



Original: **English**

**No: ICC-01/14-01/22
Date: 29 September 2022**

PRE-TRIAL CHAMBER II

**Before: Judge Rosario Salvatore Aitala, Presiding
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

Prosecution's Response to Mr Mokom's request for leave to appeal the Decision on legal representation further to the Appeals Chamber's judgment of 19 July 2022

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Mr Karim A. A. Khan KC
Mr Mame Mandiaye Niang
Mr Kweku Vanderpuye

Counsel for Mr Mokom

Mr Gregory Townsend (Duty Counsel)

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Mr Pieter Vanaverbeke

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

SUBMISSIONS

1. On 19 July 2022, the Appeals Chamber reversed Pre-Trial Chamber II’s decision ordering the Registry to revoke its appointment of Mr Nicholas Kaufman as Mr Mokom’s counsel.¹ The Appeals Chamber, by majority, remanded the matter to the Pre-Trial Chamber, directing it to issue a new decision based upon all available information, setting out precise and detailed reasons as to whether there is an impediment to representation or a conflict of interest under articles 12 and 16 of the Code of Professional Conduct for counsel to Mr Kaufman’s representation of Mr Mokom that cannot be remedied.² On 19 August 2022, the Pre-Trial Chamber issued a new decision, finding that there remained an impediment to representation or a conflict of interest under articles 12 and 16 of the Code in relation to Mr Kaufman’s representation of Mr Mokom and setting out its reasons.³ The Pre-Trial Chamber also *proprio motu* granted leave to appeal on one issue.⁴ Mr Mokom and the Prosecution filed their submissions in the appeal.⁵

2. On 27 September 2022, the Appeals Chamber found that the appeal was inadmissible (since leave had been improperly granted) and dismissed it.⁶ Nonetheless, the Appeals Chamber found that the Parties could seek leave to appeal, with time running from when its decision was notified.⁷ Two days later, Mr Mokom sought leave to appeal, advancing the same issue the Pre-Trial Chamber had previously certified.⁸

¹ ICC-01/14-01/22-70-Red (“[Counsel Appointment AD](#)”), para. 69; ICC-01/14-01/22-70-Anx-Red (“[Counsel Appointment AD Dis Op](#)”), para. 22.

² [Counsel Appointment AD](#), para. 68.

³ ICC-01/14-01/22-80 (“[Legal Representation Decision](#)”), paras. 13-28.

⁴ [Legal Representation Decision](#), paras. 29-30.

⁵ ICC-01/14-01/22-81 (“[Appeal Brief](#)”) and ICC-01/14-01/22-84 (“[Prosecution Response to Mokom’s Second Appeal](#)”).

⁶ ICC-01/14-01/22-91 (“Appeal Admissibility AD”), paras. 12-23.

⁷ Appeal Admissibility AD, para. 23.

⁸ ICC-01/04-01/22-92 (“Request for Leave to Appeal”), para. 4.

3. The Prosecution does not take a position on Mr Mokom's request for leave to appeal.⁹ It notes, however, that the Pre-Trial Chamber had found earlier that the stated issue had met the requirements of article 82(1)(d) of the Statute.¹⁰ For these reasons, the Prosecution defers to the Pre-Trial Chamber's consideration of this matter.



Karim A. A. Khan KC, Prosecutor

Dated this 29th day of September 2022
At The Hague, The Netherlands

⁹ ICC-01/14-01/22-48-Red (“[Prosecution Response to Mokom's First Appeal](#)”); ICC-01/14-01/22-75 (“[Prosecution 27 July 2022 Submissions](#)”).

¹⁰ [Legal Representation Decision](#), paras. 29-30.