

Ex Parte Status Conference

(Closed Session)

ICC-01/14-01/22

1 International Criminal Court
2 Pre-Trial Chamber II
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka -
5 ICC-01/14-01/22
6 Presiding Judge Rosario Salvatore Aitala, Judge Antoine Kesia-Mbe Mindua and
7 Judge Tomoko Akane
8 Ex-Parte Status Conference (Registry and Mr Mokom) - Courtroom 1
9 Monday, 4 April 2022
10 (The hearing starts in closed session at 4.50 p.m.)
11 THE COURT USHER: [16:50:46] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE AITALA: [16:51:22] Good afternoon, everyone.
15 Mr Mokom, good afternoon. How are you?
16 MR MOKOM: [16:51:33](Interpretation) Very well. Thank you -- thanks be to God.
17 PRESIDING JUDGE AITALA: [16:51:39] Thank you, Mr Mokom.
18 Now, court officer, would you please call the case.
19 THE COURT OFFICER: [16:51:46] Good afternoon, Mr President.
20 This is the situation in the Central African Republic II, in the case of The Prosecutor
21 versus Maxime Jeoffroy Eli Mokom Gawaka, case reference ICC-01/14-01/22.
22 And for the record, we are in closed session.
23 PRESIDING JUDGE AITALA: [16:52:04] Thank you very much.
24 Mr Mokom, well, let me introduce again the Chamber to you. To my right is my
25 colleague Judge Antoine Kesia-Mbe Mindua and to my left is Judge Tomoko Akane,

1 and I am Judge Rosario Salvatore Aitala, the Presiding Judge of the Chamber.

2 We have convened this status conference to discuss the matter of your legal
3 representation in the proceedings before the Court.

4 Now, let us start by recalling that, following the order of the Chamber on
5 31 March 2022, the Registry has appointed duty counsel to assist you.

6 And, Mr Duty Counsel, will you please introduce yourself for the records.

7 MR TOWNSEND: [16:53:12] Thank you, your Honours. Good afternoon.

8 Gregory Townsend, duty counsel, appearing with Mr Mokom. Thank you.

9 And I have some submissions, if you'd like, very briefly that might help set the stage,
10 but I leave -- I'm in your hands, your Honour. Thank you.

11 PRESIDING JUDGE AITALA: [16:53:27] Yes, we'll go to that shortly.

12 Mr Dubuisson, good afternoon. Thank you for coming. Would you please state for
13 the record who are you and who else from your colleagues are here from the Registry.

14 MR DUBUISSON: [16:53:41](Interpretation) Thank you, your Honour,

15 your Honours. So for the Registry, next to me there's Pieter Vanaverbeke, he is the
16 head of * the Counsel Support Section; and myself, director, the Division of Judicial
17 Services for the Registrar, Peter Lewis. Thank you.

18 PRESIDING JUDGE AITALA: [16:54:03] Thank you very much.

19 Mr Duty Counsel, did you have any preliminary matter you would like to raise with
20 the Chamber?

21 MR TOWNSEND: [16:54:10] Thank you, your Honour.

22 It's not so much a preliminary matter, but just I thought it might help just to recall
23 where I am in terms of advising Mr Mokom.

24 And so on Friday, 1 April, I was appointed as duty counsel further to this Chamber's
25 order of the same date. And I would like to thank Mr Dubuisson and

1 Mr Vanaverbeke, court services -- court support services, CMS and the detention
2 centre facility.

3 I met Mr Mokom on Saturday and today at the detention centre in a confidential
4 setting. I've had an opportunity per the brief I've been given to discuss the issues
5 related to legal representation with him.

6 We discussed the Pre-Trial Chamber's order of 25 March regarding the revocation of
7 the mandate of Mr Kaufman, including the parties' submissions, where not redacted,
8 including the confidential email traffic forming annex 1 of 1 April. And we did this
9 in French, your Honour.

10 I'd also like to thank the Pre-Trial Chamber and its staff for granting my request sent
11 by email on Saturday, 2 April, for access to the filings of 28 March and 30 March,
12 authored by Mr Kaufman, which I received today, and I've shared those eight- and
13 nine-page documents with Mr Mokom today, and we went through them together in
14 French.

