



Original: English

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

Date: 8 May 2025

THE APPEALS CHAMBER

Before:

**Judge Solomy Balungi Bossa, Presiding
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

Public document

**Decision on Mr Mokom's request for leave to reply to the Registry's
observations and related matters**

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

☐ **The Office of the Prosecutor**

☒ **Counsel for Mr Mokom**

☐ **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

Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations
Section**

☐ **Other**

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Maxime Jeoffroy Eli Mokom Gawaka against the decision of the Article 85 Chamber entitled “Decision on Mr Mokom’s request for compensation” of 31 January 2025 (ICC-01/14-01/22-354-Red),

Having before it the “Request for Leave to Reply to the Registry’s Observations on the ‘Appeal Brief against the “Decision on Mr Mokom’s request for compensation”” of 5 May 2025 (ICC-01/14-01/22-363-Conf),

Pursuant to regulation 28 and 23 *bis* of the Regulations of the Court,

Renders the following

DECISION

1. Mr Mokom may file submissions, not exceeding 5 pages, on the “Registry’s Observations on the ‘Appeal Brief against the “Decision on Mr Mokom’s request for compensation”” by 16h00 on Tuesday, 13 May 2025.
2. The Registrar is directed to file a public redacted version or request reclassification of the “Registry’s Observations on the ‘Appeal Brief against the “Decision on Mr Mokom’s request for compensation”” (ICC-01/14-01/22-362-Conf) by no later than 16h00 on Monday, 12 May 2025.
3. The “Request for Leave to Reply to the Registry’s Observations on the ‘Appeal Brief against the “Decision on Mr Mokom’s request for compensation”” (ICC-01/14-01/22-363-Conf) shall be reclassified as public.

REASONS

I. PROCEDURAL HISTORY

1. On 27 March 2025, Mr Maxime Jeoffroy Eli Mokom Gawaka (hereinafter: “Mr Mokom”) filed his appeal brief (hereinafter: “Appeal Brief”)¹ against the “Decision on Mr Mokom’s request for compensation” rendered by the Article 85 Chamber.²

2. On 1 May 2025, pursuant to an order of the Appeals Chamber (hereinafter: “Order of 8 April 2025”),³ the Registrar filed the “Registry’s Observations on the ‘Appeal Brief against the “Decision on Mr Mokom’s request for compensation”” (hereinafter: “Registry’s Observations”).⁴

3. On 5 May 2025, Mr Mokom filed a “Request for Leave to Reply to the Registry’s Observations on the ‘Appeal Brief against the “Decision on Mr Mokom’s request for compensation”” (hereinafter: “Request to Reply”).⁵

II. MERITS

4. Preliminarily, the Appeals Chamber notes that Mr Mokom seeks leave to reply to the Registry’s Observations on the basis of regulation 24(5) of the Regulations of the Court (hereinafter “Regulations”).⁶ For the reasons that follow, the Appeals Chamber considers that Mr Mokom’s reliance on this provision to found his request is misguided.

5. Regulation 24 of the Regulations provides in relevant part as follows

- (1) The Prosecutor and the defence may file a response to any document filed by any participant in the case in accordance with the Statute, Rules, these Regulations and any order of the Chamber.

[...]

¹ Appeal brief against the ‘Decision on Mr Mokom’s request for compensation’, ICC-01/14-01/22-358-Conf (public redacted version filed on 28 March 2025, [ICC-01/14-01/22-358-Red](#)).

² 31 January 2025, ICC-01/14-01/22-354-Conf-Exp (public redacted version filed on the same day, [ICC-01/14-01/22-354-Red](#)).

³ [Order on the filing of submissions by the Registrar](#), 8 April 2025, ICC-01/14-01/22-361.

⁴ ICC-01/14-01/22-362-Conf.

⁵ ICC-01/14-01/22-363-Conf.

⁶ Request to Reply, para. 1.

- (5) Participants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations.

6. Regulation 24 *bis* (1) of the Regulations provides that

The Registrar, when necessary for the proper discharge of his or her functions, in so far as they relate to any proceedings, may make oral or written submissions to a Chamber with notification to the participants.

