

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/14-01/22**

Date: **18/12/2023**

**PRE-TRIAL CHAMBER II**

**Before:** Judge Rosario Salvatore Aitala, Presiding  
Judge Tomoko Akane  
Judge Sergio Gerardo Ugalde Godínez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

***THE PROSECUTOR V. MAXIME JEOFFROY ELI MOKOM GAWAKA***

***Public***

***With Confidential Ex Parte Annexes I to VI only available to the Defence and Registry***

**Public Redacted Version of “Defence Urgent Request for an Extension of Pre-Trial Chamber’s II Order of 17 October 2023”, ICC-01/14-01/22-279-Conf-Exp, 26 October 2023**

**Source:** Philippe Larochelle, Counsel for Mr. Mokom

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

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## I. INTRODUCTION

1. The charges against Maxime Mokom were withdrawn by the ICC Office of the Prosecutor on 16 October 2023. Since their withdrawal and Mr Mokom's subsequent release, the Defence has been engaged in urgent efforts, with the assistance of the Registry, to secure a safe third State for Mr Mokom's transfer, and to allow him to leave The Netherlands. For the reasons set out below, the Defence seeks an extension of the Pre-Trial Chamber's Order of 17 October 2023,<sup>1</sup> to facilitate this process.

## II. CLASSIFICATION

2. Pursuant to Regulation 23bis of the Regulations of the Court, the Request is filed Confidential Ex Parte, Defence and Registry only as it includes information related to confidential requests for cooperation sent by the Defence.

## III. SUBMISSIONS

3. In the *Order in relation to the Prosecution's 'Notice of Withdrawal of the Charges against Maxime Jeoffroy Eli Mokom Gawaka'* of 17 October 2023, the Pre-Trial Chamber held the following:<sup>2</sup>

The Chamber is aware that the sudden termination of the case means that arrangements will have to be made before Mr Mokom can be transferred to a State which is obliged to receive him **or to another State**. The Registry shall immediately make all necessary arrangements for these purposes, including by liaising with Mr Mokom and the Defence, as well as the relevant States, in particular the Central African Republic **and the Host State**.

4. As such, the Pre-Trial Chamber issued, *inter alia*, the following orders:<sup>3</sup>

**INSTRUCTS** the Registry to make all necessary arrangements to transfer Mr Mokom to a State which is obliged to receive him or to another State;

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<sup>1</sup> Order in relation to the Prosecution's 'Notice of Withdrawal of the Charges against Maxime Jeoffroy Eli Mokom Gawaka', 17 October 2023, ICC-01/14-01/22-276, (Pre-Trial Chamber's Order).

<sup>2</sup> Pre-Trial Chamber's Order, para. 10.

<sup>3</sup> ICC-01/14-01/22-276, p. 6.

**INSTRUCTS** the Registry to consult with the Host State to ensure that any temporary conditions of stay of Mr Mokom do not result in any deprivation of liberty or restriction of any freedoms;

**INSTRUCTS** the Registry to provide Mr Mokom with the reasonably necessary assistance in the interim period pending his transfer;

5. Further to the withdrawal of the charges against Mr Mokom and his subsequent release, the Defence has taken numerous steps in an effort to secure a safe third State for Mr. Mokom's relocation. To this end, and as per the Pre-Trial Chamber's Order, the Defence has been liaising with the Registry, and has notified the Registry of requests for assistance addressed to [Redacted].

6. As previously notified to the Pre-Trial Chamber, the Defence filed a formal request for cooperation to [Redacted]. This request sought, in particular, to gather basic information about the [Redacted].<sup>4</sup>

7. Similarly, on 25 October 2023, the Defence sent three Requests for Assistance to be addressed to [Redacted] to the Counsel Support Section of the Court. These RFAs seek to obtain information that would be relevant to any decision by the ICC concerning Mr. Mokom's safe relocation to a third State. The Defence has also provided to those States the Defence concerns related to Mr. Mokom's persecution and violation of his fundamental rights in Central African Republic, including following the issuance of the *in absentia* decision.

8. Specifically, the Defence asked [Redacted]. Prior to this arrest in February 2022, Mr. Mokom was residing in Chad under a peace Agreement concluded and signed in February 2021 by former Central African political leaders, including Mr. Mokom, under the supervision of the Chadian and Angolan authorities, the Economic Community of Central African States (ECCAS) and the International Conference on the Great Lakes Region (ICGLR) ('the Agreement'). The Agreement provided for Mr. Mokom and the other leaders to reside in any State except the Central African Republic. Mr. Mokom's arrest was executed pursuant to a Warrant of Arrest issued by the ICC. As the Pre-Trial Chamber has vacated Mr. Mokom's Warrant of Arrest, Mr. Mokom should be entitled to a safe return in Chad, under the

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<sup>4</sup> Annex I; See also Defence Urgent Request, 23 October 2023, ICC-01/14-01/22-278, paras. 5-8.

Agreement, in particular given that the other signatories of the Agreement are still safely residing in Chad. [Redacted].<sup>5</sup> [Redacted].

9. As Angolan representatives were also present to facilitate meetings to negotiate the Agreement and involved in the conclusion of this agreement, [Redacted].<sup>6</sup>

10. Furthermore, the Defence asked [Redacted] to grant to Mr. Mokom [Redacted] will not extradite Mokom to the Central African Republic.<sup>7</sup> [Redacted] whilst ensuring guarantees for the respect of his fundamental rights.

11. On 25 October 2023, the Defence also asked the Counsel Support Section to facilitate the transmission of Requests for Assistance to [Redacted].<sup>8</sup>

12. The Defence notes that the [Redacted].<sup>9</sup> [Redacted]. It is the understanding of the Defence that the Registry needs to inform the Host State about the steps taken by the Defence regarding Mr. Mokom's safe relocation to a third State, and that such steps might enable the Host State to allow the extension of the designation of a location as "premises of the Court" until Mr. Mokom's transfer to a third State.

13. The Defence is still compiling relevant information related to any decision by the ICC concerning Mr. Mokom's safe relocation to a third State. The Defence needs more time to complete this assessment, including through analyzing the information received from States and organizations. The Defence also intends to seek cooperation from other States and organisations in this regard and is actively consulting with Mr. Mokom in this process. As Mr. Mokom's presence in a safe location in the Netherlands under the premises of the Court is necessary for the conduct of these ongoing and urgent consultations, the Defence requests that the Chamber instruct the Registry to extend the current arrangements which have been made between the Court and the Netherlands to help facilitate Mr Mokom's safe relocation.

14. The Defence therefore asks that the Pre-Trial Chamber

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<sup>5</sup> Annex II.

<sup>6</sup> Annex III.

<sup>7</sup> Annex IV.

<sup>8</sup> Annexes V and VI.

<sup>9</sup> [Redacted].

**INSTRUCT** the Registry to extend the current arrangements which have been made between the Court and the Netherlands until Mr Mokom can be safely relocated to a receiving State; and

**PERMIT** the Registry to inform the Dutch authorities of the steps taken by Mr Mokom's Defence to secure a receiving State.

Respectfully submitted,



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Philippe Larochelle  
Counsel for Maxime Mokom

The Hague, The Netherlands,  
Monday, December 18, 2023