



Original: English

**No.: ICC-01/14-01/21
Date: 13 December 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**

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

Public

**Decision on the Duplicates Contained in the Prosecution's Applications for
Submission of Documents from the Bar Table**

Decision 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 Ms Holo Makwaia	Counsel for the Defence Ms Jennifer Naouri Mr Dov Jacobs
Legal Representatives of Victims Ms Sarah Pellet	Legal Representatives of Applicants
Unrepresented Victims	Unrepresented Applicants for Participation/Reparations
The Office of Public Counsel for Victims	The Office of Public Counsel for the Defence
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

TRIAL CHAMBER VI of the International Criminal Court, in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 64, 67(1), 69 and 74(2) of the Rome Statute (the ‘Statute’), rules 63, 64, 68, and 77 of the Rules of Procedure and Evidence (the ‘Rules’), issues this Decision on the Duplicates Contained in the Prosecution’s Applications for Submission of Documents from the Bar Table.

I. PROCEDURAL HISTORY

1. On 14 April 2022,¹ 25 April 2022,² 26 April 2022,³ 17 May 2022,⁴ 20 May 2022,⁵ 23 May 2022⁶ the Office of the Prosecutor (the ‘Prosecution’) submitted applications to submit evidence from the bar table, pertaining to 674 items.

¹ Public Redacted Version of “Prosecution’s First Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)”, 21 April 2022, [ICC-01/14-01/21-279-Red](#). The Defence responded to the First Application on 29 April 2022: Version publique expurgée du « Corrigendum de la « Réponse de la Défense à la « Prosecution’s First Application for Submission of Documents from the Bar Table Pursuant to Article 64(9) » (ICC-01/14-01/21-279-Conf) déposée le 14 avril 2022 », 9 May 2022, [ICC-01/14-01/21-292-Corr-Red](#).

² Public Redacted Version of “Prosecution’s Second Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)”, 26 April 2022, [ICC-01/14-01/21-285-Red](#). The Defence responded to the Second Application on 6 May 2022. Version publique expurgée de la « Réponse de la Défense à la « Prosecution’s Second Application for Submission of Documents from the Bar Table Pursuant to Article 64(9) » (ICC-01/14-01/21-285-Conf) déposée le 25 avril 2022 » 16 May 2022, [ICC-01/14-01/21-299-Red](#). The Common Legal Representative of Victims also responded on 6 May 2022 Public Redacted Version of “Victims’ response to the ‘Prosecution’s Second Application for Submission of Documents from the Bar Table pursuant to Article 64(9)’ (ICC-01/14-01/21-285-Conf)”, [ICC-01/14-01/21-298-Red](#).

³ Public Redacted Version of “Prosecution’s Third Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)”, 15 May 2022, [ICC-01/14-01/21-286-Red](#). The Defence responded to the Third Application on 6 May 2022. Version publique expurgée de la « Réponse de la Défense à la « Prosecution’s Third Application for Submission of Documents from the Bar Table Pursuant to Article 64(9) » (ICC-01/14-01/21-286-Conf) déposée le 26 avril 2022 », 16 May 2022, [ICC-01/14-01/21-301-Red](#).

⁴ Public Redacted Version of “Prosecution’s Fourth Application for Submission of Documents from the bar Table Pursuant to Article 64(9)”, 2 June 2022, [ICC-01/14-01/21-312-Red](#). The Defence responded to the Fourth Application on 27 May 2022. Version publique expurgée de la « Réponse de la Défense à la ‘Prosecution’s Fourth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)’ (ICC-01/14-01/21-312-Conf) déposée le 17 mai 2022 », 6 June 2022, [ICC-01/14-01/21-332-Red](#).

⁵ Public Redacted Version of “Prosecution’s Fifth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)”, 27 May 2022, [ICC-01/14-01/21-321-Red](#). The Defence responded to the Fifth Application on 2 June 2022. Version publique expurgée de la « Réponse de la Défense à la ‘Prosecution’s Fifth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)’ », 8 June 2022, [ICC-01/14-01/21-342-Red](#).

