

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 27 May 2024

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Sergio Gerardo Ugalde Godínez
Judge Haykel Ben-Mahfoudh

**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 Report on Consultations with the States
pursuant to Order ICC-01/14-01/22-309-Conf”, ICC-01/14-01/22-319-Conf-Exp, 7
February 2024**

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. Following the “Decision pursuant to Rule 185 of the Rules of Procedure and Evidence” (“Decision”) issued by Pre-Trial Chamber II (“Chamber”) on 18 January 2024,¹ in which the Chamber *inter alia* ordered the Registry to report on its consultations with the States to which Mr Maxime Jeoffroy Eli Mokom Gawaka (“Mr Mokom”) agrees to be transferred, the Registry hereby reports on these States’ willingness to accept Mr Mokom on their territory, respectively for the purpose of his release. The Registry also reports on its communication with the authorities of the Central African Republic (“CAR”).

II. Procedural history

2. On 17 October 2023, the Chamber issued the “Order in relation to the Prosecution’s ‘Notice of Withdrawal of the Charges against Maxime Jeoffroy Eli Mokom Gawaka’” (“Order of 17 October”).²
3. On 23 November 2023, the Registry transmitted a letter from the CAR authorities (“CAR Letter”).³
4. On 27 November 2023, the Registry reported to the Chamber that it had transmitted Mr Mokom’s Defence’s requests for cooperation in relation to his release addressed to [REDACTED], the Republic of Chad (“Chad”), [REDACTED] (“Defence Request” or “Defence Requests”).⁴

¹ Pre-Trial Chamber II, “Decision pursuant to Rule 185 of the Rules of Procedure and Evidence”, 18 January 2024, ICC-01/14-01/22-309-Conf. Public redacted version was issued on the same day, ICC-01/14-01/22-309-Red.

² Pre-Trial Chamber II, “Order in relation to the Prosecution’s ‘Notice of Withdrawal of the Charges against Maxime Jeoffroy Eli Mokom Gawaka’”, 17 October 2023, ICC-01/14-01/22-276.

³ Registry’s Transmission of the letter of the authorities of the Central African Republic, ICC-01/14-01/22-296-Conf-Exp, confidential, together with annex I, confidential. See also Decision, paras 4-6.

⁴ Registry, “Registry’s Report pursuant to Pre-Trial Chamber II’s Instruction of 22 November 2023”, 27 November 2023, ICC-01/14-01/22-299-Conf-Exp, para. 8.

5. In the same report, the Registry informed that the [REDACTED] authorities examined the Defence's Request "favourably", however they were not in a position to take a definitive decision at that stage. The authorities communicated conditions applicable to a potential release [REDACTED] and requested additional information from the Court. In particular, the authorities requested to: [REDACTED]; 2) the Court will provide a copy of the judgement issued *in absentia* against Mr Mokom in the CAR.⁵
6. On 1 December 2023, the Registry transmitted a letter from the [REDACTED] authorities to the Chamber and requested its guidance.⁶ In the said letter, the [REDACTED] authorities communicated that [REDACTED]. The authorities also requested [REDACTED].⁷
7. On 8 December 2023, the Defence filed "Mokom's Defence Submissions pursuant to Rule 185(1)" ("Defence Submissions").⁸
8. On 18 January 2024, the Chamber issued the Decision, in which it ordered the Registry, *inter alia*, "to actively interact with the States to which Mr Mokom agrees to be transferred regarding all pertinent aspects associated with a potential transfer of Mr Mokom under rule 185 of the Rules with a view to obtaining a definitive response as to their willingness to accept Mr Mokom by no later than 7 February 2024 (12:00 hours), and to report to the Chamber on these consultation by no later than 7 February 2024 (16:00 hours)".⁹ In addition, the Registry was ordered *inter alia*, to urgently translate the public redacted version of the Decision into French and to "provide it to the competent

⁵ *Ibid*, para. 12-13.

⁶ [REDACTED]

⁷ [REDACTED]

⁸ Defence, "Mokom's Defence Submissions pursuant to Rule 185(1)", 11 December 2023, ICC-01/14-01/22-307-Conf-Exp. Public redacted version was registered on the 8 December 2023, ICC-01/14-01/22-307-Red.