15 We've discussed the high standard of review for a motion for reconsideration. We
16 discussed the high standard and the test for a request seeking leave to appeal and that
17 the timing and delay of any appeal would be in the hands of the Appeals Chamber
18 and how that might impact his pretrial proceedings, should that have been granted.
19 And I also explained and we discussed, save for my very temporary and transitory
20 appointment as duty counsel, what would be the impact of Mr Mokom proceeding
21 *pro se*, at least in the interim, pending resolution of the matter of his legal
22 representation.

23 We discussed also the fact that part of the information in this situation remains
24 *ex parte* and that the basis for the revocation of Mr Kaufman's mandate might, I
25 emphasise might, be based on information that not even Mr Kaufman, myself or

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1 Mr Mokom are privy to. And to use a metaphor, we may not see the whole iceberg,
2 if I can put it that way.

3 I note that the 28 March filing that requests reconsideration only speaks of
4 representation for the pretrial proceedings to the confirmation. And so we discussed
5 the impact that might mean for the long-term legal representation.

6 And, lastly, your Honours, I can note that Mr Mokom spoke of his relationship with
7 Mr Kaufman, his understanding of what his dual representation clients of -- conflicts
8 of interest and how clients might be able waive that in writing, the abruptness, in his
9 view, of that -- ending of that relationship. And he is present and ready to answer
10 your questions.

11 So thank you very much. I hope that's of assistance.

12 PRESIDING JUDGE AITALA: [16:57:32] Thank you very much, Mr Townsend.

13 This is very useful.

14 Now, Mr Mokom, first of all, I would like you -- you can be seated. Thank you. I
15 would like you to understand that we have called this hearing, which we call a status
16 conference, only in your interest, because we do understand that things went in a way
17 that may have disappointed or confused you. So today this afternoon, we will try to
18 explain what has happened further to what your duty counsel has done with you,
19 together with other people from the Registry and also from OPCD. And you will be
20 allowed full time to speak and tell us what you think. And then at the end, we will
21 recap and we see what are the possible future legal steps to look at this matter.

22 But essentially, we want you to understand that we have called this status conference,
23 which doesn't happen very often, precisely to allow you to tell us what you think and
24 for the Chamber to feel fully satisfied that you feel fine and that you are well
25 represented legally before the Court.

1 As I told you in the first hearing, we are the judges. We are not those who accuse
2 you, nor are we those who will decide whether you are liable of any crime. We
3 have a different duty here and it's the duty of pretrial.

4 Now, if you allow and if you're a little bit patient, I will recap the different decisions
5 and the different moments of these proceedings. Then you will be allowed full time
6 to speak.

7 If there is anything you don't understand, you may raise your hand, I will give you
8 the floor and I will explain it again. Or you can even ask to have a word with your
9 duty counsel, who is a very experienced lawyer, at any time and you will be allowed
10 to do so.

11 Now, Mr Mokom, as you know, on 25 March, the Chamber, which means the judges,
12 we have ordered the Registry to revoke your appointment of Mr Nicholas Kaufman
13 to represent you in these proceedings before the Court. We have instructed the
14 Registry to appoint another counsel to consult with you in order for you to pick
15 another counsel.

16 Mr Kaufman has submitted, has presented to us a request to reconsider, to rethink
17 what we have decided two days later and he has also requested us to be authorised to
18 bring our decision to a higher level, which is the Appeals Chamber. In this system,
19 some decisions of the Chamber can be reviewed by the Appeals Chamber, which is
20 made of five judges, but we have to allow this.

21 I understand this is a bit complex legally, but I trust your duty counsel has explained
22 to you the complexity of the system.

23 We have been informed by the Registry that they came to speak to you about the
24 issue of your legal representation, but they have not been able to appoint a new
25 lawyer. Now, at this moment, this matter is still pending. It has not been decided

1 further to our order revoking Mr Kaufman.

2 Now, today we would like to give you, as I said, the opportunity to speak directly
3 with us in order that we understand what are your concerns and you do understand
4 what is the legal procedure we have followed. So I will recap a little bit the different
5 moments we have gone through.

6 First, you arrived here in The Hague on 15 March. When you arrived, you expressed
7 to the Registry your wish to be represented by Mr Kaufman as your counsel. On the
8 same day, the Registry contacted Mr Kaufman, who accepted to be your counsel.

