

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/14-01/22
Date : 15 February 2023

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
IN THE CASE OF
THE PROSECUTOR *v.* MAXIME JEOFFROY ELI MOKOM GAWAKA**

PUBLIC

Public redacted version of “Third Report on the Registry’s Consultations with States on the Interim Release of Mr Mokom”, 13 February 2023, ICC-01/14-01/22-159-Conf

Source: The Registry

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

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Victims and Witnesses Unit

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**Victims Participation and Reparations
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Other

I. Introduction

1. Pursuant to the “Order to Mr Mokom to provide submissions on interim release” (“Order”)¹ issued by Pre-Trial Chamber II (“Chamber”) on 7 November 2022, the Registry submits its third report on consultations conducted with the States on the interim release of Mr Maxime Jeoffroy Ali Mokom Gawaka (“Mr Mokom”).

II. Procedural history

2. On 7 November 2022, the Chamber issued the Order, in which it instructed the Registry *inter alia* “to consult with the Netherlands as the Host State, as to its willingness to accept Mr Mokom on its territory for the purposes of interim release and to enforce conditions restricting liberty to be imposed”. In addition the Registry was instructed to invite the competent authorities of the State(s) concerned to submit their observations within the shortest possible delay and to transmit them to the Chamber with a report describing consultations.²
3. On 14 November 2022, the Duty Counsel for Mr Mokom submitted “Mr Mokom’s Application for Interim Release pursuant to Order ICC-01/14-01/22-105” (“Application”).³ In its application, the Duty Counsel requested the Chamber to order the interim release of Mr Mokom to one of the proposed [REDACTED] European States Parties, such as [REDACTED]. In its Application, Mr Mokom also provided a number of conditions which may be imposed on him during the interim release.
4. On 14 December 2022, the Registry filed the “Report on the Registry’s consultations with States on the Interim Release of Mr Mokom and Request for

¹ Pre-Trial Chamber II, « Order to Mr Mokom to provide submissions on interim release”, 7 November 2022, ICC-01/14-01/22-105.

² Order, para. 14.

³ Duty Counsel for Mr Mokom, « Mr Mokom’s Application for Interim Release pursuant to Order ICC-01/14-01/18-105”, dated 14 November 2022, ICC-01/14-01/22-110-Conf, public redacted of which was submitted on 16 November 2022, ICC-01/14-01/22-110-Red.

Guidance" ("First Report"),⁴ by which it transmitted the responses received from [REDACTED] indicating their unavailability to accept Mr Mokom on their territory. In the same Report, the Registry requested guidance as to the deadline for the States to provide observations as to their willingness to accept Mr Mokom if he is granted interim release and [REDACTED].

5. On 23 December 2022, the Registry submitted an Addendum to First Report,⁵ by which it further transmitted the responses received from [REDACTED]. None of the aforementioned States was in the position to accept Mr Mokom for his interim release.
6. On the same day, in response to the Registry's Report containing a request for guidance, the Single Judge ordered the Registry ("Order of 23 December 2022") to *inter alia* "request: (i) the States that have not done so hitherto to provide observations as to their willingness to accept Mr Mokom if he would be granted interim release and to enforce any conditions restricting liberty to be imposed by no later than 31 January 2023 if they so wish; (ii) the relevant States to, if applicable, either agree to share their observations with the Parties and OPCV, or to provide public redacted or confidential redacted versions of their observations; and (iii) the Netherlands to provide reasons for its refusal to accept Mr Mokom if he would be granted interim release, and to further indicate whether it agrees to designate a location in the Hague as the premises of the Court in relation to the possibility of the interim release of Mr Mokom".⁶
7. On 1 February 2023, the Registry filed the "Second Report on the Registry's Consultations with States on the Interim Release of Mr Mokom" ("Second

⁴ Registry, "Report on the Registry's consultations with States on the Interim Release of Mr Mokom and Request for Guidance", 14 December 2022, ICC-01/14-01/22-120-Conf-Exp. A confidential redacted version of the Report was filed on 20 December 2022, ICC-01/14-01/22-120-Conf-Red.

