

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 31 May 2023

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Tomoko Akane
Judge Sergio Gerardo Ugalde Godínez

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

URGENT

Public

With Confidential *EX PARTE* Annex, only available to the Registry

Registry Report pursuant to Pre-Trial Chamber II's "Decision on the legal representation of victims" (ICC-01/14-01/22-182)

Source: Registry

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

Office of the Prosecutor

Karim A. A. Khan
Mame Mandiaye Niang
Kweku Vanderpuye

Counsel for the Defence

Philippe Larochelle

Legal Representatives of Victims

Abdou Dangabo Moussa
Elisabeth Rabesandratana
Yaré Fall
Marie-Edith Douzima-Lawson

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

Office of Public Counsel for Victims

Paolina Massidda
Dmytro Suprun

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Trust Fund for Victims

I. Introduction

1. On 28 March 2023, Pre-Trial Chamber II (“Chamber”) issued its “Decision on the legal representation of victims” in *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka* (“Mokom case” or “Case”), ordering the Registry to *inter alia* liaise with Ms Massidda, Mr Tendouli and Mr Kassongo with a view to consulting the persons seeking to have them appointed (“Concerned Persons”) as to whether they wish to be represented by the team of common legal representatives appointed by the Chamber for the purposes of the present proceedings, and to report on this matter by no later than 31 May 2023 (“Decision”).¹
2. The Registry hereby submits its report on the consultations of the Concerned Persons (“Report”).

II. Classification

3. Pursuant to regulation 23bis(1) of the Regulations of the Court (“RoC”) the annex to the present submission is classified as confidential *ex parte*, only available to the Registry, as it contains identifying information on a person acting on behalf of Concerned Persons.

III. Submissions

4. The Registry’s Victims Participation and Reparations Section (“VPRS”) informs that 137 Concerned Persons were consulted pursuant to the Decision, as follows: 71 Concerned Persons consulted through Ms Massidda from the

¹ Pre-Trial Chamber II, “Decision on the legal representation of victims”, dated of 27 March 2023 and notified on 28 March 2023 at 10h35, ICC-01/14-01/22-182, para. 34 and p. 13 (“Decision”).

Office of Public Counsel for Victims (“OPCV”); 11 through Mr Kassongo; and 55 initially through Mr Tendouli and subsequently through another person acting on their behalf (“Person Acting on Behalf of 55 Concerned Persons”).²

5. The said consultation provided the following information to the Registry :
- Ms Massidda indicated that the aforementioned 71 persons were informed of the Decision and that, “while indicating that they would have preferred that we continue the legal representation, victims do not have substantive objections to being represented by the team of lawyers designated by the Pre-Trial Chamber”;³
 - Mr Kassongo indicated, as to the above-mentioned 11 Concerned Persons, that they are considering to not participate at this preliminary stage of the current proceedings, as “they have doubts on their participation at the stage of the confirmation hearing”; he instructed the VPRS to “thus put aside these victim applications for the present stage of the proceedings”;⁴ and
 - Mr Tendouli reported with respect to the aforesaid 55 persons that “they do not wish to be represented by any other lawyer than him. Consequently, they will not continue with the *Mokom* proceedings”.⁵
- Between 28 April and 16 May 2023, the VPRS received the following information from the Person Acting on Behalf of 55 Concerned Persons:

² The said Concerned Persons decided to withdraw the mandate of Mr Tendouli (emails from the Person Acting on behalf of the 55 Concerned Persons to the VPRS on 11 May 2023 at 17h40, 14 May 2023 at 21h40 and 16 May 2023 at 18h11). For information on the Person Acting on behalf of the 55 Concerned Persons see annex to the present report.

³ Email from Ms Massidda to VPRS on 23 May 2023 at 15h14.

⁴ Emails from Mr Kassongo to VPRS on 10 April 2023 at 14:05 and 21 April 2023 at 17h26 (unofficial translation in the text). The Registry understands this to mean that the persons in question are waiting to see if the case will proceed to trial, and, if so, they wish to apply for participation in the proceedings at that stage.

⁵ Email from Mr Tendouli to VPRS on 29 March 2023 at 21h46 (unofficial translation in the text).

that they now expressed their wish: (i) to continue with their request for participation to the *Mokom* case,⁶ and; (ii) to be represented by the team of common legal representatives of victims appointed for the purpose of the present proceedings, if their status of participating victims in the *Mokom* case is established by the Chamber.⁷

6. Based on the information and supporting document received at present,⁸ the Registry is of the view that the information provided by the Person Acting on Behalf of 55 Concerned Persons provides sufficient proof these persons' current wish as outlined above.⁹

IV. Conclusion

7. Based on the information received following VPRS's consultations pursuant to the Decision, the Concerned Persons as regard Maîtres Massidda and Tendouli respectively as above, wish to continue their participation in the present proceedings through the team of common legal representatives appointed by

⁶ Emails from the Person Acting on Behalf of 55 Concerned Persons to VPRS on 28 April 2023 at 16h03, 30 April 2023 at 12h06, 11 May 2023 at 17h40, 14 May 2023 at 21h40 and 16 May 2023 at 18h11.

⁷ On 15 May 2023, during a telephone call meeting between the VPRS and Person Acting on Behalf of 55 Concerned Persons, followed by an email on 16 May 2023 (at 18h11), it was reported that after having consulted the relevant persons, they all wish to be represented by the team of common legal representatives appointed by the Chamber, if their status of participating victims in the *Mokom* case is established by the Chamber.

⁸ On 11 and 14 May 2023, the VPRS received signed declarations from 45 of 55 Concerned Persons as regards Mr Tendouli, mentioning *inter alia* that they mandate Person Acting on Behalf of 55 Concerned Persons for the purpose of the *Mokom* case (transmitted by emails from said person acting on the victims' behalf to VPRS on 11 May 2023 at 17h40, 14 May 2023 at 21h40 and 16 May 2023 at 18h11). The VPRS is still to receive declarations from the remaining 10 Concerned Persons.

⁹ The VPRS informed Mr Tendouli regarding the indication of change of legal representation with regards to his initial clients (email from VPRS to Mr Tendouli on 26 May 2023 at 16:53 and subsequent follow-up email of 30 May 2023 at 11:40). Mr Tendouli did not object to this information.

the Chamber. As to the 11 Concerned Persons as regard Mr Kassongo as above, they are considering to not participate in the present stage of proceedings.¹⁰



p.p. Marc Dubuisson, Director, Division of Judicial Services
On behalf of Osvaldo Zavala Giler, Registrar

Dated this 31 May 2023

At The Hague, The Netherlands

¹⁰ See fn. 4 *supra* and accompanying text.