



Original: English

No. ICC-01/14-01/22

Date: 15 September 2022

Date Public Redacted Version: 15 September 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

Public

Public Redacted Version of 'Order convening a status conference and decision designating a Single Judge'

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
Mr Kweku Vanderpuye

Counsel for the Defence

Mr Gregory Townsend (Duty Counsel)

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

Mr Pieter Vanaverbeke

Victims and Witnesses Unit

Detention Section

Mr Harry Tjonk

**Victims Participation and Reparations
Section**

Other

Appeals Chamber

PRE-TRIAL CHAMBER II of the International Criminal Court, with this order, convenes a status conference and designates one of its members to act as Single Judge.

1. On 14 March 2022, Mr Maxime Jeoffroy Eli Mokom Gawaka ('Mr Mokom') was surrendered to the Court and arrived at the Detention Centre. He made his first appearance before the Chamber on 22 March 2022,¹ during which the Chamber scheduled the confirmation of charges hearing to commence on 31 January 2023.
2. On 25 March 2022, the Chamber ordered the Registry to revoke its appointment of Mr Nicholas Kaufman as Mr Mokom's counsel due to an impediment to representation or a conflict of interest (the '25 March 2022 Order').²
3. On 1 April 2022, the Chamber instructed the Registry, *inter alia*, to appoint duty counsel for Mr Mokom.³ That same day, Mr Gregory Townsend ('Duty Counsel') was appointed as duty counsel to Mr Mokom.⁴
4. On 4 April 2022, the Chamber held a status conference on the issue of Mr Mokom's legal representation.⁵
5. 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.⁶ On 19 July 2022, the Appeals

¹ See Order convening a hearing for the first appearance of Mr Mokom, 16 March 2022, [ICC-01/14-01/22-21](#); Transcript of hearing, 22 March 2022, ICC-01/14-01/22-T-001-CONF-ENG (public redacted version notified on the same day; [ICC-01/14-01/22-T-001-Red-ENG](#) and [ICC-01/14-01/22-T-001-Red-FRA](#)).

² 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](#)).

³ Order convening a status conference and instructing the Registry to appoint duty counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, ICC-01/14-01/22-32-Conf-Exp, confidential and *ex parte*, only available to Mr Mokom and the Registry.

⁴ Notification of the Appointment of Mr Gregory Townsend as Duty Counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, 4 April 2022, ICC-01/14-01/22-33-Conf-Exp, confidential and *ex parte*, only available to Mr Mokom and Registry, with Annex I, confidential and *ex parte*, only available to Mr Mokom and Registry. On 22 July 2022, the Chamber ordered (i) the Registry to maintain the mandate of Mr Townsend as Duty Counsel until a further decision on this matter. Order to the Registry to Maintain the Mandate of Duty Counsel and to the Prosecution and Duty Counsel for Submissions, [ICC-01/14-01/22-73](#).

⁵ Transcript of hearing, 4 April 2022, [ICC-01/14-01/22-T-002-Red-ENG](#) and [ICC-01/14-01/22-T-002-Red-FRA](#).

⁶ 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](#).

Chamber issued its judgment on Mr Mokom’s appeal against the 25 March 2022 Order (the ‘Appeals Chamber Judgment’).⁷ The majority of the Appeals Chamber, *inter alia*, remanded the matter to the Chamber and directed it to issue a new decision based upon all available information, setting out precise and detailed reasons.

6. On 19 August 2022, having received submissions from the Prosecution and Duty Counsel on the issues arising out of the Appeals Chamber Judgment,⁸ the Chamber set out the further reasons for its finding in the 25 March 2022 Order, and granted Mr Mokom leave to appeal that decision in respect of one issue (the ‘19 August 2022 Decision’).⁹

7. During the period leading up to the Appeals Chamber Judgment, the Chamber, having received various submissions from the parties and observations from the Registry’s observations,¹⁰ issued an ‘Order on the conduct of the confirmation of charges proceedings’ on 27 June 2022,¹¹ *inter alia*, (i) adopting the principles and procedure governing disclosure, as well as the disclosure calendar; and (ii) establishing

⁷ 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-Conf (OA), (a public redacted version was issued on the same day, [ICC-01/14-01/22-70-Red](#) (OA)).

⁸ Prosecution’s Submissions in respect of the Chamber’s Order (ICC-01/14-01/22-73), 27 July 2022, [ICC-01/14-01/22-75](#); Submissions pursuant to Order ICC-01/14-01/22-73, 28 July 2022, [ICC-01/14-01/22-78](#), with confidential annexes I-III.

⁹ Decision on legal representation further to the Appeals Chamber’s judgment of 19 July 2022, [ICC-01/14-01/22-80](#).