⁶ Public Redacted Version of “Prosecution’s Sixth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)”, 30 May 2022, [ICC-01/14-01/21-325-Red](#). The Defence responded

2. On 13 February 2024 the Chamber issued a decision on the Prosecution's bar table motions (the 'Decision').⁷ In the Decision, the Chamber noted that the Prosecution had included a number of duplicates in several of its bar table motion and instructed the Prosecution to inform the Chamber which of the duplicates it wished to formally submit or to provide an explanation as to why more than one version of the same item should be submitted into the case record.⁸
3. On 15 November 2024, the Prosecution submitted a filing in which it indicated which items from among the list of duplicates it wants to be formally submitted (the 'Prosecution's Submissions').⁹
4. On 28 November 2024, the Defence responded to the Prosecution's Submissions (the 'Defence's Submissions').¹⁰

II. ANALYSIS

5. As noted in the Decision, the Chamber expected the Prosecution to explain why more than one version of the same item should be submitted. The Chamber has considered the Prosecution's submissions to determine if a cogent explanation has been provided.
6. Regarding the Defence's Submissions, the Chamber notes that they raise different types of issues. In particular, the Defence argues that (i) certain items - or their duplicate(s) - have already been submitted; (ii) the Prosecution should have submitted certain items through particular witnesses; (iii) the Prosecution has

to the Sixth Application on 13 June 2022. Version publique expurgée de la « Réponse de la Défense à la 'Prosecution's Sixth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)' » (ICC-01/14-01/21-325-Conf) déposée le 23 mai 2022 », 27 June 2022, [ICC-01/14-01/21-360-Red](#).

⁷ Decision on the Prosecution's Applications for Submissions of Documents from the Bar Table, 13 February 2024, [ICC-01/14-01/21-694](#).

⁸ Decision, ICC-01/14-01/21-694, paras 52-57.

⁹ Public redacted version of "Prosecution's Application for Submission of Duplicated Documents from the Bar Table pursuant to Article 64(9)", ICC-01/14-01/21-894-Conf, dated 15 November 2024, 20 November 2024, [ICC-01/14-01/21-894-Red](#) with Confidential Annex A. A confidential version was filed on 15 November 2024 (ICC-01/14-01/21-894-Conf).

¹⁰ Public redacted version of Réponse de la Défense à la « Prosecution's Application for Submission of Duplicated Documents from the Bar Table pursuant to Article 64(9) » (ICC-01/14-01/21-894-Conf), 4 December 2024, [ICC-01/14-01/21-901-Red](#) A confidential version was filed on 28 November 2024, ICC-01/14-01/21-901-Conf).

failed to establish relevance and/or authenticity of certain items. With regard to the latter two arguments, the Chamber finds that they go beyond the scope of the present decision, which is limited to ascertaining whether there is a justification for submitting more than one version of the same item. To the extent that the Defence is attempting to re-litigate questions that were already raised when the Chamber considered the Prosecution's bar table motions, the Chamber considers them moot. To the extent that the Defence's arguments pertain to the relevance and/or probative value of the items, the Chamber has already repeatedly explained that it will only consider this at the end of the trial, when it will evaluate all the evidence that has been submitted.¹¹ In doing so, it will take into consideration the arguments advanced in the Defence's Submissions.

A. Items Already Formally Submitted

7. As a preliminary matter, the Chamber notes that the Prosecution does not seem to have verified whether any of the items listed by the Chamber in Annex B of the Decision were recognised as formally submitted since the Decision was issued. In particular:
 - CAR-OTP-2004-1926 was submitted through P-2240 and formally recognised as submitted in the Chamber's email decision of 2 December 2022 at 14:36. Since both CAR-OTP-2034-2768 and CAR-OTP-2005-0324 are duplicates of the same decree, there is no reason to submit two more versions in addition to CAR-OTP-2004-1926.
 - CAR-OTP-2005-0380 was submitted through P-0291 and formally recognised as submitted in the Chamber's email decision of 27 May 2024 at 11:02. It is thus not necessary to also submit CAR-OTP-2075-0892.
 - CAR-OTP-2005-0368 was submitted through P-2240 and formally recognised as submitted in the Chamber's email decision of 2

¹¹ Decision, [ICC-01/14-01/21-694](#), para. 38.

December 2022 at 14:36. It is thus not necessary to also submit CAR-OTP-2064-0256.

- CAR-OTP-2027-1822 was submitted through P-3114, during the hearing of 16 September 2024, transcript T-110, pages 40 and 49.

B. Duplicates which the Prosecution does not wish to submit

8. For a number of duplicates, the Prosecution has acknowledged there is no need to have both versions submitted into the record of the case. In particular, the Prosecution no longer asks the following items to be submitted:

CAR-OTP-2005-0324	CAR-OTP-2130-3504
CAR-OTP-2034-2673	CAR-OTP-2130-3638
CAR-OTP-2034-2678	CAR-OTP-2124-0895
CAR-OTP-2034-2680	CAR-OTP-2126-2638
CAR-OTP-2034-2682	CAR-OTP-2130-3498
CAR-OTP-2034-3081	CAR-OTP-2124-0890
CAR-OTP-2124-0788	CAR-OTP-2124-0891
CAR-OTP-2124-0823	CAR-OTP-2124-0892
CAR-OTP-2124-0842	CAR-OTP-2124-0899
CAR-OTP-2126-2627	CAR-OTP-2124-0901
CAR-OTP-2130-3373	CAR-OTP-2002-2105

9. The Chamber takes note of the fact that the Prosecution no longer seeks to submit these items and sees no reason to disagree with the Prosecution. These items will thus not be recognised as formally submitted.

