

Pursuant to Pre-Trial Chamber II instruction, dated 11 April 2024, this document is reclassified as "Public"

ANNEX
Confidential



Ministry of Foreign Affairs

Protocol and Host Country Affairs Department

DPG-Min-BuZa.2024.20218-54

The Ministry of Foreign Affairs of the Kingdom of the Netherlands ("the Ministry") presents its compliments to the International Criminal Court ("the Court") and has the honour to inform the Court as follows.

The Ministry has been notified by the Registry through its note verbale REG-JCSS-2024-011, dated 18 January, of the Decision pursuant to Rule 185 of the Rules of Procedure and Evidence (ICC-01/14-01/22-309-Red), issued on 18 January 2024 by Pre-Trial Chamber II.

The Ministry has taken note of the decision of the Chamber that as of 8 February 2024, without any further order by the Chamber to the contrary, the residual jurisdiction of the Chamber will conclude and the designation of Mr Mokom's place of stay as 'premises of the Court' will end, thus entailing that Mr Mokom will fall under the exclusive jurisdiction of the Host State.

The Ministry would like to recall that, irrespective of this decision, based on the Headquarters Agreement, it is the Court that has to make arrangements for the transfer of Mr Mokom to a third State following the termination of the proceedings against him. The Netherlands is prepared to facilitate such transfer in line with its obligations under the Headquarters Agreement. However, with reference to Article 48 of the Headquarters Agreement and Rule 185 of the Rules of Procedure and Evidence, the Ministry underlines that the Netherlands is under no obligation to allow Mr Mokom's entry and stay in the Netherlands. As stated in our previous notes verbales of 17 October, 23 October and 22 December 2023, we note that throughout this process the Netherlands has never indicated that it is willing to accept Mr Mokom on its territory and reiterates the position that Mr Mokom remains and should remain solely under the jurisdiction and responsibility of the Court pending his transfer to a third State in line with article 48 of the Headquarters Agreement and Rule 185 of the Rules of Procedure and Evidence. The obligation of the Court to make arrangements

for the transfer of Mr Mokom to a third State continues to exist after the termination of proceedings against him.

The Ministry underlines the importance to cooperate in good faith and that, given the heavy burden the situation of Mr Mokom places on the Host State, more detailed information on the efforts of the Court to find a third State willing to accept Mr Mokom would be appreciated.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the International Criminal Court the assurances of its highest consideration.

The Hague, 19 January 2024

The International Criminal Court
The Hague