⁵ Registry, "ADDENDUM to the 'Report on the Registry's consultations with States on the Interim Release of Mr Mokom and Request for Guidance'", 23 December 2022, ICC-01/14-01/22-127-Conf-Exp.

⁶ Email from the Associate Legal Officer on behalf of the Single Judge for Pre-Trial Chamber II, 23 December 2022 at 15.06.

Report”),⁷ by which it transmitted the response received by the Registry from the Dutch authorities on 17 January 2023 with regards the request for further information on their reasons for their refusal to accept Mr Mokom should he be granted interim release.

8. The Second Report also transmitted the responses received by the Registry from the following States: [REDACTED]. All of these States indicated that they were not in a position to accept Mr Mokom on their territory.
9. The Second Report also specified that the questions asked by [REDACTED] to the Registry regarding the legal obligations of the former should Mr Mokom enter [REDACTED] on interim release were answered by the Registry in part to the extent possible; and that in light of this response, [REDACTED] requested an extension of the deadline to 10 February 2023. The Registry also transmitted to the Chamber the information from the [REDACTED] authorities that they would be in a position to provide their observations on 6 February 2023.
10. On 13 January 2023, the Chamber ordered the Registry by email to inform: (i) the [REDACTED] authorities that they may provide their observations by 6 February 2023; and (ii) [REDACTED] authorities that they may provide their observations by 10 February 2023, as well as that [REDACTED]; and ii) request the authorities of [REDACTED] to provide their observations by 10 February 2023.⁸

⁷ Registry, “Second Report on the Registry’s Consultations with States on the Interim Release of Mr Mokom”, 1 February 2023, ICC-01/14-01/22-146-Conf.

⁸ Email from Pre-Trial Chamber II, 3 February 2023, at 16.17.

III. Classification

11. Pursuant to regulation 23 *bis*(1) and (2) of the Regulations of the Court (“RoC”), the present submission and its annexes are classified as confidential, as they refer to certain information contained in confidential documents, such as the list of States which Mr Mokom proposed to be released to. In addition, the authorities of [REDACTED] indicated that their letter was marked “confidential”, with reference to [REDACTED]. [REDACTED] also requested its correspondence to be kept confidential for the reasons provided in their response. The Registry therefore submits annexes II and IV as confidential. The Registry has not yet received indications from [REDACTED] and [REDACTED] regarding the level of classification of their responses.

IV. Applicable law

12. The following provisions are of particular relevance to the present submission: article 60(2) of the Rome Statute, rule 119 of the Rules of Procedure and Evidence and regulation 51 of the RoC.

V. Submissions

13. Between 1 February and 10 February 2023, the Registry received responses from the following States: [REDACTED],⁹ [REDACTED],¹⁰ [REDACTED],¹¹ [REDACTED],¹² and [REDACTED].¹³ All of these States indicated that they were not in a position to accept Mr Mokom on their territory should he be granted interim release.

⁹ Response provided on 9 February 2023, Annex I.

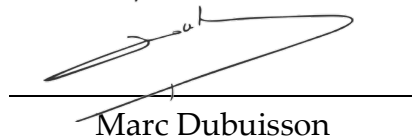
¹⁰ Response provided on 1 February 2023, Annex II.

¹¹ Response provided on 10 February 2023, Annex III.

¹² On 3 February 2023, [REDACTED] informed the Registry by phone that it was not in a position to accept Mr Mokom on its territory.

¹³ Response provided on 10 February 2023, Annex IV.

14. The Registry has not yet received a response from the following States:
[REDACTED].

A handwritten signature in black ink, appearing to read 'M. Dubuisson', is written over a solid horizontal line.

Marc Dubuisson
Director of the Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 15 February 2023

At The Hague, the Netherlands