

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 5 July 2024

TRIAL CHAMBER VI

Before: Judge Miatta Maria Samba, Presiding Judge
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godínez

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

PUBLIC

Public Redacted Version of “Registry’s Request pursuant to regulation 35 of the Regulations of the Court for an Extension of the Time Limit to Transmit the Registry’s shortlist of Medical Experts”, 22 June 2023, ICC-01/14-01/21-619-SECRET-exp

Source: Registry

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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Ms Sarah Pellet

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Mr Harry Tjonk

**Victims Participation and Reparations
Section**

I. Introduction

1. On 13 June 2023, Trial Chamber VI (“Chamber”) issued its “Order pursuant to rule 135 of the rules of Procedure and Evidence”(“Order”)¹ ordering “the Registry to submit to the Chamber, for its consideration, a shortlist of experts who are qualified and in a position to assess: (i) the medical condition of the accused; (ii) his prognosis; (iii) his ability to participate in the proceedings, and (iv) whether any special measures or adjustments are necessary to address any medical condition of the accused during the trial proceedings, no later than 23 June 2023”² (“Registry’s shortlist of Medical Experts”). In light of the challenges encountered in the implementation process of the Order, the Registry hereby respectfully requests an extension of the 23 June 2023 deadline for the transmission of the Registry’ shortlist of Medical Experts, pursuant to regulation 35 of the Regulations of the Court (“RoC”).
2. In support of the present request, the Registry will inform the Chamber of the action steps undertaken so far to identify potential suitable Medical Experts (1) and will provide an update on the upcoming transmission of a report from the Medical Officer of the Detention Center regarding Mr Said’s health situation (2).

II. Procedural history

3. On 12 June 2023, the Chamber ordered the Registry to file the report of the Medical Officer of the ICC Detention Center (“Medical Officer’s Report”) dated 12 June 2023 on the case record.³

¹ Trial Chamber VI, “Order pursuant to rule 135 of the Rules of Procedure and Evidence” (“13 June 2023 Decision”), 13 June 2023, ICC-01/14-01/21-616-SECRET.

² *Ibid.*, para. 7.

³ Telephone call from Trial Chamber VI to the Office of the Director of the Division of Judicial Services of the Registry, 12 June 2023.

4. On the same day, the Registry submitted its “Transmission of the Medical Officer’s Report” with the report of the Medical Officer as an annex.⁴ The Medical Officer indicated that “Mr Said has ceased to give his consent for his medical information to be disclosed to the Chamber”⁵.
5. On 13 June 2023, the Chamber considered that “[the Chamber] is no longer receiving information from the Medical Officer regarding Mr Said’s health”, and found that “a medical examination of the accused pursuant to rule 135 of the Rules of Procedure and Evidence was required”. As a result, it ordered the Registry to submit a shortlist of experts pursuant to rule 135 of the Rules of Procedure and Evidence (“RPE”).⁶

III. Classification

6. Pursuant to regulation 24*bis* of the RoC and regulation 14(d) of the Regulations of the Registry, the present submission is classified as secret confidential *ex parte* only available to the Registrar, the Detention Section and the Defence for Mr Said, since it follows the level of classification of the Chamber’s decision and it refers to sensitive information related to the health condition of the detained person. A redacted version of the submission will also be filed.

IV. Applicable law

7. For the purpose of the present submission, the Registry has considered regulation 35 of the RoC and rule 135 of the RPE.

⁴ Registry, “Registry Transmission of the Medical Officer’s Report”, 12 June 2023, ICC-01/14-01/21-615-SECRET-Exp.

⁵ 13 June 2023 Decision, para. 4.

⁶ Trial Chamber VI, “Order pursuant to rule 135 of the Rules of Procedure and Evidence”, 13 June 2023, ICC-01/14-01/21-616-SECRET, para 7.

V. Submissions

- A) Action steps taken in the context of the identification process of potential Medical Experts
8. On 13 June 2023, the Chamber ordered the Registry to submit “a shortlist of experts who are qualified and in a position to assess: (i) the medical condition of the accused; (ii) his prognosis; (iii) his ability to participate in the proceedings, and (iv) whether any special measures or adjustments are necessary to address any medical condition of the accused during the trial proceedings”.⁷
 9. To this effect, on 14 June 2023, the Registry sought the advice of the Medical Officer of the ICC Detention Center (“MO”), which was limited to indicating the type of expertise required for those potential experts, considering the specific health situation of Mr Said. In response, the MO recommended that the type of experts needed would be practitioners specialized in [REDACTED] (“areas of expertise”).
 10. On 14 June 2023, the Registry has reviewed the List of Experts before the ICC pursuant to regulation 44 of the RoC (“List of Experts”) with a view to identifying the abovementioned areas of expertise.⁸ As a result, the Registry concluded that there was no such areas of expertise currently on the List of Experts.
 11. On the same day, the Registry started to identify and contact potential experts in the said areas in order to find qualified candidates to be included to the List of Experts. To this end, the Registry sought the assistance of [REDACTED].

