ask for what  
16 exactly was he heaping this lavish praise on Chad? Let me tell you the facts as  
17 Mr Mokom related them to me.

18 On 27 February, he was surprised on a dusty road near the border with the  
19 Central African Republic, bundled with brute force into the backseat of a security  
20 vehicle, and driven 13 hours in the blistering heat, sandwiched between two security  
21 officials, to N'Djamena. Upon arrival, he was thrown into a filthy, mosquito-infested  
22 cell in the dungeons of the National Security Agency.

23 All the money which Mr Mokom had on his person was seized, and with most of it, it  
24 was used to pay the officers who had brought him all the way to N'Djamena. The  
25 remainder of his money was used to buy his daily ration of food; mouldy bread and a

1 tin of sardines. With a raffia mat on a stone floor for a bed, and an empty tub of  
2 butter to relieve himself, Mr Mokom was kept incommunicado for a week without  
3 anyone knowing where he was.

4 Finally, on 7 March, Mr Mokom received a visit from the *Procureur de la République*,  
5 who asked him if he had anything to say about the ICC charges which he read to him.  
6 Mr Mokom mentioned that he had a lawyer called Mr Kaufman, but he was told that  
7 he had no right to a lawyer. The following day he received yet another visit, this  
8 time from no less than the *Procureur général de la République* himself. And once again,  
9 the semblance of a judicial process took place, and Mr Mokom asked for his Israeli  
10 ICC lawyer. And I can assure you, your Honours, there aren't too many of them  
11 knocking about.

12 At no stage did the *Procureur général* enquire with Mr Mokom as to whether his rights  
13 had been respected. At no stage was Mr Mokom told that he had a right to seek  
14 interim release in Chad pending surrender to the Court. And believe you me, had I  
15 known that the arrest warrant dated back to 10 December 2018, I would have  
16 petitioned for such interim release.

17 In any event, Mr Mokom was slung back into the darkness for yet one more week,  
18 when suddenly he was moved into new, more salubrious surroundings of the variety  
19 reserved, no doubt, to impress visiting human rights organisations and the ICRC.  
20 He was greeted by an official from the ICC Registry who told him that he had now  
21 arrived to transfer him to The Hague.

22 Now, your Honours, this is not the first time that this learned Court has heard similar  
23 accounts of abuse at the hands of State Parties to the Rome Statute. It happened with  
24 Germain Katanga, it happened with Charles Blé Goudé, and it happened with Alfred  
25 Yekatom. So before Mr Khan applauds Chad with vigour for its efficient

1 cooperation, maybe he would like to satisfy himself next time that Article 59 of the  
2 Rome Statute has been respected.

3 Thank you.

4 PRESIDING JUDGE AITALA: [14:56:20] Thank you.

5 Mr Prosecutor, do you want to make any -- any submission, any statement on this?

6 MR NIANG: [14:57:10](Interpretation) At this stage, your Honour, your Honours,  
7 the Office of the Prosecutor has no specific comment to make on this point.

8 PRESIDING JUDGE AITALA: [14:56:43] Mr Kaufman, we take note of what you  
9 have said. You can of course make written submissions, if you so wish. We also  
10 note that the treatment which allegedly was reserved to Mr Mokom in Chad is  
11 outside the competence of this bench. But you are allowed, of course, to make  
12 submissions, if you so wish. And the Chamber, if it's -- if it is appropriate to do so,  
13 will consider it. Thank you.

14 MR KAUFMAN: [14:58:01] Thank you, your Honour.

15 PRESIDING JUDGE AITALA: [14:57:19] Now the Chamber will set the date for the  
16 start of the hearings for the confirmation of charges.

17 We have considered all relevant factors, including the need for the parties and  
18 participants to prepare properly and particularly the rights for the suspect to defend  
19 himself fully, the rights of Mr Mokom to be tried without undue delay. Therefore,  
20 the date for the commencement of the confirmation of charges hearing is set for  
21 Tuesday, 31 January 2023. So I repeat, 31 January 2023. This is the date for the  
22 commencement of the charges hearing.

