

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **10 May 2024**

**ARTICLE 85 CHAMBER**

**Before:**                    **Judge Miatta Maria Samba**  
                                  **Judge Keebong Paek**  
                                  **Judge Beti Hohler**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**  
**IN THE CASE OF**  
***THE PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM GAWAKA***

**Public**

**Decision on Mr Mokom's request for leave to reply and request for a hearing**

**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  
Ms Helen Brady

**Counsel for Mr Mokom**

Mr Philippe Larochelle  
Ms Sheila Paylan

**Legal Representatives of Victims**

**The Office of Public Counsel for Victims**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**States Representatives**

**REGISTRY**

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**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**The Article 85 Chamber** (the ‘Chamber’) of the International Criminal Court, in the case of *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, having regard to article 85 of the Rome Statute (the ‘Statute’), rule 174(2) of the Rules of Procedure and Evidence (the ‘Rules’) and regulation 24(5) of the Regulations of the Court, issues the following ‘Decision on Defence request for leave to reply and request for a hearing’.

1. On 17 April 2024, Mr Mokom, through his counsel, filed a request for compensation pursuant to article 85 of the Statute (the ‘Request’).<sup>1</sup> Mr Mokom seeks, *inter alia*, a hearing on the Request.<sup>2</sup>
2. On 29 April 2024, the Office of the Prosecutor (the ‘Prosecution’) responded to the Request (the ‘Prosecution Response’).<sup>3</sup>
3. On 3 May 2024, Mr Mokom filed a request for leave to reply to four issues in the Prosecution Response (the ‘Request for Leave to Reply’).<sup>4</sup> The issues are: (i) the Prosecution’s obligations under article 67(2) of the Statute;<sup>5</sup> (ii) the Prosecution’s obligations as regards exculpatory evidence at the arrest warrant stage;<sup>6</sup> (iii) the migration process of material from the *Yekatom and Ngaissona* case record to the *Mokom* case record;<sup>7</sup> and (iv) the threshold for compensation under article 85(3) of the Statute.<sup>8</sup>
4. On 8 May 2024, the Prosecution filed a response to the Request for Leave to Reply (the ‘Response to the Request for Leave to Reply’), submitting, *inter alia*, that the request is based on a misconception or mischaracterisation of the Prosecution’s position and should be rejected.<sup>9</sup>

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<sup>1</sup> Request for Compensation under Article 85 of the Rome Statute, ICC-01/14-01/22-329-Conf (with confidential annexes A to G; a public redacted version was filed on 24 April 2024, ICC-01/14-01/22-329-Red).

<sup>2</sup> Request, ICC-01/14-01/22-329-Red, paras 64-66, p. 22.

<sup>3</sup> Prosecution’s Response to Maxime Mokom’s Request for Compensation under Article 85 of the Rome Statute, ICC-01/14-01/22-332-Conf (with confidential annex A).

<sup>4</sup> Mokom Defence Request for Leave to Reply to ‘Prosecution’s Response to Maxime Mokom’s Request for Compensation under Article 85 of the Rome Statute’, ICC-01/14-01/22-332-Conf, ICC-01/14-01/22-334-Conf.

<sup>5</sup> Request for Leave to Reply, ICC-01/14-01/22-334-Conf, paras 4-6, 16-17.

<sup>6</sup> Request for Leave to Reply, ICC-01/14-01/22-334-Conf, paras 7-10, 16-17.

<sup>7</sup> Request for Leave to Reply, ICC-01/14-01/22-334-Conf, paras 11-13, 16-17.

<sup>8</sup> Request for Leave to Reply, ICC-01/14-01/22-334-Conf, paras 14-15, 16-17.

<sup>9</sup> Prosecution’s Response to Maxime Mokom’s Request for Leave to Reply to Prosecution’s Response to his Request for Compensation under article 85 of the Rome Statute, ICC-01/14-01/22-335-Conf.

### **The Request for Leave to Reply**

5. The Chamber observes that issues (i) to (iii) relate to factual and/or legal matters in dispute between Mr Mokom and the Prosecution. The Chamber notes that they are new issues that could not have been reasonably anticipated by Mr Mokom in the Request. The Chamber considers that it would be assisted by further submissions on these three issues and accordingly grants leave to reply on issues (i) to (iii), as framed in the Request for Leave to Reply. Mr Mokom is ordered to submit this reply by **27 May 2024**. As regards issue (iv), the Chamber notes that the threshold for compensation under article 85(3) of the Statute is at the core of the Request and could thus have been reasonably anticipated by Mr Mokom in the original Request. Indeed, the Request already addresses this point in some detail. Mr Mokom and the Prosecution will have the opportunity to make submissions on the interpretation of article 85(3) also at the hearing on the Request. The Chamber does not consider that it would be assisted by further written submissions on this issue at this stage. The Chamber accordingly rejects the request for leave to reply on issue (iv).

### **Mr Mokom's request for a hearing**

6. In relation to Mr Mokom's request for a hearing, the Chamber recalls that a hearing on a request for compensation under article 85 of the Statute is mandatory under rule 174(2) of the Rules if so requested by the person seeking compensation, or the Prosecution. Taking into account other judicial obligations of the Judges of the Chamber, the Chamber hereby gives notice that the hearing will take place on **21 August 2024**. A scheduling order with further details on the logistics of the hearing will be issued in due course.

### **FOR THESE REASONS, THE CHAMBER HEREBY**

**GRANTS** the Request for Leave to Reply on issues (i) to (iii);

**REJECTS** the Request for Leave to Reply on issue (iv);

**ORDERS** Mr Mokom to file a Reply to issues (i) to (iii) as granted above by **27 May 2024**;  
and

**GIVES NOTICE** that a hearing on the Request will take place on **21 August 2024**.

Done in both English and French, the English version being authoritative.



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**Judge Miatta Maria Samba**  
**Presiding Judge**

Dated 10 May 2024

At The Hague, The Netherlands