



Original: English

No. ICC-01/14-01/22

Date: 29 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

Decision granting Mr Mokom's request for leave to appeal the 19 August 2022

Decision on legal representation

Decision 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 Mr Mokom

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

**Victims Participation and Reparations
Section**

Other
Appeals Chamber

PRE-TRIAL CHAMBER II of the International Criminal Court issues this decision granting Mr Mokom’s request for leave to appeal the Chamber’s ‘Decision on legal representation further to the Appeals Chamber’s judgment of 19 July 2022’, issued on 19 August 2022 (the ‘19 August 2022 Decision’).¹

1. The Chamber recalls the procedural history relevant to the matter of the legal representation of Mr Mokom as set out in the Appeals Chamber’s ‘Decision on the admissibility of the appeal’ issued on 27 September 2022.²

2. On 29 September 2022, Mr Mokom sought leave to appeal the 19 August 2022 Decision (the ‘Request for Leave to Appeal’).³ The Prosecution submitted a response that same day.⁴

3. The Chamber recalls its reasoning as set out in 19 August 2022 Decision.⁵ It considers the issue identified in the Request for Leave to Appeal to meet the requirements set out in article 82(1)(d) of the Rome Statute. Moreover, the Chamber – again – recalls that ‘[l]egal representation goes to the heart of the right to a fair trial and therefore significantly affects the fair and expeditious conduct of the proceedings.’⁶ In addition, the Chamber reiterates that ‘an immediate resolution by the Appeals Chamber would ensure that any doubts in connection with the scope of Mr Mokom’s right to be assisted by counsel of his own choice are *promptly* [...] dispelled’.⁷

4. The Chamber therefore grants the Request for Leave to Appeal in respect of the following issue:

Whether the Chamber, on the basis of the further reasons exposed in the ‘Decision on legal representation further to the Appeals Chamber’s judgment of 19 July 2022’, erred in finding that 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.

¹ [ICC-01/14-01/22-80](#).

² ICC-01/14-01/22-91.

³ Request for Leave to Appeal Decision ICC-01/14-01/22-80, ICC-01/14-01/22-92 (submitted on 28 September 2022 and notified on 29 September 2022).

⁴ ICC-01/14-01/22-93. On the same day, the Chamber shortened the deadline for the Prosecution to submit a response (see Email from the Chamber to the Prosecution, 29 September 2022 at 11:04).

⁵ [19 August 2022 Decision](#), paras 29-30.

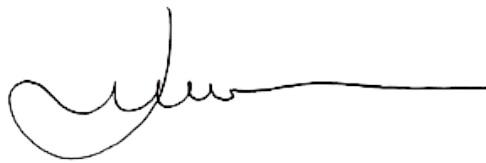
⁶ Decision on Mr Mokom’s requests for reconsideration and leave to appeal the ‘Order on appointment of Mr Kaufman as Counsel for Mr Mokom’, 14 April 2022, [ICC-01/14-01/22-43](#), para. 27.

⁷ [19 August 2022 Decision](#), para. 30 (emphasis added).

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request for Leave to Appeal.

Done in English. A French translation will follow, but the English version remains authoritative.

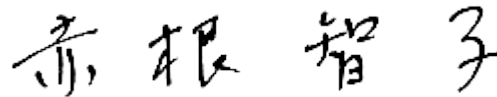


Judge Rosario Salvatore Aitala

Presiding



Judge Antoine Kesia-Mbe Mindua



Judge Tomoko Akane

Dated this Thursday, 29 September 2022

At The Hague, The Netherlands