9 And on the following day, Mr Kaufman was formally appointed by the Registry for
10 an initial period of 30 days. And we were informed that Mr Kaufman was
11 appointed.

12 Two days later, on 17 March, the Chamber ordered Mr Kaufman, the Office of the
13 Prosecutor - which is not here today because this is something that relates only to you
14 and your counsel - and the Registry to submit observations, so to tell us what they
15 thought about a potential conflict of interest regarding the appointment of
16 Mr Kaufman. They responded on 17 and 18 March.

17 On 22 March, you will remember you have appeared before the Chamber. We have
18 explained to you your rights and more or less we have set out how this stage of the
19 proceedings, called the pretrial proceedings, would take place in the coming weeks
20 and months.

21 On 25 March, we have signed this decision I referred, this order, and essentially in
22 this order, we have concluded that Mr Kaufman had represented other clients
23 involved in the situation in Central African Republic. We were particularly
24 concerned that Mr Kaufman had been the lawyer of some persons who are believed
25 (Redacted)

1 (Redacted). Allegedly. This
2 has not been proved, but this is what the Prosecutor is accusing you of.
3 So we were concerned that having him been the lawyer for people who allegedly
4 (Redacted), this would amount to a
5 conflict of interest. And there is -- there are two norms, two provisions in our legal
6 framework, Articles 12 and 16 of the Code of Professional Conduct for Counsel.
7 Then we have concluded in your interest that the situation that Mr Kaufman had
8 gone through before, representing these people, was such to prevent him from
9 representing you.
10 So our decision has been taken in your interest because with our legal knowledge,
11 and our experience, we believe that the conditions for him to be your lawyer were not
12 satisfied because he was in a conflict of interest. So this is what we have thought.
13 And then we have instructed the Registry to revoke the appointment of Mr Kaufman,
14 which was done on the same day.
15 I understand that this came to you as a surprise and you may have felt -- you may
16 have felt confused, and this is why we are here, to explain everything and allow you
17 to speak.
18 Three days later, on 28 March, the Registry transmitted some submissions,
19 observations from Mr Kaufman, who asked the Chamber to reconsider, to rethink our
20 decision, our order, saying that it was incompatible, as being in a conflict of interest.
21 And Mr Kaufman argued, told us in these submissions that the conditions on which
22 the order was granted, in other words, our views had changed and that this could be
23 resolved. And in particular, he said that he had ended or he will have ended any
24 representation of other clients whose interests would diverge from yours. So
25 essentially, he came back to us by saying: "Rethink your decision because I have

1 terminated the relations I had with those people or I will terminate those relations."
2 He also said in these submissions that he considered unjust to impose on you,
3 Mr Mokom, an undesired counsel, a counsel which you do not want. And in
4 addition, he said that such a counsel would lack knowledge of your personal and
5 familial situation or knowledge of the court documents or of the events relevant to the
6 conflict in the Central African Republic.
7 The following day, we have asked Mr Keïta, who works for the office of the public
8 counsel here at the Court, the Office of Public Counsel for Defence, to meet with you
9 and explain to you the content of this decision, this order I was trying now to explain
10 in the most simple possible manner. He did so.
11 And on the same day, the Registry had -- also had a meeting with you asking you to
12 select another counsel. You have responded, according to what the Registry is
13 telling us, that you wish to speak to Mr Kaufman again before taking any decision.
14 What has happened is that, since our decision on the reconsideration is still pending,
15 we have not decided yet, the Registry did not allow a meeting between you and
16 Mr Kaufman because, technically, Mr Kaufman is not your counsel any more, so he
17 cannot meet you. And we have told the Registry that they should wait for our
18 decision to be taken before allowing this.
19 Mr Kaufman then came back to the Chamber and asked us to authorise an appeal.
20 As I said earlier, not any decision can go to the Appeals Chamber where five judges
21 are sitting, but we have to filter those decisions according to quite complex legal
22 criteria. This is one of the reasons why we have instructed the Registry to appoint an
23 experienced lawyer to help you out on these very complex matters. And he has
24 presented to us a number of legal issues to look at to decide whether our order should
25 be reviewed by the Appeals Chamber.

