

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/22
Date : 31 January 2024

PRE-TRIAL CHAMBER II

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

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

Public

Public redacted version of "Registry's Observations pursuant to the Chamber's instruction dated 28 September 2023", 10 October 2023, ICC-01/14-01/22-273-Conf

Source: The Registry

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

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I. Introduction

1. In compliance with Pre-Trial Chamber II (“Chamber”)’s instruction of 28 September 2023,¹ the Registry hereby submits its observations for the purpose of the Chamber’s review of its ruling regarding the interim release, if any, of Mr Maxime Jeoffroy Ali Mokom Gawaka (“Mr Mokom”).

II. Procedural history

2. On 8 March 2023, the Chamber issued the “Decision on interim release”,² whereby it rejected Mr Mokom’s application for interim release,³ noting that its decision “is without prejudice to any future determination that may be made under article 60(3) of the Statute, in particular if a State identified in the Application that has not responded hitherto nonetheless indicates its willingness to receive Mr Mokom for the purpose of interim release”.⁴
3. On 27 March 2023, the Defence in its request for interim measures (“Request”) provided a list of [REDACTED] priority States Parties, namely, [REDACTED] as being potential realistic and credible candidates to cooperate with the Court, and informed the Chamber that it took steps to contact these [REDACTED] States.⁵ In addition, the Defence requested the Chamber *inter alia* to order the Registry to contact all previously contacted States to advise on the new developments in these proceedings, including Chamber’s findings in the Decision of 8 March 2023, detailed in paragraph 24 of the Defence’s Request.⁶

¹ Email from Pre-Trial Chamber II, 28 September 2023 at 14.50.

² Pre-Trial Chamber II, “Decision on interim release”, 8 March 2023, ICC-01/14-01/22-173-Conf. Public redacted version was registered on the same day, ICC-01/14-01/22-173-Red.

³ Defence, “Mr. Mokom’s Application for Interim Release pursuant to Order ICC-01/14-01/22-105”, 14 November 2022, ICC-01/14-01/22-110-Conf. Public redacted version was filed on 16 November 2022, ICC-01/14-01/22-110-Red.

⁴ Pre-Trial Chamber II, “Decision on interim release”, 8 March 2023, ICC-01/14-01/22-173-Conf, para. 60.

⁵ Defence, “Defence Request for Interim Measures”, 27 March 2023, ICC-01/14-01/22-181-Conf. Public redacted version was filed on 28 April 2023, ICC-01/14-01/22-181-Red, p. 8.

⁶ *Ibid*, p. 9.

4. On 19 April 2023, the Chamber in its Decision on the “Defence Request for Interim Measures” ordered the Registry to, “in consultation with the Defence, contact any of the States identified in the Request (excluding [REDACTED]), and to report to the Chamber in the event that any such State accepts Mr Mokom for the purposes of interim release”.⁷
5. On 15 June 2023, pursuant to the Chamber’s instructions of 7 June 2023 sent by email,⁸ the Registry provided its observations relating to its consultations with the [REDACTED] priority States.⁹ During these consultations [REDACTED] and [REDACTED] re-confirmed that they would not be able to accept Mr Mokom on their territory.¹⁰

III. Classification

6. 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 sensitive information contained in confidential documents and information on confidential exchanges with the States parties. A public redacted version will be filed in due course.

IV. Applicable law

7. The following provisions are of particular relevance to the present submission: article 60(2) and (3) of the Rome Statute, rules 118 and 119 of the Rules of Procedure and Evidence and regulation 51 of the RoC.

⁷ Pre-Trial Chamber II, “Decision on the ‘Defence Request for Interim Measures’”, 19 April 2023, ICC-01/14-01/22-195-Conf, p.7. Public redacted version issued on 4 May 2023, ICC-01/14-01/22-195-Red.

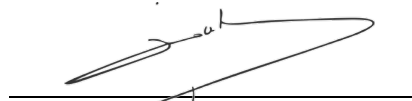
⁸ Email from Pre-Trial Chamber II, 7 June 2023 at 11:19.

⁹ Registry, “Registry’s Observations pursuant to the Chamber’s instruction dated 7 June 2023”, ICC-01/14-01/22-226-Conf. A public redacted version was submitted on 20 June 2023, ICC-01/14-01/22-226-Red.

¹⁰ *Ibid*, pp. 5-6.

V. Submissions

8. To date, the Registry received a confirmation from the [REDACTED] authorities that that the position of [REDACTED] as provided in a note verbale of 9 February 2023,¹¹ has not changed.
9. In addition, the authorities of [REDACTED] replied that they are not in the position to accept Mr Mokom on their territory.
10. No further responses have so far been received by the Registry from [REDACTED]. The Registry will continue following up with these States.



Marc Dubuisson

Director of the Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 31 January 2024

At The Hague, the Netherlands

¹¹ See “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, para. 13.