

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 14 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***

**Public Document**

**Public Redacted Version of "Reply to the Registry's Observations on the "Appeal Brief against the 'Decision on Mr Mokom's request for compensation'", 13 May 2025, ICC-01/14-01/22-365-Conf-Exp**

**Source:** Defence for Mr Maxime Mokom

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

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D34

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☐ 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

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**Registrar**

M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and  
Reparations Section

☐ Other

## I. INTRODUCTION

1. Pursuant to the Appeals Chamber’s Decision on Mr Mokom’s request for leave to reply to the Registry’s observations and related matters<sup>1</sup>, Maxime Jeoffroy Eli Mokom Gawaka (‘the Claimant’) responds to the Registry’s Observations on the ‘Appeal Brief against the “Decision on Mr Mokom’s request for compensation”’.<sup>2</sup>

## II. PROCEDURAL BACKGROUND

2. On 27 March 2025, the Claimant filed his appeal brief against the “Decision on Mr Mokom’s request for compensation”.<sup>3</sup> On 1 May 2025, the Registrar filed the Observations, pursuant to an Order issued on 8 April 2025 by the Appeals Chamber.<sup>4</sup>

3. On 5 May 2025, the Claimant filed a request for leave to reply to two issues in the Observations.<sup>5</sup> The issues were related to: (i) the Registry’s misconception of the temporal scope of the certified issue; (ii) the Registry’s error in asserting that the Grounds of Appeal fall outside the scope of the appellate proceedings. On 8 May 2025, the Appeals Chamber authorised the Claimant to make submissions on the Observations in relation to the two issues.

## III. LEVEL OF CONFIDENTIALITY

4. Pursuant to Regulation 23bis(1) of the Regulations of the Court, the Claimant files this Reply as confidential *ex parte* only available to the Registry and the Claimant, given that the Reply refers to confidential *ex parte* filings and information. A public redacted version will be filed in due course.

## IV. SUBMISSIONS

(i) *The Registry’s misconception of the temporal scope of the certified issue*

5. The Observations erroneously state that the Claimant’s departure from the Premises of the Court in December 2023 demonstrates that he was neither deprived of liberty when staying in

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<sup>1</sup> Decision on Mr Mokom’s request for leave to reply to the Registry’s observations and related matters, 8 May 2025, [ICC-01/14-01/22-364](#).

<sup>2</sup> 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](#) (‘the Observations’).

<sup>3</sup> 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](#)).

<sup>4</sup> Order on the filing of submissions by the Registrar, 8 April 2025, [ICC-01/14-01/22-361](#).

<sup>5</sup> Request for Leave to Reply to the Registry’s Observations on the “Appeal Brief against the ‘Decision on Mr Mokom’s request for compensation’”, 5 May 2025, [ICC-01/14-01/22-363](#).

the Premises of the Court nor had any concern for ‘making an illegal entrance on the Host State’s territory’ without any prior consent by the host State (‘the December 2023 travel’).<sup>6</sup>

6. The certified issued relates to the 43-day “*de facto* detention” of the Claimant in the hotel between **17 October 2023 and 28 November 2023**. As such, the Registry’s reference to the December 2023 travel falls outside the temporal scope of the appeal. The specific length of the “*de facto* detention” had been defined by the Article 85 Chamber by its reference to the Impugned Decision’s ‘Hotel Stay Period’, defined as the *de facto* detention at a hotel for 43 days between 17 October 2023 and 28 November 2023.<sup>7</sup>

7. In particular, the Impugned Decision had emphasised that “the question before the Chamber is whether Mr Mokom was subjected to ‘unlawful detention’ within the meaning of article 85(1) of the Statute during the Hotel Stay Period (17 October 2023 to 28 November 2023)”.<sup>8</sup> The Appeal Brief had also stated that the Claimant had requested compensation for the unlawful 43-days ‘*de facto* detention’ that he endured in the hotel following his release from ICC custody.<sup>9</sup>

8. Moreover, on 21 November 2023, Pre-Trial Chamber II had issued an Order listing practical arrangements pertaining to the Claimant’s stay on the territory of the Host State and instructing the Registry to inform the Host State and the Claimant of the contents of the Order (‘Order of 21 November 2023’).<sup>10</sup> The Practical Arrangements listed in the Order of 21 November 2023 included, *inter alia*, the possibility for the Claimant to leave the hotel and travel outside the municipality of The Hague.<sup>11</sup>

9. As such, the Registry’s reference to the December 2023 travel contradicts the position taken by the Claimant regarding the application of the practical arrangements listed in the Order of 21 November 2023. As explained in a Report issued by the Registry on 24 November 2023 (‘24 November Report’), the Claimant had signed a form prepared by the Registry through

<sup>6</sup> *Contra*. [ICC-01/14-01/22-362-Conf](#), paras. 18-20.

