

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 June 2022

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding
Judge Antoine Kesia-Mbe Mindua
Judge Tomoko Akane

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

THE PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM GAWAKA

Public

Mr. Mokom's Response to the Registry's Observations on victim participation

Source: Gregory Townsend, Duty Counsel for Mr. Mokom

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

The Office of the Prosecutor

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Mr Gregory Townsend (Duty Counsel)

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Mr Pieter Vanaverbeke

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

I. INTRODUCTION

1. On 7 April 2022, the Office of Public Counsel for Victims (OPCV) filed its ‘Application for recognition of the status of victims in the case of *The Prosecutor v. Maxime Jeoffrey Eli Mokom Gawaka* to victims participating in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaißona*’ (OPCV’s Application).¹

2. On 25 May 2022, the Registry filed its ‘Registry Observations pursuant to Pre-Trial Chamber II’s “Order seeking observations on matters related to the conduct of the confirmation Proceedings” (ICC-01/14-01/22-50).’²

3. Pursuant to the Pre-Trial Chamber’s Order of 17 May 2022,³ in which it instructed (at para. 12(vii)) ‘... Duty Counsel to file a response to the Registry’s observations in relation to victims’ applications for participation, if any, by no later than 3 June 2022’, Duty Counsel for Mr Mokom files this response.

II. SUBMISSIONS

4. On 31 March 2022, the Prosecution, in its Observations on Evidence Disclosure,⁴ stated that disclosure could start as soon as ‘a permanent Counsel [is] appointed’. The Prosecution, in its Response filed 25 May 2022,⁵ reiterated this point. To date, permanent counsel is not yet appointed. Mr Mokom concurs that the appointment of *permanent* counsel for Mr. Mokom is necessary for meaningful, effective, and efficient preparations for the confirmation.

5. Mr Mokom, while understanding the best intentions of the Pre-Trial Chamber in its Order of 17 May 2022 to advance the proceedings, in the absence of having permanent counsel appointed (and pending a decision of the Appeals Chamber on a fundamental matter that is procedurally ripe for adjudication), respectfully submits,

¹ ICC-01/14-01/22-35 (with public annexes ICC-01/14-01/22-35-AnxA and ICC-01/14-01/22-35-AnxB).

² ICC-01/14-01/22-55 (with public annexes ICC-01/14-01/22-55-AnxI and ICC-01/14-01/22-55-AnxII, and confidential and *ex parte* annex III, ICC-01/14-01/22-55-AnxIII).

³ Pre-Trial Chamber II, ‘Order seeking observations on matters related to the conduct of the confirmation proceedings’, 17 May 2022, (ICC-01/14-01/22-50) (Order of 17 May), page 11, para. (v).

⁴ ICC-01/14-01/22-31, at para. 9 (emphasis added).

⁵ ICC-01/14-01/22-54-Conf, at fn2.

as a matter of principle, that it is premature for him to address the substance of the Registry's observations. Duty Counsel nevertheless responds on two points of law.

6. The Registry's Observations, at paras 11-12, concurs with OPCV's Application and argues that victim participation in this separate case should be 'automatic'. On this point, I join here, by reference, my response to OPCV's Application dated 25 May 2022,⁶ at paras 5-7, opposing the justiciability of the Application itself and this point on several legal grounds.

7. The Registry's Observations, at paras 13-22, address a *proposed* admission process, application forms, applicants' identity documents, and guidance on the legal assessment of applications. Mr. Mokom submits that these matters of substance would be better addressed his permanent counsel once appointed.

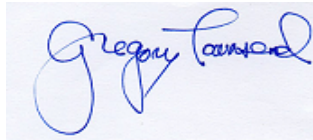
8. The Registry's Observations, at paras 23-35, address legal representation. The Registry notes, at para. 24, that 127 applications have been lodged for victim participation specifically in this case. A number (not indicated) of applicants have stated their preference for representation by two lawyers and another number (not indicated) have stated their preference for a third lawyer. The Registry notes, at para. 27 (and 28, 31), that it is 'collecting the victims' general views and preferences as regards their legal representation' in a three-month process to establish a 'pool' of qualified counsel. These observations indicate that: (a) it is entirely possible for applicants to 'opt in' to this case (and a 'cut and paste' or 'automatic' approach is legally impermissible and wholly unwarranted),⁷ and (b) it is appropriate to allow applicants to give their views on legal representation (and consider such views).⁸ On this point, I join here, by reference, my response dated 25 May 2022, at paras 7-8.

⁶ ICC-01/14-01/22-56.

⁷ See *ibid*, para. 7.

⁸ See *ibid*, para. 8.

Respectfully submitted,

A handwritten signature in blue ink, reading "Gregory Townsend", is centered above a horizontal line.

Gregory Townsend,
Duty Counsel for Mr. Mokom

Date: 3 June 2022
At The Hague, Netherlands.