

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Annex II

Public



Original: **English**

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

Date: **21/07/2022**

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

The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka

PUBLIC

**Request for Status Conference pursuant to
Appeals Judgment ICC-01/14-01/22-70**

Source: **Defence**

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

The Office of the Prosecutor

Karim A. A. Khan
Mame Mandiaye Niang
Kweku Vanderpuye

Counsel for the Defence

Nicholas Kaufman
Gregory Townsend (Duty Counsel)

Legal Representatives of the Victims

Legal Representatives of the Applicant

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims **The Office of Public Counsel for the Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Peter Lewis

Counsel Support Section
Pieter Vanaverbeke

Deputy Registrar

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section **Other**

1. On 19 July 2022, the Appeals Chamber rendered its “*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 Maxime Jeoffroy Eli Mokom Gawaka” (ICC-01/14-01/22-70-Conf)*” (“the Impugned Order” and “the Judgment” respectively).

2. At paragraph 68 of the Judgment, the majority of the Appeals Chamber noted that it was “*unable to discern how the Pre-Trial Chamber arrived at the ultimate determination that it would be necessary to remove Mr. Kaufman as Counsel*”.

3. For the above reason, inter alia, the Appeals Chamber, by a majority, **reversed** the Impugned Order revoking Counsel’s mandate and remanded the issue to the Pre-Trial Chamber to provide further reasons for its decision.

4. In light of the reversal of the Impugned Order, the decision to revoke Counsel’s mandate is currently void.

5. In remanding the matter for reconsideration, the Appeals Chamber expects the Pre-Trial Chamber to review its decision to revoke Counsel’s mandate while taking into account, inter alia, “*all available documentation*” and information which Mr. Mokom himself provided orally.¹

Relief Sought

6. In order to advance proceedings in transparent fashion, and to avoid undue delay, Counsel requests that the Single Judge appointed for the next month² hold a Status Conference next week. At this Status Conference, the Single Judge may receive new documentation referenced at footnote 89 of the Judgment and, within the mandate imposed by the Appeals Chamber, pose whatever question he wishes of Counsel and Mr. Mokom. Thereby, Pre-Trial Chamber II will be able to take an

¹ ICC-01/14-01/22-70-Red at para 68 and fn 89.

² ICC-01/14-01/22-71.

expeditious decision and prevent ensuing delay to the procedural calendar which it has fixed for the confirmation process.

7. Such a transparent process may not be so effectively and expeditiously performed by way of written submission or through the agency of Duty Counsel whose role has, in any event, terminated. Furthermore, Counsel needs to consult and update Mr. Mokom, under conditions of client-attorney privilege,³ of additional information received since the Impugned Order.

8. In order to allow for appropriate preparation, Counsel repeats his request, as raised in his filing which should have been notified in the case record after ICC-01/14-01/22-71, for the Pre-Trial Judge to order the Registry to recognize him as the current counsel of record. The Pre-Trial Chamber is also requested to order the Registry to arrange for Counsel's attendance at the requested status conference with the ability to speak to Mr. Mokom beforehand; a right currently denied him despite the reversal of the Impugned Order.



Nicholas Kaufman
Counsel for Maxime Mokom

Jerusalem, Israel
Thursday, July 21, 2022

³ The Pre-Trial Chamber revoked Counsel's mandate to represent Mr. Mokom at the International Criminal Court but has no power to revoke the more general mandate given by Mr. Mokom to Counsel for general legal advice.