<sup>7</sup> 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; Decision on Mr Mokom’s request for compensation, 31 January 2025, [ICC-01/14-01/22-354-Red](#), para. 72 (‘Impugned Decision’).

<sup>8</sup> Decision on Mr Mokom’s request for compensation, 31 January 2025, [ICC-01/14-01/22-354-Red](#), para. 113.

<sup>9</sup> Public Redacted Version of “Appeal brief against the ‘Decision on Mr Mokom’s request for compensation’”, ICC-01/14-01/22-358-Conf, 27 March 2025, 28 March 2025, [ICC-01/14-01/22-358-Red](#), para. 21.

<sup>10</sup> Order regarding arrangements pending Mr Mokom’s transfer, 21 November 2023, ICC-01/14-01/22-294-Conf-Exp (public redacted version notified on 11 April 2024: [ICC-01/14-01/22-294-Red](#)) (‘Order of 21 November 2023’).

<sup>11</sup> Public redacted version of ‘Order regarding arrangements pending Mr Mokom’s transfer’, 11 April 2024, [ICC-01/14-01/22-294-Red](#), paras. 4-5.

which the Claimant consented to respect the Practical Arrangements listed in the Order of 21 November 2023 ('Consent Form').<sup>12</sup>

10. In addition, the Claimant had provided a supplementary statement [REDACTED] ('Supplementary Statement').<sup>13</sup> [REDACTED] the Claimant had conditioned his presence outside of the Premises of the Court to being expressly informed of the consent of the Host State regarding the legality of his presence on the territory of the Host State.<sup>14</sup> The Consent Form and Supplementary Statement were both annexed to the 24 November Report.<sup>15</sup> The 24 November Report further confirmed that the Consent Form and the Supplementary Statement had been transmitted to the Host State authorities.<sup>16</sup>

11. The Registry's reference to the December 2023 travel further contradicts the position of the Host State detailed in a Report issued by the Registry on 28 November 2023 ('28 November Report') confirming the Host State's agreement "to the practical arrangements listed in the Order of 21 November 2023".<sup>17</sup> The Claimant became informed of the consent of the Host State following the notification of the 28 November Report and the Request for Compensation had accordingly stated that the Claimant had left the hotel for the first time on 28 November 2023 "upon first being told" that he could make a legal entrance on the entirety of the territory of the Host State.<sup>18</sup>

12. The expressed consent of the Host State listed in the 28 November Report demonstrates that as of 28 November 2023, the Registry was fully informed that the Claimant was entitled to leave the Premises of the Court and that the Claimant had already made a first legal entrance on the remainder of the territory of the Host State on 28 November 2023. As such, the Claimant's travel in December 2023 happened only after the Host State had consented to his presence on the entirety of its territory as of 28 November 2023.

<sup>12</sup> Registry's Report pursuant to Order ICC-01/14-01/22-294-Conf-Exp, 24 November 2023, [ICC-01/14-01/22-298-Conf-Exp](#), paras. 14 and 21.

<sup>13</sup> Registry's Report pursuant to Order ICC-01/14-01/22-294-Conf-Exp, 24 November 2023, [ICC-01/14-01/22-298-Conf-Exp](#), para. 21.

<sup>14</sup> *Contra*, [ICC-01/14-01/22-362-Conf](#), para. 18.

<sup>15</sup> Annex VII to Registry's Report pursuant to Order ICC-01/14-01/22-294-Conf-Exp, 24 November 2023, [ICC-01/14-01/22-298-Conf-Exp-AnxVII](#).

<sup>16</sup> Confidential redacted version of "Registry's Report pursuant to Order ICC-01/14-01/22-294-Conf-Exp", 24 November 2023, [ICC-01/14-01/22-298-Conf-Red](#), para. 22.