⁷ 13 June 2023 Decision, para. 7.

⁸ International Criminal Court, “List of Experts before the ICC as of 30 January 2023”, accessible at <https://www.icc-cpi.int/get-involved/experts>.

12. [REDACTED].

13. The Registry contacted the Center, which collaborates with experts from various field of medicine. The Center clarified the procedure to follow for the purpose of engaging with their experts: it indicated in particular that, should the ICC wish to work with the Centre, a contract or agreement would be concluded between the ICC and the Centre, then the mandate would be sent by the ICC directly through the Centre, who would then find and coordinate with the required experts. The Centre would then review and guarantee the work product before it would be provided back to the ICC. Therefore, in essence, should this option be pursued, the Centre itself would be the work product's owner as opposed to individual experts. The expertise required would therefore be provided on behalf of the Center. Notwithstanding the foregoing, the mandate of the Center and the parameters of the expertise would be defined by the Chamber.

14. While the Center is recommended by [REDACTED], and has confirmed that it has a pool of professionals in the areas of expertise sought, the Registry notes that the Chamber and the ICC would not select the individual experts but rather rely on the professional judgment of the Centre, if selected.

15. In addition, the Registry is in contact with potential experts from research hospitals and universities in Belgium and in the Netherlands. Should those professionals express their interest in being included to the List of Experts, the Registry will promptly process their application for their inclusion in the List of Expert pursuant to regulation 44 of the RoC and regulation 56 of the RoR. The Registry would accordingly transmit their names and professional qualifications to the Chamber.

16. The Registry respectfully informs the Chamber that normally the process of including experts, as individuals and/or expert organisations onto the List of Experts is one where experts are interested and apply to be part of the List of Experts. In this case, where the required experts are not already listed, the Registry identifies suitable potential experts. Once identified, the experts are contacted to check whether they are interested and available, and if so, the Registry will assess their application against the requirements for the purpose of being included in the List of Experts. Some potential experts have been identified and the Registry is in the process of making contact with them in order to assess their suitability.

17. In light of the foregoing, the Registry considers that an extension of the deadline is warranted for the proper implementation of the Order and hence good cause is shown as per regulation 35 of the RoC. Therefore, the Registry respectfully requests the Chamber to vary the time limit for the Registry's transmission of a shortlist of Experts. The Registry proposes an extension of four weeks for the whole process, and suggests at the same time to transmit to the Chamber names of suitable experts as it identifies them, and before the newly set deadline.

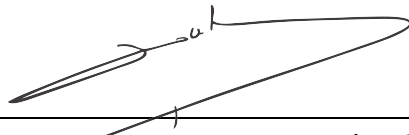
B) Information on the upcoming transmission of a period update from the MO regarding Mr Said's health

18. Following the Chamber's "Decision on the Defence Request for Reconsideration of 'Order pursuant to rule 135 of the Rules of Procedure and Evidence'"⁹ in which it "strongly encourages and expects the Registry, the Medical Officer and the Defence to work collaboratively and in good faith, in furtherance of Mr Said's best interests."¹⁰ the Registry informs the Chamber that on 21 June 2023, fruitful discussions were held between the MO, the Registry and the Defence.

⁹ Chamber, "Decision on the Defence Request for Reconsideration of 'Order pursuant to rule 135 of the Rules of Procedure and Evidence'", 16 June 2023, ICC-01/14-01/21-618-SECRET-Exp.

¹⁰ *Ibid.*, para. 8.

The participants agreed on a constructive way forward and [REDACTED].
Should a Medical Officer's Report be signed it would be transferred to the
Chamber forthwith.

A handwritten signature in black ink, appearing to be 'M. Dubuisson', written over a horizontal line.

Marc Dubuisson, Director Division of Judicial Services
on behalf of Mr Osvaldo Zavala Giler, Registrar

Dated this 5 July 2024

At The Hague, the Netherlands