

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/22

Date : 20 June 2023

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 document

Public redacted version of “Registry’s Observations pursuant to the Chamber’s instruction dated 7 June 2023”, 15 June 2023, ICC-01/14-01/22-226-Conf

Source: The Registry

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

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Other

I. Introduction

1. In compliance with Pre-Trial Chamber II (“Chamber”)’s order of 7 June 2023,¹ the Registry hereby submits its observations for the purpose of the Chamber’s review of its ruling regarding the interim release 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. In order to assist the Defence in its attempts to identify a State for the purpose of Mr Mokom’s potential interim release and in response to its request,⁵ the Registry contacted [REDACTED] States Parties identified by Mr Mokom, namely, [REDACTED]. The Registry requested these countries to provide it with the contact details of their respective focal points with whom the Defence could discuss directly the potential interim release of Mr Mokom. The information collected was shared with the Defence on 30 March 2023.

¹ Email from Pre-Trial Chamber II, 7 June 2023 at 11.19.

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 *Ibid*, para. 60.

⁵ See Annex I, Defence, “Defence Request for Interim Measures”, 27 March 2023, ICC-01/14-01/22-181-Conf-AnxI, p.p. 8-10. Public redacted version was filed on 28 April 2023, ICC-01/14-01/22-181-AnxI-Red.

4. Following the Defence's request for interim measures⁶ ("Request") the Chamber 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

III. Classification

5. 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. A public redacted version thereof will be filed in due course.

IV. Applicable law

6. 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.

V. Submissions

7. The Registry, in consultation with the Defence, contacted all [REDACTED] States indicated by Mr Mokom in his Request.
8. On 9 and 12 May 2023, the Registry organised meetings which were attended by the following States: [REDACTED]. During these meetings the Registry provided the participants with an update on the judicial developments in the case and informed them about the findings of the Chamber in the Decision on interim release, in particular, (1) the Chamber' determination that Mr Mokom

⁶ 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.

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.

is eligible for interim release; (2) the conditions under which such interim release could be affected; (3) the determination that [REDACTED]. The Registry also shared with the participants the public redacted version of the said Decision by email.

9. During one of those meetings, [REDACTED] reiterated that should the conditions set out in its response of 22 December 2022 be not put in place,⁸ its position would not change. In addition, the [REDACTED] authorities indicated that they would not be able to enforce the condition of the electronic monitoring device⁹ as it is not foreseen by their national legislation.
10. Representatives of [REDACTED] who attended the abovementioned meetings took note of the information and assured that it would be conveyed to their relevant authorities for consideration.
11. Although [REDACTED] were not in a position to attend the meetings, the information was provided to them by way of email or telephone communication.
12. Furthermore, it is worth mentioning that the Registry also liaised with the [REDACTED] authorities with a view to allowing for direct contact between them and the Defence. In this regard, on 23 March 2023, the [REDACTED] authorities reiterated that [REDACTED].

⁸ See Annex V to Registry's "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-AnxV, Annex V. Public redacted version of the document was filed on 15 February 2023, ICC-01/14-01/22-127-AnxV-Red.

⁹Pre-Trial Chamber II, "Decision on interim release", 8 March 2023, ICC-01/14-01/22-173-Conf, condition 'v', para. 56.

13. To date, the Registry has not received any indication that any of these [REDACTED] States would be in a position to accept Mr Mokom on their territory for the purpose of interim release.



Marc Dubuisson

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

Dated this 20 June 2023
At The Hague, the Netherlands