

**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 “Second Report on the Registry’s Consultations
with States on the Interim Release of Mr Mokom”, 1 February 2023, ICC-01/14-
01/22-146-Conf**

Source: The Registry

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

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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, the Registry submits its second report on consultations conducted with the States 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 instructed 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.²
3. On 14 November 2022, the Duty Counsel for Mr Mokom submitted “Mr Mokom’s Application for Interim Release pursuant to Order ICC-01/14-01/22-105” (“Application”).³ 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, such as [REDACTED]. In its Application, Mr Mokom also provided a number of conditions which may be imposed on him during the interim release.
4. On 14 December 2022, the Registry filed the “Report on the Registry’s consultations with States on the Interim Release of Mr Mokom and Request for

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 Order, para. 14.

³ 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.

Guidance” (“First Report”),⁴ by which it transmitted the responses received from [REDACTED] indicating their unavailability to accept Mr Mokom on their territory. In the same Report, the Registry requested guidance as to the deadline for the States to provide observations as to their willingness to accept Mr Mokom if he is granted interim release and [REDACTED].

5. On 23 December 2022, the Registry submitted an Addendum to its Report,⁵ by which it further transmitted the responses received from [REDACTED]. None of the aforementioned States was in the position to accept Mr Mokom for his interim release.
6. On the same day, in response to the Registry’s Report containing a request for guidance, the Single Judge ordered the Registry (“Order of 23 December 2022”) to *inter alia* “request: (i) the States that have not done so hitherto to provide observations as to their willingness to accept Mr Mokom if he would be granted interim release and to enforce any conditions restricting liberty to be imposed by no later than 31 January 2023 if they so wish; (ii) the relevant States to, if applicable, either agree to share their observations with the Parties and OPCV, or to provide public redacted or confidential redacted versions of their observations; and (iii) the Netherlands to provide reasons for its refusal to accept Mr Mokom if he would be granted interim release, and to further indicate whether it agrees to designate a location in the Hague as the premises of the Court in relation to the possibility of the interim release of Mr Mokom”.⁶

III. Classification

⁴ Registry, “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. A confidential redacted version of the Report was filed on 20 December 2022, ICC-01/14-01/22-120-Conf-Red.

⁵ Registry, “ADDENDUM to the ‘Report on the Registry’s consultations with States on the Interim Release of Mr Mokom and Request for Guidance’”, 23 December 2022, ICC-01/14-01/22-127-Conf-Exp.

⁶ Email from the Associate Legal Officer on behalf of the Single Judge for Pre-Trial Chamber II, 23 December 2022 at 15.06.

7. 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, as they refer to the information contained in confidential documents with the similar level of classification and contain exchanges with States Parties. Annex VI containing a response from [REDACTED] is filed as confidential, *ex parte*, only available to the Registry as per request of [REDACTED].
8. Pursuant to the Chamber’s Order of 25 January 2023,⁷ the Registry is consulting with the States on the possibility of reclassifying their responses into public or filings as public redacted version.

IV. Applicable law

9. The following provisions are of particular relevance to the present submission: article 60(2) of the Rome Statute, rule 119 of the Rules of Procedure and Evidence and regulation 51 of the RoC.

V. Submissions

10. Pursuant to the Order of 23 December 2022, the Registry informed by email all the States who had not done so, to provide their observations as to their willingness to accept Mr Mokom on their territory, should he be granted interim release.
11. In addition, on 23 December 2022, the Registry requested the Dutch authorities by note verbale to provide reasons for their refusal to accept Mr Mokom should he be granted interim release, and to further indicate whether they

⁷ Pre-Trial Chamber II, “Order for observations and decision on the Prosecution’s request for a status conference”, registered on 25 January 2023, ICC-01/14-01/22-138.

agree to designate a location in The Hague as the premises of the Court in relation to the possibility of the interim release of Mr Mokom.⁸

12. On 17 January 2023, the Dutch authorities provided their response.⁹

During the period from 24 December 2022 until 31 January 2023, the Registry received responses from the following States: [REDACTED],¹⁰ [REDACTED],¹¹ [REDACTED],¹² [REDACTED],¹³ [REDACTED],¹⁴ [REDACTED],¹⁵ [REDACTED] and¹⁶[REDACTED],¹⁷ [REDACTED] ¹⁸ and [REDACTED].¹⁹ All of these States indicated that they were not in a position to accept Mr Mokom on their territory.

13. No response has yet been received from [REDACTED].

14. On 31 January 2023, the [REDACTED] authorities informed the Registry by email that they would be in a position to provide their observations by 6 February 2023.

Communication with [REDACTED]

15. On 23 December 2022, the authorities of [REDACTED] contacted the Registry by email requesting a number of clarifications on the issues related to the legal obligations of [REDACTED], including the situations when Mr Mokom needs to be present at the seat of the Court or when he is found not guilty; duration

⁸ Annex I.

⁹ Annex II.

¹⁰ Response provided on 6 January 2023, Annex III.

¹¹ Response provided on 9 January 2023, Annex IV.

¹² Response provided on 30 December 2022, Annex V.

¹³ Response provided on 30 January 2023. Annex VI.

¹⁴ Response provided on 20 January 2023, Annex VII.

¹⁵ Response provided on 30 January 2023, Annex VIII.

¹⁶ Response provided on 26 January 2023, Annex IX.

¹⁷ Response provided on 9 December 2022, Annex X.

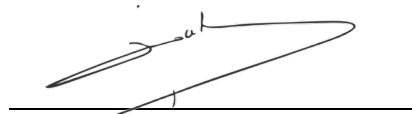
¹⁸ Response provided on 25 January 2023, Annex XI.

¹⁹ Response provided on 30 January 2023, Annex XII.

of the interim release; possible family of Mr Mokom in [REDACTED] and the place of residence in [REDACTED]. In addition, the authorities of [REDACTED] enquired whether [REDACTED].

16. Following consultations with the Chamber and the Defence for Mr Mokom, the Registry provided responses to the questions raised by the authorities of the [REDACTED]. The Registry clarified, in particular, that the proceedings against Mr Mokom are currently at the pre-trial phase and, if Mr Mokom's application for interim release is granted, such a decision would only concern this phase of the proceedings. In the event that the charges are confirmed, it would be for the Trial Chamber to take a further decision regarding interim release. However, [REDACTED].

17. On 31 January 2023, the authorities of [REDACTED] informed the Registry by email that they were not yet in a position to provide their response and requested an extension of the deadline to 10 February 2023. The authorities also reiterated their request for information [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