

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Tomoko Akane
Judge Sergio Gerardo Ugalde Godínez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF
THE PROSECUTOR *v.* MAXIME JEOFFROY ELI MOKOM GAWAKA**

PUBLIC

**Public redacted version of "Fourth Report on the Registry's Consultations
with States on the Interim Release of Mr Mokom", 22 February 2023**

Source: The Registry

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

The Office of the Prosecutor

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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 fourth 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 ordered 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.

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.

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 Guidance” (“First Report”),⁴ by which it transmitted the responses received from [REDACTED] indicating their unavailability to accept Mr Mokom on their territory.
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 1 February 2023, the Registry filed the “Second Report on the Registry’s Consultations with States on the Interim Release of Mr Mokom” (“Second Report”),⁶ 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. 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.
7. On 13 February 2023, the Registry filed the “Third Report on the Registry’s Consultations with States on the Interim Release of Mr Mokom” (“Third

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. Public redacted version was filed on 15 February 2023, ICC-01/14-01/22-120-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. A public redacted version of the Addendum was filed on 15 February 2023, ICC-01/14-01/22-127-Red.

⁶ 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. A public redacted version of the Second Report was filed on 15 February 2023, ICC-01/14-01/22-146-Red.

Report”),⁷ by which it 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.

8. On 14 February 2023, the Registry requested the Chamber by email for authorization to extend the deadline given to the States that had not yet provided a response to 21 February 2023, given the indications of the [REDACTED] authorities that a response may be provided on 20 February 2023.⁸
9. On 15 February 2023, the Chamber, by way of email, (i) granted the Registry’s request to communicate the 21 February 2023 deadline to [REDACTED] and the remaining States that were yet to provide a response; and (ii) instructed the Registry to file a report on any responses received from these States by no later than 22 February 2023.⁹

III. Classification

10. Pursuant to regulation 23 *bis*(1) and (2) of the Regulations of the Court (“RoC”), the present submission is classified as confidential, as it refers to certain information contained in confidential documents, such as the list of States which Mr Mokom proposed to be released to.

IV. Applicable law

11. 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.

⁷ Registry, “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. A public redacted version of the Third Report was filed on 15 February 2023, ICC-01/14-01/22-159-Red.

⁸ Email from the Registry, 14 February 2023, at 18.33.

⁹ Email from Pre-Trial Chamber II, 15 February 2023, at 17.09.

V. Submissions

12. On 16 February 2023, the Registry informed by email the authorities of [REDACTED] to provide their response, if they wish so, by 21 February 2023.
13. On 17 February 2023, the Registry was informed by the [REDACTED] authorities that due to the complexity and the sensitivity of the matter, unfortunately they would not be able to provide a response by 21 February 2023. The authorities indicated that they would aim at responding to the Registry's request concerning the potential interim release of Mr Mokom by 13 March 2023. The information was transmitted to the Chamber as well as the parties and participants on 20 February 2023.¹⁰
14. On 21 February 2023, pursuant to the Chamber's email order,¹¹ the Registry informed [REDACTED] by email that the Chamber had granted a final extension of the time limit for the [REDACTED] authorities to submit their response by no later than 13 March 2023.
15. During the reporting period, other remaining States, namely, [REDACTED] did not provide any observations regarding the potential interim release of Mr Mokom.

P.P.



Marc Dubuisson

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

Dated this 22 February 2023

At The Hague, the Netherlands

¹⁰ Email from the Registry, 20 February 2023, at 11.38.

¹¹ Email from Pre-Trial Chamber II, 21 February 2022, at 16.08.