

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/22
Date : 15 February 2023

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
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 “Report on the Registry’s consultations with States on the Interim Release of Mr Mokom and Request for Guidance”, 14 December 2022,
ICC-01/14-01/22-120-Conf-Exp**

Source: The Registry

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

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Legal Representatives of the Applicants

Unrepresented Victims

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
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Other

I. Introduction

1. Pursuant to the “Order to Mr Mokom to provide submissions on interim release” (“Order”)¹ issued by Pre-Trial Chamber II (“Chamber”) on 7 November 2022 and an email of the Chamber requesting the Registry to provide an update as to the consultations conducted so far with States by no later than 14 December 2022,² the Registry submits its updated report on the interim release of Mr Maxime Jeoffroy Ali Mokom Gawaka (“Mr Mokom”).

II. Procedural history

2. On 7 November 2022, the Chamber issued the Order, in which it ordered the Registry *inter alia* “to consult with the Netherlands as the Host State, as to its willingness to accept Mr Mokom on its territory for the purposes of interim release and to enforce conditions restricting liberty to be imposed”. In addition, the Registry was instructed to invite the competent authorities of the State(s) concerned to submit their observations within the shortest possible delay and to transmit them to the Chamber with a report describing consultations.³
3. On 14 November 2022, the Duty Counsel for Mr Mokom (“Duty Counsel”) submitted “Mr Mokom’s Application for Interim Release pursuant to Order ICC-01/14-01/22-105” (“Application”).⁴ In its Application, the Duty Counsel requested the Chamber to order the interim release of Mr Mokom to one of the proposed [REDACTED] European States Parties, namely [REDACTED] (“States Parties”). In the Application, Mr Mokom also provided a number of conditions which may be imposed on him during the interim release.

¹ Pre-Trial Chamber II, « Order to Mr Mokom to provide submissions on interim release », 7 November 2022, ICC-01/14-01/22-105.

² Email from Pre-Trial Chamber II on 6 December 2022 at 16.13.

³ Order, para. 14.

⁴ Duty Counsel for Mr Mokom, « Mr Mokom’s Application for Interim Release pursuant to Order ICC-01/14-01/18-105 », dated 14 November 2022, ICC-01/14-01/22-110-Conf, public redacted of which was submitted on 16 November 2022, ICC-01/14-01/22-110-Red.

4. Considering that the conditions listed in the Application were filed confidentially, on 2 December 2022, the Registry requested the Chamber by email to use the information contained in the Application in its confidential communication with the States identified.⁵ On 21 November 2022, the Chamber granted the request by email.⁶

III. Classification

5. Pursuant to regulation 23*bis*(1) and (2) of the Regulations of the Court (“RoC”), the present submission and its annexes are classified as confidential, *ex parte*, only available to the Registry and the Defence for Mr Mokom, as they refer to the information contained in in the Application with the same level of classification and contain exchanges with States Parties.

IV. Applicable law

6. The following provisions are of particular relevance to the present submission: articles 60(2) of the Rome Statute, rule 14(2) and 119 of the Rules of Procedure and Evidence and regulations 51, 83 to 85 of the RoC, regulations 130 to 133 of the Regulations of the Registry (“RoR”) and [REDACTED].

V. Submissions

7. Pursuant to the Order, the Registry started consultations with the States Parties in the order of priority indicated by the Defence in its Application. The Registry sent *notes verbales* containing a request to consider accepting Mr Mokom on their territory to all [REDACTED] States Parties who acknowledged their receipt (“Request” or “Requests”).

⁵ Email from the Registry to Pre-Trial Chamber II, 17 November 2022, at 10.11.

⁶ Email from Pre-Trial Chamber II, 21 November 2022, at 14.08.

The Netherlands

8. On 22 November 2022, following informal contacts with the host State, the Registry sent the Request to the Dutch authorities. On 28 November 2022, the Dutch authorities transmitted a response in which they indicated, inter alia, that the Netherlands cannot accept Mr Mokom's interim release on the Dutch territory.⁷

[REDACTED]

[REDACTED]

9. On 29 November 2022, the Registry sent the Request to [REDACTED]⁸ with a deadline to provide its observations by 12 December 2022. No response has yet been received.

