

Pursuant to Decision ICC-01/14-01/22-80 dated 19.08.2022, this document is reclassified as Public

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/14-01/22

Date: 22 July 2022

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

Under Seal, *Ex Parte*, only available to the Prosecution and Registry

**Order to the Prosecution and Registry for Submissions Regarding
the Warrant of Arrest against Mahamat Nouradine Adam**

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

The Office of the Prosecutor

Mr Karim A. A. Khan

Mr Mame Mandiaye Niang

Counsel for Mr Mokom

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel
for the Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

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PRE-TRIAL CHAMBER II of the International Criminal Court issues this Order to the Prosecution and Registry for Submissions Regarding the Warrant of Arrest against Mahamat Nouradine Adam.

1. On 7 January 2019, the Single Judge issued the ‘Warrant of Arrest for Mahamat Nouradine Adam’ (the ‘Warrant of Arrest’).¹
2. On 8 March 2021, the Prosecution requested to inform Mr Nicholas Kaufman (‘Mr Kaufman’) of the Warrant of Arrest (the ‘8 March 2021 Request’).²
3. On 25 March 2021, the Single Judge rejected the 8 March 2021 Request (the ‘25 March 2021 Decision’).³
4. On 14 March 2022, Mr Maxime Jeoffroy Eli Mokom Gawaka (‘Mr Mokom’) was surrendered to the Court and arrived at the Detention Centre.
5. On 25 March 2022, the Chamber ordered the Registry to revoke its appointment of Mr Kaufman as Mr Mokom’s counsel due to a conflict of interest (the ‘25 March 2022 Order’).⁴
6. On 14 April 2022, the Chamber granted Mr Mokom’s request for leave to appeal the 25 March 2022 Order in respect of two issues.⁵
7. On 19 July 2022, the Appeals Chamber issued its judgment on Mr Mokom’s appeal against the 25 March 2022 Order (the ‘Appeals Chamber Judgment’).⁶ The majority of the Appeals Chamber remanded the matter to the Chamber and directed it

¹ ICC-01/14-41-US-Exp, under seal, *ex parte*, only available to the Prosecution (a redacted version, under seal, *ex parte*, only available to the Prosecution and the Victims and Witnesses Unit, was submitted on 31 January 2019).

² ICC-01/14-138-US-Exp, under seal, *ex parte*, only available to the Prosecution, with Annex A and B, under seal, *ex parte*, only available to the Prosecution.

³ Decision on the ‘Prosecution’s Request to Inform Mr Nicholas Kaufman of the Existence of a Warrant of Arrest for Mahamat Nouradine Adam’, ICC-01/14-143-US-Exp, under seal, *ex parte*, only available to the Prosecution and the Registry.

⁴ Order to the Registry concerning the appointment of Mr Nicholas Kaufman as counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, ICC-01/14-01/22-26-Conf-Exp, confidential and *ex parte*, only available to the Prosecution, Mr Kaufman, Mr Mokom, and the Registry (a public redacted version was issued on 13 June 2022, ICC-01/14-01/22-26-Red).

⁵ Decision on Mr Mokom’s requests for reconsideration and leave to appeal the ‘Order on appointment of Mr Kaufman as Counsel for Mr Mokom’, ICC-01/14-01/22-43, public.

⁶ Public Redacted Version of Judgment on the appeal of Maxime Jeoffroy Eli Mokom Gawaka against the decision of Pre-Trial Chamber II of 25 March 2022 entitled “Order to the Registry concerning the appointment of Mr Nicholas Kaufman as counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, ICC-01/14-01/22-70-Red (OA).

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to issue a new decision based upon all available information, setting out precise and detailed reasons as to whether there is an impediment to representation or a conflict of interest within the meaning of articles 12 and 16 of the Code of Professional Conduct for Counsel to Mr Kaufman's representation of Mr Mokom that cannot be remedied.⁷

8. In light of the Appeals Chamber Judgment, the Chamber orders the Prosecution and the Registry to provide submissions as to the possibility of either reclassifying the Warrant of Arrest and the 25 March 2021 Decision as public or submitting confidential versions of these documents in the record of the present case by no later than 28 July 2022. Should the Prosecution and/or Registry consider that redactions should be applied to the Warrant of Arrest and/or the 25 March 2021 Decision for these purposes, they shall also provide specific proposals and justifications to this end.

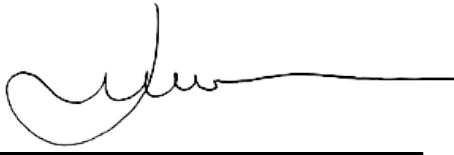
⁷ Appeals Chamber Judgment, para. 68.

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FOR THESE REASONS, THE CHAMBER HEREBY

ORDERS the Prosecution and the Registry to provide submissions as to the possibility of either reclassifying the Warrant of Arrest and the 25 March 2021 Decision as public or submitting confidential versions of these documents in the record of the present case by no later than 28 July 2022, together with any proposals and justifications for redactions if applicable.

Done in both English and French, the English version being authoritative.

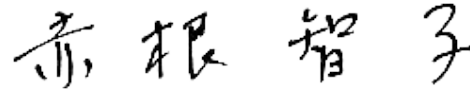


Judge Rosario Salvatore Aitala

Presiding



Judge Antoine Kesia-Mbe Mindua



Judge Tomoko Akane

Dated this Friday, 22 July 2022

At The Hague, The Netherlands