

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: 25 August 2022

THE APPEALS CHAMBER

Before: Judge Solomy Balungi Bossa, Presiding Judge
Judge Piotr Hofmański
Judge Luz del Carmen Ibáñez Carranza
Judge Marc Perrin de Brichambaut
Judge Gocha Lordkipanidze

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF
*THE PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM GAWAKA***

Public

**Prosecution's Response to Mr Mokom's Appeal against Pre-Trial Chamber II's Decision
on legal representation further to the Appeals Chamber's judgment of 19 July 2022**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Mr Karim A. A. Khan QC
Mr Mame Mandiaye Niang
Ms Helen Brady

Counsel for Mr Mokom

Mr Gregory Townsend (Duty Counsel)

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Mr Pieter Vanaverbeke

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

SUBMISSIONS

1. On 19 July 2022, the Appeals Chamber reversed Pre-Trial Chamber II’s decision ordering the Registry to revoke its appointment of Mr Nicholas Kaufman as Mr Mokom’s counsel.¹ The Appeals Chamber, by majority, remanded the matter to the Pre-Trial Chamber, directing it to issue a new decision based upon all available information, setting out precise and detailed reasons as to whether there is an impediment to representation or a conflict of interest under articles 12 and 16 of the Code of Professional Conduct for counsel to Mr Kaufman’s representation of Mr Mokom that cannot be remedied.² On 19 August 2022, the Pre-Trial Chamber issued a new decision, finding that there remained an impediment to representation or a conflict of interest under articles 12 and 16 of the Code in relation to Mr Kaufman’s representation of Mr Mokom and setting out its reasons.³ The Pre-Trial Chamber also *proprio motu* granted leave to appeal on one issue.⁴ On 24 August 2022, Mr Mokom filed his appeal brief.⁵

2. Consistent with its earlier position before the Appeals Chamber,⁶ the Prosecution does not take a position on the factual issues raised by this Appeal. It also recalls that it did not take a position on the merits before the Pre-Trial Chamber.⁷

3. The Prosecution defers to the Appeals Chamber’s resolution of the Appeal. However, since the Pre-Trial Chamber—considering “the time the litigation about Mr Mokom’s legal representation has already taken so far”—had granted leave to appeal “with a view to limiting further effects on the expeditiousness of the proceedings”⁸ and since Duty Counsel has deferred on several substantive issues to the permanent counsel to be appointed once the appeal is

¹ ICC-01/14-01/22-70-Red (“[Counsel Appointment AD](#)”), para. 69; ICC-01/14-01/22-70-Anx-Red (“[Counsel Appointment AD Dis Op](#)”), para. 22.

² [Counsel Appointment AD](#), para. 68.

³ ICC-01/14-01/22-80 (“Legal Representation Decision”), paras. 13-28.

⁴ Legal Representation Decision, paras. 29-30.

⁵ ICC-01/14-01/22-81 (“Appeal Brief”).

⁶ ICC-01/14-01/22-48-Red (“[Prosecution Response](#)”), para. 4.

⁷ *Contra* Appeal Brief, para. 30(f) (suggesting that the Prosecution had not “substantiate[d] an evidence-based conflict of interest”). See [Prosecution Response](#), para. 13; ICC-01/14-01/22-75 (“[Prosecution 27 July 2022 Submissions](#)”), para. 2.

⁸ Legal Representation Decision, para. 29; see also ICC-01/14-01/22-43 (“[Mokom ALA Decision](#)”), paras. 27-29.

resolved,⁹ the Prosecution respectfully requests the Appeals Chamber to expedite its decision on this appeal.

A handwritten signature in black ink, appearing to be 'K.A.Khan', written on a light-colored background.

Karim A. A. Khan QC, Prosecutor

Dated this 25th day of August 2022
At The Hague, The Netherlands

⁹ ICC-01/14-01/22-58 ([“Mr Mokom’s 6 June 2022 Submissions”](#)), paras. 2-4.