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1 I will not go into further details on our procedures because this is very long and very
2 complex, but I trust that if you want any explanation, you, again, can raise your hand
3 and I will try to provide it. Or you can speak with Mr Townsend at any time, he will
4 be assisting you and explaining to you how does our difficult system work. It is
5 very difficult also for fully experienced lawyers who have not been working in this
6 environment, also for us before coming here. So don't you worry if you don't grasp
7 all of the meetings.

8 Now, first of all, Mr Mokom, Mr Townsend now told us that he has met with you
9 twice. Has he explained to you all the elements -- I will try now to explain because
10 our decisions and most of the filings were in English, and I recall that during your
11 first appearance you say that you speak and fully understand French and Sango.
12 Has your duty counsel fully explained to you the details of all the decisions and
13 submissions I was going through earlier?

14 You can stand and speak, Mr Mokom.

15 MR MOKOM: [17:13:03](Interpretation) Thank you, your Honour, your Honours.
16 I think that Maître Gregory explained the basis of these aspects without going into
17 necessary details, but Mr Pieter did explain the details to me and Maître Keïta also
18 had explanations for me. But with Maître Gregory we went into the details with
19 certain things.

20 PRESIDING JUDGE AITALA: [17:13:35] Is there anything I could complement now
21 for you to understand better? Do you want me to explain further what I have just
22 said?

23 MR MOKOM: [17:13:55](Interpretation) I think that you have been clear,
24 your Honour.

25 PRESIDING JUDGE AITALA: [17:14:00] Thank you.

1 Now, we have heard that you have had -- you have had two meetings with
2 Mr Townsend. Now, now, I would like to give you the floor to tell us what do you
3 think about all you have been going through? Give us your view, then your duty
4 counsel will be allowed as well to speak, complement what you will say in legal
5 terms.

6 What I would like you to understand is that our decision, our order revoking
7 Mr Kaufman is not necessarily final. Under certain conditions, it can be reviewed by
8 the Appeals Chamber, but now the first thing I would like you to tell us in your
9 words, if you have anything to say to the Chamber, what do you think about the
10 matter of your legal representation, and we're here to listen to you. And then I will
11 make you some questions, we'll go forward.

12 So the floor is yours. You may tell us whatever you want us -- you want to tell us.

13 Please, Mr Mokok.

14 MR MOKOM: [17:15:33](Interpretation) Thank you, your Honour.

15 I think in the statutes -- in the Rome Statute, you have the choice of counsel. And the
16 free choice, it's the free choice of the accused. I chose Maître Kaufman, not when I
17 arrived, but we spoke with Mr Kaufman and have been doing so for almost three
18 years today. I had exchanges with him and he convinced me and I have confidence
19 in him and that's the reason why I chose him. I think that Maître Kaufman was clear
20 with me. He hid nothing from me.

21 When we had exchanges, he said he had represented Mr X. As you are not even
22 saying the name, I am not going to say the name either.

23 He had represented Mr X, and Mr A had sent the warrant so that he could -- the
24 mandate so he could represent him. And I said: Now, you represent that person,
25 but you're going to represent me. There won't be a problem? And he said no.

1 And then he explained things to me. And that's the reason why I believe in him.
2 He explained these matters to me. He didn't go into the substance of the dossier.
3 He knows information which is key, but as far as he was concerned, with me as well
4 he didn't go into the key aspects of the dossier itself. And between me and that man,
5 is there a conflict of interest? I said, no, we don't have a conflict of interest between
6 us. And that's what led me to choose Mr Kaufman as my lawyer, as my counsel.
7 And I think it was the 17th or the 18th, I sent a document to the Registry in which I
8 wrote that during my interview with Mr Kaufman, he explained to me that he was
9 the other's counsel, (Redacted) and he sent
10 the warrant, but we don't have a conflict of interest between us.
11 So I chose Mr Kaufman as my lawyer and I sent the document, if my memory serves
12 me well.
13 So it was on that basis that -- well, I'll limit myself with that, Your Honor.
14 PRESIDING JUDGE AITALA: [17:18:33] Okay, I have a few -- thank you,
15 Mr Mokom. I have a few questions.
16 Mr Kaufman in his request for leave to appeal our order revoking him asserted that
17 you would have said to him that if he would not be his lawyer, then you would like
18 to represent yourself. And later in an email, he said that he had explained to you
19 that he thought that the Chamber could revoke his appointment, and in such an
20 eventuality, you would have said that you would rather represent yourself.
21 Later in another email, Mr Kaufman said that he advised you, so he told you, that if
22 he, Mr Kaufman, was to be denied standing, so was not allowed to appeal, you could
23 decide to represent yourself. And he also said that before the last time -- one of the
24 last times he spoke with you, before he was revoked, he said, "[g]iven Mr Mokom's
25 inability to write complex legal submissions, [Mr Mokom] requested that he

1 [Mr Kaufman] make the requests for legal considerations and leave to appeal stating
2 that he would adopt them fully when asked ... not to accept any replacement of
3 counsel."

