



Original: English

No. ICC-01/14-01/22

Date: 23 January 2023

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

Order postponing the confirmation of charges hearing

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 Mr Mokom

Mr Philippe Larochelle
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**

Ms Paolina Massidda

**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

PRE-TRIAL CHAMBER II of the International Criminal Court issues this Order postponing the confirmation of charges hearing.

1. On 10 December 2018, the Chamber issued the Warrant of Arrest for Maxime Jeoffroy Eli Mokom Gawaka ('Mr Mokom').¹
2. On 14 March 2022, Mr Mokom was surrendered to the Court and arrived at the Detention Centre.²
3. On 22 March 2022, Mr Mokom made his first appearance before the Chamber, at which time the Chamber set the date for the commencement of the confirmation of charges hearing for 31 January 2023.³
4. On 25 March 2022, the Chamber revoked the appointment of Mr Nicholas Kaufman as counsel for Mr Mokom due to an impediment to representation or a conflict of interest (the '25 March 2022 Order').⁴ As a result, Mr Gregory Townsend ('Mr Townsend') was appointed as Duty Counsel to Mr Mokom on 4 April 2022.⁵ Following an appeal by Mr Mokom, the Appeals Chamber, by majority, directed the Chamber to provide further reasons for its 25 March 2022 Order on 19 July 2022.⁶ The Chamber issued a decision setting out further reasons pursuant to the Appeals Chamber's directions on 19 August 2022 and, in addition, *proprio motu* granted leave to appeal that decision to Mr Mokom

¹ ICC-01/14-01/22-2-US-Exp (a redacted under seal, *ex parte*, only available to the Prosecutor and the Victims and Witnesses Unit, version was issued on 31 January 2019, ICC-01/14-01/22-2-US-Exp-Red; a public redacted version was issued on 22 March 2022, [ICC-01/14-01/22-2-Red2](#)).

² Transcript of Hearing, 22 March 2022, ICC-01/14-01/22-T-001-CONF-ENG, confidential, p. 1 (a public redacted version was issued on 29 March 2022, [ICC-01/14-01/22-T-001-Red-ENG](#)) (the '22 March 2022 Transcript').

³ [22 March 2022 Transcript](#), p. 11.

⁴ Order to the Registry concerning the appointment of Mr Nicholas Kaufman as counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, 25 March 2022, ICC-01/14-01/22-26-Conf-Exp, confidential, *ex parte*, available only to the Prosecution, Mr Nicholas Kaufman, Mr Maxime Jeoffroy Eli Mokom Gawaka, and the Registry (a public redacted version was issued on 13 June 2022, [ICC-01/14-01/22-26-Red](#)).

⁵ Registry, Notification of the Appointment of Mr Gregory Townsend as Duty Counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, ICC-01/14-01/22-33-Conf-Exp, confidential and *ex parte*, only available to Mr Mokom and the Registry, with Annex I, confidential and *ex parte*, only available to Mr Mokom and the Registry.

⁶ 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), confidential (a public redacted version was issued on the same day, [ICC-01/14-01/22-70-Red](#)).

(the ‘19 August 2022 Decision’).⁷ On 27 September 2022, the Appeals Chamber declared Mr Mokom’s appeal against the 19 August 2022 Decision inadmissible on the basis that leave to appeal was improperly granted.⁸ After the Chamber granted leave to appeal the 19 August 2022 Decision to Mr Mokom,⁹ the Appeals Chamber, by majority, confirmed the latter decision, and additionally directed the Registry to liaise with Mr Mokom regarding his selection of counsel, on 19 December 2022.¹⁰

5. On 21 December 2022, the Chamber further instructed the Registry, by way of email, to: (i) maintain the appointment of Mr Townsend as Duty Counsel until two weeks after the appointment of permanent counsel selected by Mr Mokom; and (ii) finalise its consultations with Mr Mokom as to his selection of permanent counsel as soon as possible but no later than 6 January 2023.¹¹

6. On 4 January 2023, the Registry, by way of email, submitted the report describing the consultation process as to Mr Mokom’s selection of permanent counsel pursuant to the Chamber’s instructions.¹²

7. On 23 January 2023, Mr Philippe Larochelle was appointed as permanent counsel for Mr Mokom.¹³

8. The Chamber has previously indicated that the confirmation of charges hearing will have to be postponed.¹⁴ Considering the delay resulting from the protracted litigation regarding Mr Mokom’s legal representation, the confirmation of charges hearing can no longer commence on 31 January 2023. Accordingly, the Chamber

⁷ [Decision on legal representation further to the Appeals Chamber’s judgment of 19 July 2022](#), ICC-01/14-01/22-80, public.

⁸ [Decision on the admissibility of the appeal](#), ICC-01/14-01/22-91 (OA2), public.

⁹ [Decision granting Mr Mokom’s request for leave to appeal the 19 August 2022 Decision on legal representation](#), 29 September 2022, ICC-01/14-01/22-94, public.

¹⁰ Judgment on the appeal of Maxime Jeoffroy Eli Mokom Gawaka against the decision of Pre-Trial Chamber II of 19 August 2022 entitled “Decision on legal representation further to the Appeals Chamber’s judgment of 19 July 2022”, ICC-01/14-01/22-124-Conf (OA3), confidential (a public redacted version was issued on the same day, ICC-01/14-01/22-124-Red).

¹¹ Email from the Chamber to the Registry, 21 December 2022 at 10:08.

¹² Email from the Registry to the Chamber, 4 January 2023 at 16:57. The Registry provided updates by email on 6 January 2023, at 11:04, 10 January 2023, at 13:24, 17 January 2023, at 14:46, and 19 January 2023, at 18:58.

¹³ Registry, Notification of the Appointment of Mr Philippe Larochelle as Counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, ICC-01/14-01/22-136, public, with Annexes I, II and IV, public and Annex III, confidential.

¹⁴ [Order to Mr Mokom to provide submissions on interim release](#), 7 November 2022, ICC-01/14-01/22-105, public, para. 11.

decides to postpone the confirmation of charges hearing until a date to be determined subsequently under rule 121(7) of the Rules of Procedure and Evidence.

9. Prior to setting a new date, the Chamber, in accordance with its duty to ensure the fair and expeditious conduct of the present proceedings, instructs the parties and the OPCV to provide observations, if they so wish, on any proposed date for the commencement of the confirmation of charges hearing, together with an explanation as to why such a date would be appropriate in the circumstances of the present case. The Prosecution and the OPCV may provide any such observations by no later than 26 January 2023, while permanent counsel for Mr Mokom shall do so by no later than 31 January 2023. Furthermore, the Registry shall ensure that the present order is made available to permanent counsel without delay.

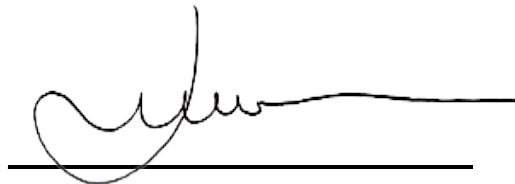
FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES to postpone the confirmation of charges hearing until a date to be determined subsequently;

INSTRUCTS the parties and the OPCV to provide any observations as detailed in paragraph 9 of the present order if they so wish; and

ORDERS the Registry to ensure that the present order is made available to permanent counsel without delay.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Rosario Salvatore Aitala

Presiding



Judge Antoine Kesia-Mbe Mindua



Judge Tomoko Akane

Dated this Monday, 23 January 2023

At The Hague, The Netherlands