

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 28 August 2024

TRIAL CHAMBER VI

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

Confidential

**Registry's Report on the Certification Procedure pursuant to Rule 68(2)(b) of the
Rules of Procedure and Evidence concerning Witness P-2386**

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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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Mr Thomas Henquet (Registry Legal
Office)

I – Introduction

1. Following Trial Chamber VI's ("Chamber") instruction,¹ the Registry hereby submits its report on how Witness P-2386's ("P-2386") identity was verified by the Witnessing Officer during the certification procedure pursuant to rule 68(2)(b) of the Rules of Procedure and Evidence ("Rules"). To this end, the Registry respectfully explains the step-by-step procedure followed by the Witnessing Officer to discharge her obligation under the rule cited above to verify P-2386's identity.

II - Classification

2. Pursuant to regulation 23 *bis*(1) of the Regulations of the Court ("RoC"), the present report is classified as "confidential" because it refers to (1) exchange of correspondences between the Prosecution and the Registry and (2) details of internal procedures between Registry officials and witnesses that are usually kept confidential.

III - Applicable law

3. Rule 68(2)(b) of the Rules is, *inter alia*, of particular relevance to the present report. Specifically, paragraph (2)(b)(iii) of this provision reads as follows:

"(iii) Accompanying declarations must be witnessed by a person authorized to witness such a declaration by the relevant Chamber or in accordance with the law and procedure of a State. The person witnessing the declaration must verify in writing the date and place of the declaration, and that the person making the declaration: *is the person identified in the prior recorded testimony [...]*" [emphasis added].

¹ Trial Chamber VI, "Decision on the Certification of Accompanying Declarations Made by Witnesses Pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence" ("Decision"), 2 August 2024, ICC-01/14-01/21-833-Red, page 20.

IV – Submissions

4. Trial Chamber VI ("Chamber" or "Single Judge" as appropriate)'s "Decision on the Prosecution's First, Second and Fourth Requests Pursuant to Rule 68(2)(b) of the Rules" ("First Decision")² allowed the introduction of P-2386's prior recorded testimony and associated material subject to the receipt of the corresponding declaration. Prior to the certification, the Office of the Prosecutor ("Prosecution") provided the Registry with a copy of P-2386's passport, in order to enable the Witnessing Officer to verify the identity of P-2386 during the certification, in line with rule 68(2)(b)(iii) of the Rules.³

5. On 16 May 2023, the Witnessing Officer conducted the certification of the prior recorded testimony pertaining to P-2386 remotely through appropriate video technology.⁴

6. On the day of the certification, the Witnessing Officer had in her possession identification information on P-2386's passport, which she could further use to fulfil the identity verification requirement, notably ensuring that the individual attending the certification process was effectively the witness whose material was to be certified.⁵

7. In particular, the Witnessing Officer first requested P-2386 to read information on the passport he had with him and to state (a) his date of birth,⁶ (b) the passport

² Trial Chamber VI, "Decision on the Prosecution's First, Second and Fourth Requests Pursuant to Rule 68(2)(b) of the Rules" ("First Decision"), 22 October 2022, ICC-0114-0121-507-Red.

³ E-mails from Prosecution Case Manager to Registry on 12 April 2023 at 12.53 and 15 May 2023 at 16.58.

⁴ Registry Transmission of the Declarations made by Witnesses P-1523, P-0529, P-0882, P-1825, P-1277, P-1427, P-1432, P-1970, P-2042, P-2295, P-2087, P-0100, P-2239, P-0966, P-2386, P-2337, and P-1424 pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence, 8 February 2024, ICC-01/14- 01/21-692-Conf, para. 19.

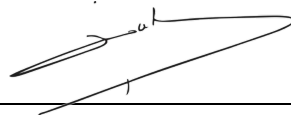
⁵ Seen on video of the certification of P-2386 of 16 May 2023, taken and stored by the Registry, at time stamp: 00:23:12:00-00:26:26:00.

⁶ *Ibid.*, at time stamp: 00:23:12:00.

number⁷, (c) the date of issuance of the passport⁸ and, (d) the date of expiration of the said passport⁹. During this procedure, the Witnessing Officer checked whether the information volunteered by P-2386 accorded with the information on the copy of the passport received from the Prosecution prior to the certification.¹⁰

8. Finally, the Witnessing Officer asked the witness to show his identification document (*i.e.* his passport) into the camera¹¹.

9. Following this, the Witnessing Officer found that information volunteered by P-2386 and information provided by the Prosecution on the witness's identity did match. The Witnessing Officer then proceeded with the remaining verifications to be carried out for the purpose of the certification procedure. Should the Chamber deem it necessary, the Registry stands ready to make the video-recording of the certification procedure available to the Chamber.



Marc Dubuisson, Director Division of Judicial Services

on behalf of

Osvaldo Zavala Giler, Registrar

Dated this 28 August 2024

The Hague, the Netherlands

⁷ *Ibid.*, at time stamp: 00:23:52:00.

⁸ *Ibid.*, at time stamp: 00:24:38:00.

⁹ *Ibid.*, at time stamp: 00:25:18:00.

¹⁰ *Ibid.*, at time stamp: 00:23:12:00-00:26:26:00.

¹¹ *Ibid.*, at time stamp: 00:25:42:00-00:26:26:00.