⁹ *Supra*, footnote 1, p. 10.

authorities of the CAR as soon as possible, together with the French translation of the 17 October 2023 Order (ICC-01/14-01/22-276-tFRA).¹⁰ Also, the Chamber ordered the Registry to request the CAR authorities “to either consent to reclassifying the CAR Letter as public or to provide a public redacted version of the CAR Letter as soon as possible”.¹¹

9. On 18 January 2024, the Chamber ordered the Registry by email “to request the CAR authorities to provide the Judgement rendered against Mr Mokom as soon as possible and to communicate it to [REDACTED]”.¹²

III. Classification

10. Pursuant to regulation 23 *bis*(1) and (2) of the Regulations of the Court, the present report and its annexes are submitted as confidential, *ex parte*, only available to the Registry and the Defence because they contain sensitive information about consultations with the States and refer to documents with the same level of classification. In addition, States did not agree to provide their responses as public documents.

IV. Applicable law

11. The following provisions are of particular relevance to the present submissions: rules 13 and 185(1) of the Rules of Procedure and Evidence (“Rules”).

V. Submissions

¹⁰ *Idem.*

¹¹ *Idem.*

¹² Email from Pre-Trial Chamber II to the Registry, 18 January 2024 at 12.39. See, Annex 22 to the “Sixth Registry Quarterly Report on Decisions issued by way of email from 01 November 2023 until 31 January 2024”, ICC-01/14-01/22-316-Conf-Exp-Anx22.

12. In implementation of the Chamber's order to prioritise its consultations with Chad,¹³ on 19 January 2024, the Registry urgently transmitted a note verbale to the Chadian authorities.¹⁴
13. In parallel, on 19 January 2024, the Registry, further to the Decision, requested the Defence by email to identify the State(s) to which Mr Mokom agrees to be transferred, at earliest. The Registry noted in same that the Defence previously identified the following such States: [REDACTED], Chad and [REDACTED].¹⁵
14. On 22 January 2024, the Defence informed the Registry by email that the States to which Mr Mokom agrees to be transferred "so far" are: [REDACTED]. The Defence added that Mr Mokom "does not consent to being transferred to Chad or [REDACTED]".¹⁶
15. On 26 January 2024, the Registry informed the Chamber that it would not be in a position to continue its consultations with Chad as ordered by the Chamber in view of the new, aforementioned position communicated by the Defence.¹⁷ On the same day, the Chamber noted that, "[w]hile the preferences of Mr Mokom do not preclude the Court from reaching out to countries outside his list, the Chamber instructs the Registry to focus efforts on the States in the list in the current circumstances and limited time available".¹⁸
16. The Registry therefore informed the Chadian authorities by email that its above-mentioned request is moot.¹⁹ For the same reasons, the Registry did not follow-up on the Defence's request with the [REDACTED] authorities.

¹³ Decision, para. 17.

¹⁴ Annex I.

¹⁵ Annex II.

¹⁶ *Ibid.*

¹⁷ Email from the Registry to Pre-Trial Chamber II, 26 January 2024, at 10.43.

¹⁸ Email from Pre-Trial Chamber II to the Registry, 26 January 2024, at 15.25.

¹⁹ See para. 12 *supra*.

Consultations with [REDACTED]

17. [REDACTED].²⁰ [REDACTED]²¹ [REDACTED].

18. The Registry noted that in the Defence Requests to [REDACTED] and [REDACTED]. In the Defence Submissions, Mr Mokom indicated his willingness to be transferred to Chad. Therefore, for completeness of information, the Registry, in light of the new position of the Defence as regard Chad and [REDACTED], communicated to the [REDACTED] authorities that Mr Mokom does not consent to be transferred to Chad or to [REDACTED].²² In addition, the [REDACTED] authorities had also enquired about the outcome of the Defence Request to [REDACTED]. The information that Mr Mokom does not consent to be transferred to Chad and [REDACTED], was also provided to [REDACTED].

19. Along with the transmission of its note verbale to [REDACTED], the Registry communicated an additional letter of the Defence, dated 22 January 2024.²³ In this letter the Defence *inter alia* provided the agreement of Mr Mokom [REDACTED].²⁴ The Defence also noted that due to the high risk associated with the return of Mr Mokom to the CAR, he will have to request asylum in the Netherlands as of 8 February 2024, if [REDACTED]. The Registry also transmitted a copy of the public redacted versions of the Chamber's Decision and the Defence Submissions. These documents were transmitted to all States to which Mr Mokom agrees to be transferred which the Registry contacted.