4 So in other words, Mr Kaufman says that he told you that he sensed or he thought, he
5 imagined that he could be revoked. I don't know on which basis. And is this true?
6 This is how you responded to him? Because we didn't hear this from you. He said
7 it to us in this email and in a formal filing but after he was already revoked. Can you
8 tell us, please.

9 Mr Mokom, would you please respond. Stand up and respond, please.

10 MR MOKOM: [17:21:31](Interpretation) Your Honour, I believe that at my last
11 meeting with Mr Kaufman, he told me that he still had difficulties accessing my files
12 and that there was a strong chance that the Chamber would revoke him. I asked him
13 to write a request and send that to the Chamber. But I have -- there is no conflict of
14 interest between him and me. And I would like to confirm him as my lawyer.

15 PRESIDING JUDGE AITALA: [17:22:17] Thank you very much. You may sit.

16 Look, Mr Mokom, now, this is the situation: The request coming from Mr Kaufman
17 to reconsider our order and to allow us the appeal of that order may be problematic
18 because they were submitted by him, not by you.

19 Now, as I told you, our decision is not final. Now, what you may want to do -- I
20 understand that you do want to confirm Mr Kaufman. Now, if you want a remedy
21 to our order, you may ask your duty counsel to articulate such a request to the
22 Chamber in legal terms. It is not sufficient, in other words, that you tell us now
23 because there are some certain legal requirements.

24 So do you wish to do so? Because if you wish to do so, your duty counsel can do
25 this on your behalf and ask the Chamber to allow the Appeals Chamber to revise our

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1 decision. Do you understand what I mean?

2 MR MOKOM: [17:24:05](Interpretation) If I may, your Honour, I have not fully
3 understood what has just been said.

4 PRESIDING JUDGE AITALA: [17:24:14] Mr Mokom, you said that you want
5 Mr Kaufman. We have revoked Mr Kaufman. Do you want the Chamber to
6 consider whether our order revoking Mr Kaufman be sent to the Appeals Chamber
7 for their review, for their reviewing our decision? Do you want this to happen?
8 You have the right to ask the Chamber to send our order revoking Mr Kaufman to the
9 Appeals Chamber in order for them to review it, to see whether we were right or
10 wrong. Do you want this to happen?

11 Would you wish to speak with your duty counsel? Or have you understood what I
12 said?

13 MR MOKOM: [17:25:24](Interpretation) Yes, I would like to speak with my duty
14 counsel.

15 PRESIDING JUDGE AITALA: [17:25:32] Mr Townsend, please.

16 MR TOWNSEND: [17:25:33] If you just give us two minutes to confer, I think we
17 won't have to adjourn.

18 PRESIDING JUDGE AITALA: [17:25:39] We will stay. We will be waiting. Take
19 your time.

20 MR TOWNSEND: [17:25:45] Thank you.

21 PRESIDING JUDGE AITALA: Take your time.

22 (Duty counsel and Mr Mokom confer)

23 MR TOWNSEND: [17:28:00] Thank you, your Honours.

24 PRESIDING JUDGE AITALA: [17:28:03] You have the floor.

25 Mr Mokom, is it now clear to you what I've asked -- what I've said?

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1 So I will request you the question again, if you are -- are unhappy with our decision
2 revoking Mr Kaufman? I seem to understand you are unhappy. In this case, do
3 you wish your duty counsel to send us a document with some legal requirements
4 asking us to evaluate whether it should be reviewed by the Appeals Chamber?

5 MR MOKOM: [17:29:00](Interpretation) Your Honour, I've understood your
6 question in my own capacity. I adopt the two documents from Mr Kaufman.

