

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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 ELI MOKOM GAWAKA**

PUBLIC

Public Redacted Version of "Fifth Registry Report on the Implementation of the Restrictions on Contact Ordered by Pre-Trial Chamber II", ICC-01/14-01/22-212-Conf-Exp, filed on 30 May 2023

Source: Registry

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

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I. Introduction

1. Following the “Sixth Decision on Contact Restrictions” issued by Pre-Trial Chamber II (“Chamber”) on 2 February 2023 (“2 February 2023 Decision”)¹, in which the Registry was ordered to report on the implementation of the contact restrictions in relation to Maxime Jeoffroy Eli Mokom Gawaka (“Mr Mokom”) by no later than 30 May 2023,² the Registry hereby submits its report.

II. Procedural history

2. Pursuant to a series of decisions,³ the Chamber ordered the following restrictions on Mr Mokom’s contacts, implemented through 7 November 2022: (1) actively monitored non-privileged telephone calls, visits and written correspondence with authorised individuals, with the exception of his [REDACTED] and [REDACTED], whose identity and contact details have been properly vetted by the Registry in consultation with the Prosecution; (2) non-privileged telephone calls limited to four hours per week; (3) non-privileged communications limited to the languages of French and Sango; and (4) prohibition of using obscure or coded language and discussing his case or other cases pending before the Court during his non-privileged communications. The Chamber also ordered the Chief Custody Officer to stop any telephone call or visit, or seize any written communication, which violated the Chamber’s orders.⁴
3. On 7 November 2022, the Chamber extended the following restrictions on Mr Mokom’s contacts, until 6 February 2023 (inclusive):

¹ Pre-Trial Chamber II, “Sixth Decision on Contact Restrictions” (“2 February 2023 Decision”), 2 February 2023, ICC-01/14-01/22-148-Conf-Exp.

² Pre-Trial Chamber II, 2 February 2023 Decision, para. 14.

³ 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, paras. 15-16; Pre-Trial Chamber II, “Third Decision on Contact Restrictions” (“28 April 2022 Decision”), 28 April 2022, ICC-01/14-01/22-45-Conf-Exp, paras. 6-8; Pre-Trial Chamber II, “Fourth Decision on Contact Restrictions” (“28 June 2023 Decision”), 28 June 2022, ICC-01/14-01/22-63-Conf-Exp, paras. 7-10; and Pre-Trial Chamber II, “Fifth Decision on Contact Restrictions” (“7 November 2022 Decision”), 7 November 2022, ICC-01/14-01/22-106-Conf-Exp.

⁴ Pre-Trial Chamber II, 29 March 2022 Decision, para.16.

- (i) The Registry is to continue maintaining a list of Mr Mokom's non-privileged contacts;
- (ii) Mr Mokom shall continue providing the Registry with the full names and essential biographical information including past and present occupation, of any persons he wishes to add to his list of contacts; the Registry remains responsible for vetting the information provided by Mr Mokom and shall make an assessment of whether adding any of relevant persons could involve risks relating to the present proceedings or to confidentiality and, if so, exclude any such persons from Mr Mokom's lists of contacts; and (iv) the Registry shall consult with the Prosecution on the vetting process (the "Vetting Process").

Also, the Chamber ceased the active monitoring of Mr Mokom's non-privileged telephone calls, visits and written correspondence.⁵

4. In the 2 February 2023 Decision, the Chamber noted that:

"[A]s part of the Vetting Process, the Registry shall, *inter alia*, assess whether any of the persons Mr Mokom wishes to add to his list of non-privileged contacts are possible vectors for attempts to obstruct the present proceedings or breach confidentiality and, if so, exclude any such persons from the list. In making this assessment, the Registry *may* consult with Mr Mokom and *shall* consult with the Prosecution."

