



Original: English

No. ICC-01/14-01/22

Date: 22 July 2022

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 to the Registry to Maintain the Mandate of Duty Counsel and
to the Prosecution and Duty Counsel for Submissions**

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 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

**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 to the Registry to maintain the mandate of Duty Counsel and to the Prosecution and Duty Counsel for submissions.

1. On 14 March 2022, Mr Maxime Jeoffroy Eli Mokom Gawaka ('Mr Mokom') was surrendered to the Court and arrived at the Detention Centre.
2. On 25 March 2022, the Chamber ordered the Registry to revoke its appointment of Mr Nicholas Kaufman ('Mr Kaufman') as Mr Mokom's counsel due to a conflict of interest (the '25 March 2022 Order').¹
3. On 1 April 2022, the Chamber instructed the Registry to appoint duty counsel for Mr Mokom and convened a status conference (the '1 April 2022 Order').²
4. On 4 April 2022, the Registry issued a notification that Mr Gregory Townsend ('Mr Townsend') had been appointed as duty counsel to Mr Mokom.³
5. On 4 April 2022, the Chamber held the status conference pursuant to the 1 April 2022 Order (the '4 April 2022 Status Conference').
6. On 14 April 2022, the Chamber granted Mr Mokom's request for leave to appeal the 25 March 2022 Order in respect of two issues.⁴
7. On 19 July 2022, the Appeals Chamber issued its judgment on Mr Mokom's appeal against the 25 March 2022 Order (the 'Appeals Chamber Judgment').⁵ The majority of the Appeals Chamber remanded the matter to the Chamber and directed it

¹ Order to the Registry concerning the appointment of Mr Nicholas Kaufman as counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, ICC-01/14-01/22-26-Conf-Exp, confidential and *ex parte*, only available to the Prosecution, Mr Kaufman, Mr Mokom, and the Registry (a public redacted version was issued on 13 June 2022, ICC-01/14-01/22-26-Red).

² Order convening a status conference and instructing the Registry to appoint duty counsel for Mr Maxime Jeoffroy Eli Mokom Gawaka, ICC-01/14-01/22-32-Conf-Exp, confidential and *ex parte*, only available to Mr Mokom and the Registry.

³ 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 Registry, with Annex I, confidential and *ex parte*, only available to Mr Mokom and Registry.

⁴ Decision on Mr Mokom's requests for reconsideration and leave to appeal the 'Order on appointment of Mr Kaufman as Counsel for Mr Mokom', ICC-01/14-01/22-43, public.

⁵ 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).

to issue a new decision based upon all available information, setting out precise and detailed reasons as to whether there is an impediment to representation or a conflict of interest within the meaning of articles 12 and 16 of the Code of Professional Conduct for Counsel to Mr Kaufman's representation of Mr Mokom that cannot be remedied.⁶

8. In light of the Appeals Chamber Judgment, the Chamber, with a view to ensuring Mr Mokom's right to conduct his defence through legal assistance under article 67(1(d) of the Rome Statute, orders the Registry to maintain the mandate of Mr Townsend as Duty Counsel until a further decision is adopted on this matter. In this regard, the Chamber recalls that, at the 4 April 2022 Status Conference, it had already instructed the Registry to extend the duties of Mr Townsend until [...] the decision of the Appeals Chamber *or a moment subsequent to that* (emphasis added). The present order is without prejudice to any further decision to be adopted in this regard.

9. In addition, the Chamber notes the Appeals Chamber's instruction to issue a new decision based upon all available information, including information that came to light after the Appeals Chamber Judgment.⁷ Therefore, the Chamber orders the Prosecution and Duty Counsel to provide submissions on any issue arising out of the Appeals Chamber Judgment, by no later than 29 July 2022.

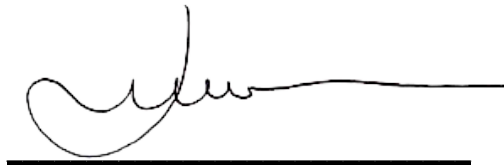
⁶ Appeals Chamber Judgment, para. 68.

⁷ Appeals Chamber Judgment, footnote 89.

FOR THESE REASONS, THE CHAMBER HEREBY

- (a) **ORDERS** the Registry to maintain the mandate of Mr Townsend as Duty Counsel until a further decision is adopted on this matter; and
- (b) **ORDERS** Duty Counsel and the Prosecution to provide submissions on any issue arising out of the Appeals Chamber Judgment by no later than 29 July 2022.

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



Judge Rosario Salvatore Aitala

Presiding



Judge Antoine Kesia-Mbe Mindua



Judge Tomoko Akane

Dated this Friday, 22 July 2022

At The Hague, The Netherlands