7 PRESIDING JUDGE AITALA: [17:29:20] Mr Mokom, I don't know if your duty
8 counsel explained to you that there could be a formal problem with those documents
9 because they are signed by a person who at the time when he signed the documents
10 was not any more your counsel. So if you wish to -- your decision to be reviewed, it
11 would be better if you allow your duty counsel to do this on your behalf. Do you
12 know what I mean?

13 MR MOKOM: [17:30:05](Interpretation) Thank you, your Honour. I authorise my
14 duty counsel to proceed in that way.

15 PRESIDING JUDGE AITALA: [17:30:13] Thank you very much.

16 Now, Mr Townsend, we will -- you may file a request for leave to appeal by Thursday,
17 4 p.m., if that is fine with you. And the request would have to be classified as
18 confidential *ex parte* available to the Registry and the Prosecution.

19 Now, Mr Mokom, I have another question for you and it's the following. If
20 necessary, Mr Townsend will help me in explaining it to you. Now, what will
21 happen is the following: Your duty counsel, duly authorised by you, will send a
22 document to us. We will evaluate this document. And if the document contains
23 certain legal requirements, we may decide to send it to Appeals for their decision.
24 The decision of the Appeals will not happen in two or three days. It will take some
25 weeks.

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1 During these weeks, Mr Kaufman will not be your counsel. When they will decide,
2 they may decide that we were wrong, and in that case Mr Kaufman will be again your
3 counsel. Or they may decide the opposite.

4 Now, during the coming weeks, you will need to be legally assisted for a number of
5 matters. (Redacted)

6 (Redacted). And on this,

7 we need to interact with a counsel. So my question is, during the time, if we decide
8 that our order will go to Appeals, during -- pending the decision of the Appeals
9 which may last some weeks, do you wish to be represented by Mr Townsend as your
10 duty counsel? So he will be your duty counsel until this matter is decided by the
11 Appeals Chamber. Is that fine with you?

12 MR MOKOM: [17:33:13](Interpretation) Yes, your Honour.

13 PRESIDING JUDGE AITALA: [17:33:14] Okay.

14 Well then, Mr Dubuisson, you are kindly instructed to do the paperwork to extend
15 the duties of Mr Townsend until the -- well, until the decision of the Appeals
16 Chamber or a moment subsequent to that. We will be able then to deal with the
17 situation that will arise, if we authorise.

18 So please, of course, for now do nothing. Wait for us to decide if we grant leave to
19 appeal now -- to shorten any further communication, if decide to allow leave to
20 appeal, kindly, as of now, you are instructed to deal with the necessary paperwork
21 with the authorisation we have just received by Mr Mokom to extend the duties of
22 Mr Townsend as duty counsel, if this -- should this happen.

23 Mr Mokom, is there anything else that you would like to tell us? If you want to tell
24 us anything else, just feel free to do it now. We are listening to you.

25 MR MOKOM: [17:35:00](Interpretation) Your Honour, I have nothing else to add.

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1 Or maybe -- I don't know whether my duty counsel would like to add something
2 maybe.

3 PRESIDING JUDGE AITALA: [17:35:13] Thank you, Mr Mokom. Of course, of
4 course, we will allow him to speak.

5 Mr Townsend, anything you want to raise, we are here to listen to you.

6 MR TOWNSEND: [17:35:22] Thank you, your Honours. And I do appreciate the
7 confidence you have placed in me. So thank you so much.

8 Just so that it's clear, the question posed to Mr Mokom about self-representation and
9 appearing *pro se*, just so that it's clear, I think this is only an issue with respect to his
10 legal representation and not in the long term. I don't think Mr Mokom has an
11 interest in appearing before confirmation or at trial as a self-representing accused.

12 So just I wanted to make sure that we are talking about it in this very limited context.
13 Your Honours have been really clear as to your instructions with the deadline and the
14 timing of any request seeking leave for appeal of this Chamber's 25 March decision in
15 terms of appeal.

16 There were two filings by Mr Kaufman and the first one related not to appeal but to
17 reconsideration. And so if my client, in my role as duty counsel, also seeks to file
18 such a request, would I understand it would have the same deadline of the same date
19 and time?

20 PRESIDING JUDGE AITALA: [17:36:43] It is correct, of course. He is allowed to do
21 so, yeah, the same deadline kindly. I think it's better that we deal with this matter as
22 expeditiously as possible.