23 Depending on the developments of the proceedings, this date may be changed, as  
24 provided by Rule 121(7) of the Rules of Procedure and Evidence, upon request of  
25 either the Prosecutor or the Defence or by the Pre-Trial Chamber on its own motion.

1 Before concluding the hearing, I would like to inform the parties of the following  
2 steps in the proceedings:

3 First, I recall that pursuant to Rule 121(2)(b) of the Rules of Procedure and Evidence,  
4 status conferences shall be held to ensure that disclosure takes place in a transparent,  
5 efficient and expeditious manner. The Chamber intends to schedule such status  
6 conferences. Parties may also request such hearings to be scheduled.

7 In due course, the Chamber will issue a set of decisions on the conduct of  
8 proceedings, including on the modalities and procedure for the disclosure of  
9 evidence, a calendar for the disclosure of evidence in order to ensure organised and  
10 expeditious disclosure between the parties, with communication of disclosed  
11 evidence to the Chamber on principles for redactions and on the participation on  
12 victims. In this regard, the Chamber has taken note of the request of the Office of the  
13 Prosecutor filed yesterday for a number of protocols to be put in place. The  
14 Chamber will consider this request and set the deadline for the Defence to respond in  
15 due course.

16 Finally, with a view to ensuring that disclosure commences as soon as possible and  
17 takes place under satisfactory conditions, the Chamber instructs the Prosecutor to file  
18 observations on the modalities and procedure for evidence disclosure by  
19 31 March 2022.

20 Now, before we come to an end, Mr Prosecutor, is there any additional point you  
21 would like to raise with the Chamber?

22 MR NIANG: [15:01:16](Interpretation) Your Honour, there's no point that the Office  
23 of the Prosecutor wishes to take up at this stage.

24 PRESIDING JUDGE AITALA: [15:00:49] Thank you.

25 Mr Kaufman, is there any matter you wish to raise?

1 MR KAUFMAN: [15:01:26] I would respectfully request that we have a short  
2 confidential session at the termination of this hearing, if that's possible, to discuss  
3 certain matters which have been raised prior to the initial appearance today.

4 PRESIDING JUDGE AITALA: [15:01:03] Look, Mr Kaufman, in general, the  
5 Chamber does not wish to go into private session during these kind of hearings. If  
6 it's something which is closely related to the scope of this hearing, then we will do it.  
7 Otherwise, we would rather read your submissions.  
8 Is it something closely related to the scope and nature of this hearing?

9 MR KAUFMAN: [15:02:48] It's to do with disclosure.

10 PRESIDING JUDGE AITALA: [15:01:27] Excuse me?

11 MR KAUFMAN: [15:02:51] It's to do with disclosure, your Honour, and my access  
12 to information.

13 PRESIDING JUDGE AITALA: [15:01:33] Okay. Let's now -- well, okay.

14 Mr Mokom, is there any matter you would like to raise? Anything you would like to  
15 say before the end of the hearing?

16 MR MOKOM: [15:01:58](Interpretation) Nothing, your Honour. Thank you.  
17 (Pre-Trial Chamber confers)

18 PRESIDING JUDGE AITALA: [15:02:26] All right. Mr Court Officer, let's move  
19 into private session, please.

20 THE COURT OFFICER: [15:03:14]

21 (Private session at 3.03 p.m.)

22 THE COURT OFFICER: [15:03:16] We're in private session, Mr President.

23 (Redacted)

24 (Redacted)

25 (Redacted)

Initial Appearance

(Private Session)

ICC-01/14-01/22

1 (Redacted)

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19 (Redacted)

20 (Open session at 3.04 p.m.)

21 THE COURT OFFICER: [15:04:53] We're back in open session, Mr President.

22 PRESIDING JUDGE AITALA: [15:04:33] All right.

23 Well, then we came to -- to the end of the first appearance hearing of Mr Mokom.

24 I thank the parties, our interpreters, our guards, our Registry and courtroom staff.

25 And now the hearing is closed.

Initial Appearance

(Open Session)

ICC-01/14-01/22

- 1 Thank you very much.
- 2 THE COURT USHER: [15:04:53] All rise.
- 3 (The hearing ends in open session at 3.04 p.m.)