¹⁰ Registry’s Observations on the “Prosecution’s Request for an E-Court Protocol, a Redaction Protocol, and a Protocol on the Handling of Confidential Information and Contacts with Witnesses”, 23 May 2022, [ICC-01/14-01/22-52](#); Mr. Mokom’s Response to the Prosecution’s Protocol Request and the Prosecution’s Observations on Evidence Disclosure, [ICC-01/14-01/22-53](#) (filed on 23 May 2022 and notified on 24 May 2022); Registry Observations pursuant to Pre-Trial Chamber II’s “Order seeking observations on matters related to the conduct of the confirmation Proceedings” (ICC-01/14-01/22-50), 25 May 2022, [ICC-01/14-01/22-55](#), with public annexes I and II, and confidential, *ex parte* annex III, only available to the Registry; Prosecution’s Response to the ‘Order seeking observations on matters related to the conduct of the confirmation proceedings’ (ICC-01/14-01/22-50), 25 May 2022, ICC-01/14-01/22-54-Conf (public redacted version filed on 30 May 2022 ([ICC-01/14-01/22-54-Red](#))) (the ‘Prosecution’s 25 May 2022 Disclosure Submissions’); Mr. Mokom’s Response to OPCV’s Application for recognition of the status of victims in the case of Prosecutor v. Mokom to victims participating in the case of Prosecutor v. Yekatom and Ngaïssona, [ICC-01/14-01/22-56](#) (filed on 25 May 2022 and notified on 26 May 2022); Mr. Mokom’s Response to the Registry’s Observations on victim participation, [ICC-01/14-01/22-57](#) (filed on 03 June 2022 and notified on 06 June 2022); Mr. Mokom’s Response to the “Order seeking observations on matters related to the conduct of the confirmation proceedings” (ICC-01/14-01/22-50), 6 June 2022, [ICC-01/14-01/22-58](#); See also, Order seeking observations on matters related to the conduct of the confirmation proceedings, 17 May 2022, [ICC-01/14-01/22-50](#).

¹¹ [ICC-01/14-01/22-62](#).

the principles and procedure applicable to victims' participation in this proceedings (the '27 June 2022 Order').

8. Mindful of the fact that the Chamber last held a status conference on 4 April 2022, and noting that the matter of Mr Mokom's legal representation is again awaiting determination by the Appeals Chamber, the Chamber considers it appropriate to convene a status conference, to discuss matters related to the disclosure process in this case, as well as Mr Mokom's pre-trial detention.

9. Whilst the 27 June 2022 Order adopted a disclosure calendar that was dependent on permanent counsel having been appointed, the said appointment was at the time foreseen to be able to take place following the initial Appeals Chamber ruling on the matter of legal representation. Given that the appointment of permanent counsel will now take place later than anticipated, and with a view to ensuring that disclosure takes place under satisfactory conditions, the Chamber wishes to receive observations from the Prosecution on the following: (i) any updates or changes with regard to disclosure since the Prosecution's 25 May 2022 Disclosure Submissions; (ii) the Prosecution's preparation and organisation of the evidence it intends to rely upon for the confirmation hearing, the material to be disclosed under rule 77 of the Rules,¹² and the evidence disclosed as potentially exonerating; and (iii) any change or update on requests for non-standard redactions, identity redactions pursuant rule 81(4) of the Rules and non-disclosure of entire items.¹³ Duty Counsel will be given an opportunity to present observations on the Prosecution's observations on the aforementioned matters.

10. Moreover, the Chamber notes that Mr Mokom was surrendered to the Court and transferred to the Court's Detention Centre on 14 March 2022. Since then he has been in pre-trial detention. [REDACTED].¹⁴ [REDACTED].¹⁵ [REDACTED]. In addition to receiving further submissions from the parties on this matter, if applicable, the Chamber wishes to provide Mr Mokom with an opportunity to discuss any other matter related to his detention during the status conference.

¹² See [27 June 2022 Order](#), paras 28-29

¹³ See [27 June 2022 Order](#), para. 37.

¹⁴ [REDACTED].

¹⁵ [REDACTED].

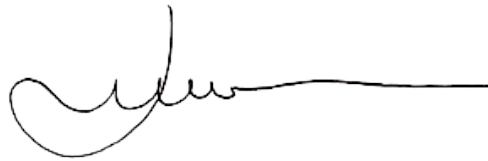
11. Furthermore, noting articles 39(2)(b)(iii) and 57(2)(b) of the Rome Statute (the ‘Statute’), and considering the sitting schedule of two of the members of the Chamber and the availability of courtrooms and support services, the Chamber considers it appropriate to designate Judge Rosario Salvatore Aitala as Single Judge responsible for carrying out the functions of the Chamber, subject to article 57(2)(a) of the Statute, in the present case, for the purpose of the status conference.

FOR THESE REASONS, THE CHAMBER HEREBY

CONVENES a status conference with the Prosecution and Mr Mokom, assisted by Duty Counsel, on Friday 23 September 2022 at 9h30; and

DESIGNATES Judge Rosario Salvatore Aitala as Single Judge responsible for carrying out the functions of the Chamber for the purpose of the status conference to be held on 23 September 2022.

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 Thursday, 15 September 2022

At The Hague, The Netherlands