23 MR TOWNSEND: [17:36:58] Understood. And I appreciate those instructions.

24 And my mandate from the Registry was much more limited, and so to the extent I can,
25 I will zealously represent this client in my capacity as duty counsel. There may

1 be other timing conflicts, but I think for the purposes of this representation now
2 potentially running until the, shall we say, the end of litigation about representation,
3 whether it's the denial of leave to seek appeal or the final appeal, that might be some
4 duration. The appointment was for a much more limited time and I'll clarify with
5 the Registry should there be such conflicts, and I don't foresee any, but just in terms of
6 availability, I have to mention that there may be some things, and I will indicate my
7 availability should it come to a hearing or anything like that in advance.
8 But I do appreciate it and thank you very much. And we will so proceed. And my
9 understanding is that the client does have an interest in proceeding on those two
10 bases, just so the Chamber is aware.

11 PRESIDING JUDGE AITALA: [17:38:08] Well, to clarify on this matter, our
12 interpretation is that your current duties are related to this hearing, the preparation to
13 this hearing, but also as well to any issues arising, stemming from this hearing. So
14 this possible request of leave to appeal and reconsideration, in our views, they do
15 stem from this hearing. So this is covered I believe by the appointment.
16 Mr Dubuisson, if you have anything to say, or your colleague, of course you are
17 allowed to do so.

18 MR DUBUISSON: [17:38:46] (Interpretation) Thank you, your Honour. In your
19 previous instruction, we intended to prolong this by a week, the deadline being
20 Thursday for this filing. But we are also going to await your first decision on the
21 review and then we will extend the mandate depending on the decision taken by the
22 Chamber.
23 So if after the review, you reject the review, we will redefine a period relating to your
24 decision on the appeal. But we will be flexible regarding the delays to be granted.
25 But we will ensure that Mr Mokom may have at all times a counsel available to him.

Ex Parte Status Conference

(Closed Session)

ICC-01/14-01/22

1 PRESIDING JUDGE AITALA: [17:39:40] Absolutely.

2 Mr Mokom, now, the way now we are saying good-bye to each other tonight is the
3 following: You have said that you wish that that order is reviewed because you
4 don't like it, because you want Mr Kaufman to be your counsel. Mr Townsend will
5 be dealing with that legally on your behalf. He will remain your duty counsel at
6 least until the time we decide. If we decide that this goes to appeals, he will remain
7 your duty counsel dealing with anything that has to do with your proceedings.

8 (Redacted),

9 where we need an interaction with your legal representative. So for now, he will be
10 acting as your duty counsel for the purposes we have been talking about. So you
11 will not be -- you will not represent yourself, but you will be represented by him for
12 the time being.

13 If we decide that this goes to appeals, the mandate of Mr Townsend will continue.

14 So he will be assisting you and interacting with you, representing you until the matter
15 of your legal representation will have been resolved by the Appeals Chamber. And
16 then we will take it from there.

17 The Registry is also present so they will make sure that the mandate of your duty
18 counsel is extended flexibly now until at least we will have decided this matter, the
19 remedy for our decision, and possibly later, should we decide to authorise leave to
20 appeal.

21 So this is all from us, I believe. You may sit. If you have anything else to say,
22 please say it. Otherwise, you may sit.

23 Mr Duty Counsel, anything else?

24 MR TOWNSEND: [17:42:16] No, your Honours. It's very clear. Thank you.

25 PRESIDING JUDGE AITALA: [17:42:19] Well, then I thank everyone.

Ex Parte Status Conference

(Closed Session)

ICC-01/14-01/22

1 Thank you, Mr Mokom. Thank you very much for coming and speaking freely to us.

2 I hope you appreciate that all this is done solely in your interest. And it is our

3 interest and it is our duty to make sure that you are fully and professionally

4 represented and defended within these proceedings.

5 I thank duty counsel, the Registry, the courtroom staff and the interpreters for their

6 work.

7 And then the hearing is adjourned. Thank you very much.

8 THE COURT USHER: [17:43:14] All rise.

9 (The hearing ends in closed session at 5.43 p.m.)

10 RECLASSIFICATION REPORT

11 Pursuant to the Pre-Trial Chamber II's email instructions dated 28 June 2022, the

12 public reclassified and redacted version of this transcript is filed in the case.