<sup>17</sup> Confidential redacted version of ADDENDUM to "Registry's Report pursuant to Order ICC-01/14-01/22-294-Conf-Exp", dated 24 November 2023, ICC-01/14-01/22-298-Conf", 28 November 2023, [ICC-01/14-01/22-301-Conf-Red](#), para. 4.

<sup>18</sup> Request for Compensation under Article 85 of the Rome Statute, 17 April 2024, [ICC-01/14-01/22-329-Conf](#), para. 56 ('Request for Compensation'). Public Redacted Version notified on 23 April 2024: [ICC-01/14-01/22-329-Red](#).

13. Moreover, the Pre-Trial Chamber's email order of 15 December 2023 ('Email Order') had explicitly instructed the Registry [REDACTED] detailed in the Email Order.<sup>19</sup> As such, the absence of ICC staff member accompanying the Claimant [REDACTED] was certified by the Email Order and [REDACTED] mentioned in the Observations was only related to [REDACTED].<sup>20</sup> As the Email Order had explicitly stated that [REDACTED], the Claimant had no reason to disregard its clear terms [REDACTED].

*(ii) The Grounds of Appeal do not fall outside the scope of the appellate proceedings*

14. The Observations erroneously state that the three Grounds of appeal ('Grounds') fall outside the scope of the certified issue.<sup>21</sup> The Grounds address the legal errors impacting the reasoning of the Impugned Decision certified for appeal, namely whether the Claimant "retained the option to avoid the restrictions applied to him by leaving the hotel."<sup>22</sup>

15. The First and Second Grounds demonstrate that the Claimant's illegal entrance on the territory of the Host State would have automatically entailed the violations of the laws of the Host State and of the mandatory process placed upon the Court under Rule 185 of the Rules of Procedure and Evidence. These grounds therefore demonstrate that violating the Court and the Host State's legal frameworks was not an option which the Claimant could have relied upon to avoid the restrictions in place in the hotel.

16. The Third Ground argues that the Claimant could not have unilaterally decided to leave the hotel in the absence of information about the outcome of the [REDACTED]. While the Registry asserts that [REDACTED] outcome, it was nevertheless in a position to inform the Claimant that [REDACTED].<sup>23</sup> As such, the Observations confirm that the conclusion of the [REDACTED] conditioned the implementation of practical arrangements by the Host State and that the Claimant could have only been in a position to leave the Premises of the Court once informed by the Registry about the practical arrangements put in place by the Host State following the conclusion of the [REDACTED].

<sup>19</sup> *Contra*, [ICC-01/14-01/22-362-Conf](#), para. 19, referring to an "Email communicated by Pre-Trial Chamber II to the Registry, with the Counsel of the Claimant in copy, on 15 December at 15:43." The Email Order is included in the following Registry Report: Annex 18 to the Sixth Registry Quarterly Report on Decisions issued by way of e-mail from 01 November 2023 until 31 January 2024, [ICC-01/14-01/22-316-Conf-Exp-Anx18](#).

<sup>20</sup> *Contra*, [ICC-01/14-01/22-362-Conf](#), para. 20, referring to ICC-01/14-01/22-T-009-CONF-ENG, p. 57.

<sup>21</sup> 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.

<sup>22</sup> 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](#), para. 29.

<sup>23</sup> *Contra*, [ICC-01/14-01/22-362-Conf](#), para. 21.

17. Overall, the Grounds demonstrate that the Claimant's departure from the Premises of the Court was dependent upon being informed by the Registry about the legality of his presence on the territory of the Host State. As such, the Claimant never received any information from the Registry about the position of the Host State regarding his presence on its territory throughout the 43-day detention, and the Article 85 Chamber acknowledged that the Registry had failed to inform the Claimant about the gradual relaxations of restrictions agreed by the Host State.<sup>24</sup> The Grounds demonstrate that in the absence of information regarding the gradual relaxations of restrictions proposed by the Host State, the Claimant's stay in the hotel was the only way through which he was in a position to abide by the Court and the Host State's legal frameworks between 17 October 2023 and 28 November 2023.

Respectfully submitted,



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Philippe Larochelle  
Counsel for Maxime Mokom

Dated this 14 May 2025

At Montreal, Canada

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<sup>24</sup> Decision on Mr Mokom's request for compensation, 31 January 2025, [ICC-01/14-01/22-354-Red](#), para. 134.