

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/22 OA5

Date: 5 May 2025

THE APPEALS CHAMBER

Before: Judge Solomy Balungi Bossa, Presiding Judge
Judge Luz del Carmen Ibáñez Carranza
Judge Gocha Lordkipanidze
Judge Erdenebalsuren Damdin
Judge Nicolas Guillou

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

***IN THE CASE OF THE PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM
GAWAKA***

Confidential

**Request for Leave to Reply to the Registry's Observations on the "Appeal Brief
against the 'Decision on Mr Mokom's request for compensation'"**

Source: Defence for Mr Maxime Mokom

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

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☐ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

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Reparations Section

☐ Other

I. INTRODUCTION

1. Pursuant to Regulation 24(5) of the Regulations of the Court ('Regulations'), Maxime Jeoffroy Eli Mokom Gawaka ('the Claimant') seeks leave to reply to the Registry's Observations on the "Appeal Brief against the 'Decision on Mr Mokom's request for compensation'" ('Observations').¹

2. The Observations demonstrate the Registry's misunderstanding of the scope of the issue certified for appeal. For the reasons set out below, the aspects of the Observations for which leave to reply is sought could not have been anticipated by the Claimant. A reply would ensure all the relevant information is before the Appeals Chamber prior to a decision being rendered on the certified issue for appeal.

3. A request for leave to reply may be granted if the conditions set out in Regulation 24(5) of the Regulations are met, or if the Chamber considers a reply would otherwise be necessary for the adjudication of the matter.² The Claimant submits that a reply is warranted to address two discrete issues arising directly from the Observations that could not have been reasonably anticipated in the Appeal Brief.³

II. LEVEL OF CONFIDENTIALITY

4. Pursuant to Regulation 23bis(1) of the Regulations, the Claimant files this request as confidential, given that the Observations were filed confidentially. The Claimant does not oppose the reclassification as public.

III. SUBMISSIONS

A. *The Registry misconceives the temporal scope of the certified issue*

5. The Observations allege that the Claimant "was able to leave" the hotel and refers to a specific example detailing the Claimant's departure from the municipality of The Hague on 17 December 2023 ('The example').⁴ The Registry claims that, given that the Claimant left the

¹ Registry's Observations on the "Appeal Brief against the 'Decision on Mr Mokom's request for compensation'", 1 May 2025, [ICC-01/14-01/22-362-Conf](#).

² See, e.g., *Situation in the Republic of the Philippines*, Appeals Chamber: Decision on the Republic of the Philippines' request for leave to reply to the "Prosecution's response to the Philippine Government's Appeal Brief against 'Authorisation pursuant to article 18(2) of the Statute to resume the investigation' (ICC-01/21-65 OA)", [ICC-01/21-72](#), 2 May 2023, para. 7.

³ Appeal brief against the 'Decision on Mr Mokom's request for compensation', 27 March 2025, [ICC-01/14-01/22-358-Conf](#). A public redacted version was filed on 28 March 2025, [ICC-01/14-01/22-358-Red](#) ('Appeal Brief').

⁴ Registry's Observations on the "Appeal Brief against the 'Decision on Mr Mokom's request for compensation'", 1 May 2025, [ICC-01/14-01/22-362-Conf](#), paras. 18-20.

premises of the Court “without any prior consent by the host State”, this demonstrates that the he “was neither deprived of liberty when staying in the Premises of the Court nor had any concern for making an illegal entrance on the Host State’s territory.”⁵

6. If the Claimant was granted leave to reply, he would set out that the Registry erroneously relied on an period of time that falls outside the certified issue. The example occurred in December 2023. However, the certified issue relates to the period of 43 days between 17 October 2023 and 28 November 2023 during which the Claimant was required to remain in the hotel. The Appeal Brief explicitly stated that the request for compensation submitted by the Claimant was related *inter alia* to the unlawful “*de facto* detention” that he endured in the hotel for 43 days.⁶ The Appeal Brief linked the period of 43-days “*de facto* detention” with the impossibility for the Claimant to depart from the hotel and illegally enter the territory of the Host State.⁷

7. The Claimant could not have reasonably anticipated that the Registry would misunderstand the Article 85 Chamber’s Decision granting leave to appeal, given that it refers to the fact that “Mr Mokom retained the option to avoid the restrictions applied to him by leaving the hotel, which would have had the effect of unilaterally putting an end to the practical arrangements.”⁸ This part of the Impugned Decision referred to by the Article 85 Chamber referred to the “Hotel Stay Period”.⁹ In the circumstances, the Claimant should be granted the opportunity to address the Registry’s misconceived interpretation of the temporal scope of the certified issue.

B. The Grounds of Appeal do not fall outside the scope of the appellate proceedings

8. The Observations allege that the three grounds of appeal formulated by the Claimant raise issues that have not been certified on appeal and fall outside the scope of the appellate proceedings.¹⁰ If granted leave to reply, the Claimant will set out that the three grounds of appeal lie within the limits of the certified issue as they all discuss the potential violations of

⁵ Registry’s Observations on the “Appeal Brief against the ‘Decision on Mr Mokom’s request for compensation’”, 1 May 2025, [ICC-01/14-01/22-362-Conf](#), para. 18.

⁶ Public Redacted Version of “Appeal brief against the ‘Decision on Mr Mokom’s request for compensation’”, [ICC-01/14-01/22-358-Red](#), 27 March 2025, 28 March 2025, para. 21, referring to Request for Compensation under Article 85 of the Rome Statute, [ICC-01/14-01/22-329-Conf](#) (with confidential annexes A to G; public redacted version filed on 23 April 2024: [ICC-01/14-01/22-329-Red](#)) (‘Request for Compensation’), paras 46–61.

⁷ Public Redacted Version of “Appeal brief against the ‘Decision on Mr Mokom’s request for compensation’”, [ICC-01/14-01/22-358-Red](#), 27 March 2025, 28 March 2025, para. 6.

⁸ Decision on Mr Mokom’s Request for Leave to Appeal the ‘Decision on Mr Mokom’s request for compensation’, 14 March 2025, [ICC-01/14-01/22-357](#), paras. 28-29, referring to Decision on Mr Mokom’s request for compensation, 31 January 2025, [ICC-01/14-01/22-354-Red](#), para. 132 (‘Impugned Decision’).

⁹ Decision on Mr Mokom’s request for compensation, 31 January 2025, [ICC-01/14-01/22-354-Red](#), para. 72.

¹⁰ Registry’s Observations on the “Appeal Brief against the ‘Decision on Mr Mokom’s request for compensation’”, 1 May 2025, [ICC-01/14-01/22-362-Conf](#), para. 9.

the Court's obligations under Rule 185 of the Rules of Procedure and Evidence ("Rule 185") should the Claimant have left the hotel in the absence of agreement from the Host State and made an illegal entrance on the territory of the Host State.

IV. CONCLUSION AND RELIEF SOUGHT

9. The Registry misconceived the temporal scope of the issue certified for appeal and made misleading submissions through relying upon the example detailed in the Observations. The Claimant should be granted the opportunity to address the Registry's misunderstanding of the temporal scope of the certified issue and its erroneous assessment of the three grounds of appeal in light of the Court's obligations under Rule 185.

10. For the reasons set out above, the Claimant respectfully requests that the Appeals Chamber:

GRANT leave to reply to the Observations.

Respectfully submitted,



Philippe Larochelle
Counsel for Maxime Mokom

Dated this 5 May 2025

At Montreal, Canada