[REDACTED]

10. On 30 November 2022, the Registry sent the Request to [REDACTED] with a deadline to provide its observations by 12 December 2022.

11. On 1 December 2022, the [REDACTED] authorities transmitted a letter acknowledging receipt of the Request and informing that [REDACTED]. However considering the upcoming holiday period the authorities requested the Court to extend the deadline until 9 January 2023. In addition, the [REDACTED] authorities requested the Court to enquire with Mr Mokom about the address where he would reside, should Mr Mokom be released in [REDACTED] and his links to that address and to [REDACTED] in general.⁹

⁷ Annex I. Notes verbale from the Registry to the Netherlands and a response from the Dutch authorities.

⁸ Annex II. Notes verbales to [REDACTED].

⁹ Annex III.

12. On 2 December 2022, the Registry transmitted the [REDACTED] Enquiry to the Defence who, on the same day, referred the Registry [REDACTED].
13. The Defence further informed that as per [REDACTED] (“Defence Response”).
14. On 2 December 2022, the Registry communicated the Defence Response to the [REDACTED] authorities.

[REDACTED]

15. On 30 November 2022, the Registry sent the Request to [REDACTED] with a deadline to provide its observations by 12 December 2022.
16. On 6 December, the [REDACTED] authorities informed the Registry by email that they would not be in a position to respond by 12 December 2022. The authorities further indicated that the Request is being treated as urgent and that [REDACTED] will endeavour to respond to the Request as soon as possible.

[REDACTED]

17. On 6 December 2022, the Request was sent to [REDACTED] with a deadline to provide observations by 20 December 2022. No response has yet been received from the [REDACTED] authorities.

[REDACTED]

18. On 30 November 2022, the Registry sent Requests to [REDACTED] with a deadline to provide observations by 12 December 2022.¹⁰
19. On 1 December 2022, the Request was sent to [REDACTED] with a deadline to provide observations by 15 December 2022.

¹⁰ Annex IV. All notes verbales to [REDACTED].

20. On 2 December 2022, the Request was sent to [REDACTED] with a deadline to provide observations by 15 December 2022. Since the focal point in the [REDACTED] left the country, the Registry re-transmitted the Request which was received by [REDACTED] on 8 December 2022.
21. On 6 December 2022, the Registry transmitted requests to the remaining countries, namely, [REDACTED]. The countries were invited to provide observations by 20 December 2022.
22. Due to technical issues, the [REDACTED] authorities received the Request on 8 December 2022.
23. On 12 December 2022, the [REDACTED] authorities communicated to the Court their response in which they informed the Court that [REDACTED] is unable to accept Mr Mokom on its territory.¹¹
24. On 14 December 2022, the [REDACTED] authorities indicated that they would be unable to accept Mr Mokom on their territory.¹² On the same day, the [REDACTED] authorities asked for an extension until 31 January 2023.¹³

Request for guidance

(i) Deadlines

25. Considering the request of [REDACTED] to provide a response on 9 January 2023 and from the information provided by other States, the Registry expects delays to the replies of some States to the Request due to the upcoming holiday period and the need for the States to hold internal consultations. Therefore, for increasing the chance of obtaining meaningful outcomes from the consultation

¹¹ Annex V.

¹² Annex VI.

¹³ Annex VII.

process with the States Parties, the Registry suggests, subject to the Chamber's authorisation, to indicate a deadline to the remaining States Parties, which have not yet provided their replies.

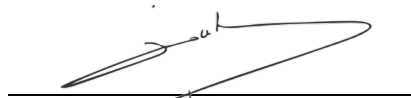
(ii) [REDACTED]

26. [REDACTED].

27. [REDACTED].¹⁴

28. [REDACTED].

29. [REDACTED].

A handwritten signature in black ink, appearing to read 'Marc Dubuisson', is written over a horizontal line.

Marc Dubuisson
Director of the Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 15 February 2023

At The Hague, the Netherlands

¹⁴ [REDACTED].