²⁰ Annex III.

²¹ See para. 5 *supra*.

²² See para. 15 *supra*.

²³ Annex IV.

²⁴ See footnotes 4, 6 and 7, *supra*.

20. On 24 January 2024, the Registry transmitted [REDACTED] translation of the Decision to [REDACTED] authorities.²⁵
21. On 26 January 2024, the Registry held a virtual meeting with the [REDACTED] authorities, during which it conveyed the Decision of the Chamber and urged the authorities to provide their definitive response. The Registry also noted that, [REDACTED]. The authorities noted all the information provided by the Registry on 22 January 2024²⁶ and indicated that based on which the authorities would be able to provide a response by 31 January 2024.
22. On 31 January 2024, the [REDACTED] authorities transmitted its definitive negative response to the Registry explaining that they would not accept Mr Mokom because [REDACTED].²⁷

Consultations with [REDACTED]

23. On 22 January 2024, the Registry transmitted a request to [REDACTED] referring to the Defence's Request and invited the authorities to accept Mr Mokom on its territory for the purpose of his release. [REDACTED] was transmitted on 25 January 2024.²⁸
24. On 25 January 2024, the Registry held a meeting with the [REDACTED] authorities.
25. On 1 February 2024, the [REDACTED] authorities informed that they are not in a position to provide a positive response to the Defence's Request to accept Mr Mokom on their territory.²⁹

²⁵ Annex III.

²⁶ See paras 17-19 *supra*.

²⁷ Annex V.

²⁸ Annex VI.

²⁹ Annex VII.

Consultations with [REDACTED]

26. On 22 January 2024, the Registry transmitted a request to [REDACTED] with a similar content as the request to [REDACTED].³⁰

27. On 25 January 2024, the Registry held a meeting with the [REDACTED] authorities. The authorities provided their preliminary feedback to the Registry, without prejudice to their official response, indicating that Mr Mokom would be required to apply for his residence in [REDACTED] following the standard immigration procedure and no exceptions could be granted to the Defence request at this stage. The authorities further informed that the immigration procedure is very lengthy which may take years or decades.

28. To date, the Registry has not received an official response from the [REDACTED] authorities.

Consultations with [REDACTED]

29. On 22 and 23 January 2024, the Registry transmitted notes verbales inviting cooperation of additional States identified by the Defence in view of accepting Mr Mokom on their territories for the purpose of his release: [REDACTED]³¹, [REDACTED],³² [REDACTED]³³ and [REDACTED]³⁴.

30. On 5 February 2024, the [REDACTED] authorities³⁵ informed that they are not in a position to accept Mr Mokom on their territory for the purpose of his release.

³⁰ Annex VIII.

³¹ Annex IX.

³² Annex X.

³³ Annex XI.

³⁴ Annex XII.

³⁵ Annex XIII.

31. On 6 February 2024, a negative response was also provided by [REDACTED].³⁶

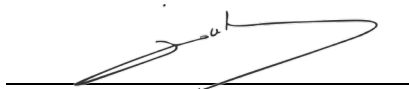
32. No other response has been received by the Registry.

Communication with the CAR authorities

33. In a note verbale dated 19 January 2024, the Registry informed the CAR authorities about the issuance of the Decision and requested their agreement to reclassify the CAR Letter³⁷ into a public document or provide a public redacted version thereof. In the same note verbale and pursuant to the Chamber's order,³⁸ the Registry also requested the CAR authorities to provide a copy of the judgement issued by the authorities against Mr Mokom for further transmission to [REDACTED].³⁹

34. On 26 January 2024, the Registry notified to the CAR authorities the translated version into French of the Decision as well of the Order of 17 October 2023.⁴⁰

35. No response to the aforesaid requests has been received.



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

Dated this 27 May 2024

At The Hague, the Netherlands

³⁶ Annex XIV.

³⁷ See Annex I to "Registry's Transmission of the letter of the authorities of the Central African Republic", dated 23 November 2023, ICC-01/14-01/22-296-Conf-AnxI.

³⁸ See para. 8 *supra*.

³⁹ Annex XV.

⁴⁰ Annex XVI.