7. The Appeals Chamber recalls that as directed in the Order of 8 April 2025, the Registry's Observations were filed pursuant to regulation 24 *bis* of the Regulations.⁷ Regulation 24 of the Regulations is not applicable to submissions made under regulation 24 *bis* of the Regulations, since the Registrar cannot be considered to be a "participant in the case".⁸ In this regard, article 43(1) of the Statute ("the Registry shall be responsible for the non-judicial aspects of the administration and servicing of the Court [...]"), read with rule 13(1) of the Rules of Procedure and Evidence ("[...] the Registrar shall serve as the channel of communication of the Court"), underscores the Registrar's lack of statutory power to participate in judicial proceedings as a "participant". Accordingly, the submissions of the Registrar under regulation 24 *bis* of the Regulations cannot, by the plain terms of regulation 24(1) of the Regulations, be considered "a document filed by a participant" to which the Prosecutor and Defence may automatically respond. Likewise, submissions under regulation 24 *bis* of the Regulations, cannot be considered a response or reply within the meaning of regulation 24(4) and (5) of the Regulations. Consequently, submissions of the Registrar pursuant to regulation 24 *bis* of the Regulations "are *sui generis* in nature and outside the ambit of regulation 24 of the Regulations of the Court".⁹

8. This notwithstanding, the Appeals Chamber has previously held that it has discretion to order further submissions by parties or participants when it is "necessary for the proper disposal of the appeal [...] bearing in mind the principle of equality of

⁷ See [Order of 8 April 2025](#), p. 3.

⁸ See Appeals Chamber, *The Prosecutor v. Mathieu Ngudjolo Chui*, [Decision on the defence request to reply to the Registrar's observations pursuant to regulation 24 bis of the Regulations of the Court \(ICC-01/04-02/12-25 A\)](#), 20 March 2013, ICC-01/04-02/12-43 (A) (hereinafter: "Decision of 20 March 2013"), para. 11.

⁹ [Decision of 20 March 2013](#), para. 11.

arms and the need for expeditious proceedings”.¹⁰ In the case at hand, the Appeals Chamber considers it appropriate to exercise its discretion under regulation 28 of the Regulations in order to allow Mr Mokom to make submissions on the Registry’s Observations. The Appeals Chamber considers that further submissions, as indicated in the Request to Reply, would assist the Appeals Chamber in its consideration of the issues arising in this appeal. Mr Mokom may therefore file his submissions, which shall not exceed 5 pages, by 16h00 on Tuesday, 13 May 2025.

9. Finally, the Appeals Chamber notes that the Registry’s Observations were filed confidentially in order to align “with the classification of the information redacted from the public redacted version of the Appeal Brief and the abovementioned Registry’s submissions”.¹¹ In similar vein, the Request to Reply was also filed confidentially. However, Mr Mokom has indicated that he is not opposed to the Request to Reply being reclassified as public.¹² As the present decision is filed publicly, the Registrar is directed to file a public redacted version or request reclassification of the Registry’s Observations by no later than 16h00 on Monday, 12 May 2025. In addition, the Appeals Chamber orders that the Request to Reply be reclassified as public.

Done in both English and French, the English version being authoritative.



Judge Solomy Balungi Bossa
Presiding

Dated this 8th day of May 2025

At The Hague, The Netherlands

¹⁰ [Decision of 20 March 2013](#), para. 12. See also Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Decision on the Prosecutor’s “Application for Leave to Reply to ‘Conclusions de la défense en réponse au mémoire d’appel du Procureur’”](#), 12 September 2006, ICC-01/04-01/06-424 (OA3), para. 7; Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Decision on the “Prosecution’s Application under Regulation 28 to provide Clarification or Additional Details which Impact on the Appeals against the Decisions to Stay the Proceedings and Release the Accused”](#), 13 October 2008, ICC-01/04-01/06-1476 (OA12, OA13), para. 3; Appeals Chamber, *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, [Decision on the Application on behalf of the Government of Kenya for Leave to Reply to the “Prosecution’s response to the ‘Appeal of the government of Kenya against the Decision on the Application of the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19\(2\)\(b\) of the Statute’”](#), 1 August 2011, ICC-01/09-01/11-239 (OA), para. 9.

¹¹ Registry’s Observations, para. 5.

¹² Request to Reply, para. 4.