As part of this assessment, the Chamber determined that "the Registry *shall*: (i) consult with Mr Mokom before excluding a person from his list of non-privileged contacts; and (ii) provide sufficient reasons to Mr Mokom for any such exclusion to the extent that considerations of confidentiality allow for such reasons to be shared with Mr Mokom".⁶

III. Classification

5. In accordance with regulation 23 *bis*(1) of the RoC, the present submissions are classified as confidential *ex parte* only available to the Registry, the Prosecution and the Defence as it refers to decisions of the same level of classification. An annex classified as *ex parte* only available to the Registry is included with the present submissions, as are two confidential *ex parte* redacted versions of that annex: one only available to the Registry and the Prosecution, as it contains confidential information from the Prosecution; and one only available to the

⁵ Pre-Trial Chamber II, 7 November 2022 Decision, paras 11-13.

⁶ Pre-Trial Chamber II, 2 February 2023 Decision, para. 13 (emphasis in original).

Registry and the Defence, as it contains confidential information from the Defence.

IV. Applicable law

6. For the purpose of the present report, the Registry has considered regulations 99(1)(i), 100 and 101 of the RoC, and regulations 168, 169, 173, 174, 175, 179, 180 and 183 of the Regulations of the Registry (“RoR”).

V. Submissions

The vetting process carried out by the Registry

7. The Registry reports that it has implemented the vetting process pursuant to the 2 February 2023 Decision as follows: 1) initial verification by DC Registry staff of the telephone contact forms submitted by Mr Mokom under regulation 173(4) of the RoR,⁷ followed by; 2) [REDACTED],⁸ with consultation with the Prosecution and with Mr Mokom; the latter, when necessary.
8. Since the last Registry report,⁹ Mr Mokom has requested to add [REDACTED] individuals to his non-privileged contact list: [REDACTED] were vetted as above and added to Mr Mokom’s non-privileged contact list; one whose name was recently submitted and who is still in the process of being vetted;¹⁰ and Mr [REDACTED] who, as previously reported,¹¹ the Registry did not add to Mr Mokom’s list of non-privileged contacts as a result of concerns on the part of the Registry and the Prosecution, and about whom the Registry has since consulted Mr Mokom pursuant to the 2 February 2023 Decision. At this time,

⁷ Registry, “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, para. 20.

⁸ See “Vetting Process” in Registry, “Second Registry Report on the Implementation of the Restrictions on Contact Ordered by Pre-Trial Chamber II and Request for Guidance on Non-Privileged Visits and Written Correspondence”, 15 June 2022, ICC-01/14-01/22-59-Conf-Exp, paras. 8-17.

⁹ Registry, “Addendum to the “Fourth Registry Report on the Implementation of the Restrictions on Contact Ordered by Pre-Trial Chamber II” issued on 19 January 2023, ICC-01/14-01/22-132-Conf-Exp”, 19 January 2023, ICC-01/14-01/22-135-Conf-Exp.

¹⁰ The consultation with the Prosecution is completed and the [REDACTED].

¹¹ Registry, Addendum to the “Fourth Registry Report on the Implementation of the Restrictions on Contact Ordered by Pre-Trial Chamber II” issued on 19 January 2023, ICC-01/14-01/22-132-Conf-Exp, ICC- 01/14-01/22-135-Conf-Exp

the Registry has not added [REDACTED] to Mr Mokom's non-privileged contact list. Any decision not to so include him has yet to be communicated to Mr Mokom. This is because considerations of confidentiality prevent the Registry from providing sufficient reasons for this exclusion to Mr Mokom, prior to any decision, as otherwise required by the 2 February 2023 Decision.

9. As such, on 1 May 2023, the Registry informed the Defence it would seek clarification from the Chamber as to providing sufficient reasons to Mr Mokom for excluding [REDACTED] from his list of non-privileged contacts when considerations of confidentiality do not allow for such reasons to be so shared.

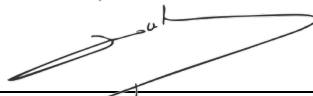
The Registry's request for guidance

10. [REDACTED],¹² [REDACTED].¹³

11. [REDACTED].

12. [REDACTED].

13. The Registry stands ready to address similar submissions, should they arise, to the Chamber for its determination on a case-by-case basis, or to comply with any other instruction the Chamber may deem appropriate.



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

¹² See the Annex to the present submissions, paras 13-15.

¹³ [REDACTED] is included in the Annex to the present submission. Two confidential *ex parte* redacted versions of the said Annex are also included: see para. 5, *supra*.