C. Items of which the Prosecution wishes to submit more than one version

10. For a number of items, the Prosecution has provided an explanation as to why more than one version should be submitted into the record. In some cases, two versions contain mostly the same information but with some minor differences. The Prosecution avers that these differences imply that each version contains unique information not found in the other. In other cases, the items are identical, but they were attached to different email chains. In such instances, the Prosecution wishes to submit all versions to ensure the record is complete.

11. Without taking any position on the probative value of these items, the Chamber understands the need to ensure the completeness of the record. It therefore approves the formal submission of some duplicates (listed below).
12. However, the Chamber rejects the Prosecution's request to submit both CAR-OTP-2124-0726 and CAR-OTP-2124-0806. The Prosecution argues that submitting both versions is necessary because they are attached to different 'family group' documents.¹² However, the Chamber notes that the Prosecution only wishes to submit one of the 'parent' files, namely CAR-OTP-2124-0805.¹³ Given that CAR-OTP-2124-0805 and CAR-OTP-2124-0725 contain the same 'parent file' i.e. the same email, with the former adding information indicating that the message was forwarded to an unknown recipient, the Chamber sees no need for both versions of the parent item to be submitted and therefore also no need to submit the attachment. Accordingly, the Chamber rejects the submission of CAR-OTP-2124-0726.
13. The Chamber also rejects the Prosecution's request to submit both CAR-OTP-2124-0903 and CAR-OTP-2130-3385. The Prosecution argues that the latter contains 'exclusive information not found in the other documents' (i.e. CAR-OTP-2124-0901 and CAR-OTP-2124-0903),¹⁴ but the Chamber is unable to discern any difference in terms of content, other than the timing of the message, which is one hour different between the two versions. There is no indication that the two versions are not the same message. The Prosecution has not stated which differences it has identified or why these differences may be relevant to this case. Under these circumstances, the Chamber rejects the request to submit CAR-OTP-2130-3385.

¹² Prosecution's Submissions, [ICC-01/14-01/21-894-Red](#), para. 24.

¹³ Prosecution's Submissions, [ICC-01/14-01/21-894-Red](#), para. 11.

¹⁴ Prosecution's Submissions, [ICC-01/14-01/21-894-Red](#), para. 34.

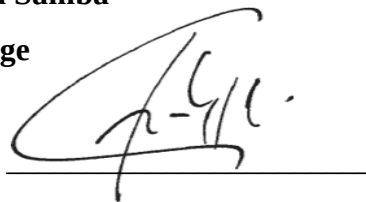
FOR THESE REASONS, THE CHAMBER HEREBY**RECOGNISES** the formal submission of:

CAR-OTP-2034-2242	CAR-OTP-2126-2628	CAR-OTP-2126-2703
CAR-OTP-2034-2243	CAR-OTP-2126-2630	CAR-OTP-2126-2719
CAR-OTP-2034-2244	CAR-OTP-2126-2633	CAR-OTP-2126-2723
CAR-OTP-2034-2348	CAR-OTP-2126-2635	CAR-OTP-2130-3376
CAR-OTP-2034-2822	CAR-OTP-2126-2637	CAR-OTP-2130-3379
CAR-OTP-2124-0785	CAR-OTP-2126-2639	CAR-OTP-2130-3383
CAR-OTP-2124-0789	CAR-OTP-2126-2640	CAR-OTP-2130-3490
CAR-OTP-2124-0805	CAR-OTP-2126-2641	CAR-OTP-2130-3491
CAR-OTP-2124-0806	CAR-OTP-2126-2643	CAR-OTP-2130-3493
CAR-OTP-2124-0844	CAR-OTP-2126-2644	CAR-OTP-2130-3501
CAR-OTP-2124-0896	CAR-OTP-2126-2645	CAR-OTP-2130-3560
CAR-OTP-2124-0903	CAR-OTP-2126-2647	CAR-OTP-2130-3639
CAR-OTP-2126-2619	CAR-OTP-2126-2651	CAR-OTP-2130-3641
CAR-OTP-2126-2626	CAR-OTP-2126-2698	CAR-OTP-2130-3667

INSTRUCTS the Registry to mark these items as formally submitted.

Done in both English and French, the English version being authoritative.


Judge Miatta Maria Samba**Presiding Judge**

Judge María del Socorro Flores Liera

Judge Sergio Gerardo Ugalde Godínez

Dated 13 December 2024

At The Hague, The Netherlands