

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/14-01/21**

Date: **12 March 2021**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Confidential

with Confidential, *EX PARTE*, only available to the Prosecution Annex A

Confidential Redacted Version of "Prosecution's Response to Single Judge Order to Review Redactions in Request ICC-01/14-01/21-12-Conf-Red", dated 12 March 2021

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

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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**Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations
Section****Other**

I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") responds to the Single Judge's order ("Order")¹ to review the redactions to its Request ICC-01/14-01/21-12-Conf-Red ("Phone Request"). As explained below, the Prosecution agrees to lift, with limited exceptions, the redactions currently applied in its Phone Request. The remaining redactions are necessary and proportionate under rule 81(2) of the Rules of Evidence and Procedure ("Rules") and do not prejudice the Defence.

II. CONFIDENTIALITY

2. The Response and its Annex A are filed Confidential, *ex parte* pursuant to regulation 23bis(2) of the Regulations of the Court, as it relates to submissions of the same designation. A confidential redacted version of the Response will be filed concurrently.

III. HISTORY

3. On 5 February 2021, the Prosecution filed its "Request for Evidence in the Custody of the Registry" (Phone Request).² On 10 February 2021, the Prosecution filed its confidential redacted version.³

4. On 10 March 2021, counsel for SAID filed a "*Requête Urgente de la Défense afin d'avoir accès à une version non-expurgée du « Report of the Registry on the Arrest and Surrender of Mr Mahamat Said Abdel Kani and Request for Guidance »* (ICC-01/14-01/21-6-Conf-Exp-Red), *afin d'obtenir communication de tous documents utiles concernant l'arrestation et le transfert de Monsieur Said qui seraient en la possession du Greffe et d'avoir accès à une version non-expurgée de la « Prosecution's Request for Evidence in the Custody of*

¹ Email on behalf of the Single Judge, received on 10 March 2021, at 17:39.

² ICC-01/14-01/21-12-US-Exp.

³ ICC-01/14-01/21-12-Conf-Red.

the Registry » (ICC-01/14-01/21-12-Conf-Red)''. Counsel for SAID seeks access to the non-redacted version of the Phone Request alleging that its confidential redacted version is *"trop sommaire pour que la Défense puisse répondre à la demande du Procureur"* ("Defence Request").⁴

5. On 10 March 2021, the Single Judge ordered the Prosecution to submit a response indicating whether the redactions in the Phone Request may be lifted or, if necessary, to provide reasoning as to why some or all redactions should be maintained.⁵

IV. SUBMISSIONS

6. For ease of reference, the Prosecution submits in Confidential, *ex parte* Annex A its Phone Request with yellow highlights depicting the information that should remain redacted from SAID.

7. The Prosecution agrees to lift all redactions which solely pertain to its ongoing investigation against SAID [REDACTED]. However, references to [REDACTED]. The Prosecution considers that it is crucial that the latter information continues to be redacted [REDACTED] of the Rome Statute. Moreover, information of such nature [REDACTED].

8. Furthermore, the proposed remaining redactions are proportionate as they are discreetly selected to be applied only to limited portions of the Phone Request and allow counsel for SAID to understand the Prosecution's arguments. The Defence is therefore not prejudiced and able to execute their duties fully.

⁴ ICC-01/14-01/21-34-Conf, para.23.

⁵ Email on behalf of the Single Judge, received on 10 March 2021, at 17:39.

9. RELIEF SOUGHT

For the reasons set out above, the Defence Request should be granted in part.



Fatou Bensouda, Prosecutor

Dated this 12th day of March 2021

At The Hague, The Netherlands