

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 20 March 2025

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

Public

Order on Disclosure Disputes

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☒ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ 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, 68 and 69 of the Rome Statute (the ‘Statute’), rules 76, 77, 81 and 83 of the Rules of Procedure and Evidence (the ‘Rules’), regulations 34(a) and 35 of the Regulations of the Court (the ‘Regulations’) issues this ‘Order on Disclosure Disputes’.

I. PROCEDURAL HISTORY

1. On 8 October 2024, the Chamber issued the Third Directions on the Conduct of Proceedings (the ‘Third Directions’)¹ in which it, *inter alia*, instructed the Defence to provide a preliminary list of witnesses no later than 17 January 2025 and to submit the Final List of Witnesses and Evidence no later than 21 February 2025.²

2. On 17 January 2025, the Defence provided a preliminary list of seven witnesses, and informed the Chamber that it was facing a number of challenges in finalising its List of Witnesses, including the fact that there were a number of ongoing disclosure disputes with the Prosecution (the ‘Notification’).³

3. On 24 January 2025, the Chamber ordered the parties to resolve any disputes regarding disclosure or lifting of redactions, or seize the Chamber no later than Thursday 30 January 2025 of any remaining disagreements concerning the disclosure of additional material and/or lifting of redactions (the ‘Order’).⁴

¹ Third Directions on the Conduct of Proceedings, 8 October 2024, [ICC-01/14-01/21-873](#).

² Third Directions, [ICC-01/14-01/21-873](#), para. 13-16.

³ Version publique expurgée de la « Notification de la Défense conformément à la « Third Directions on the Conduct of Proceedings » (ICC-01/14-01/21-873) rendue par la Chambre de première instance VI le 8 octobre 2024. », filed 17 January 2025 (ICC-01/14-01/21-908-Conf), 3 February 2025, [ICC-01/14-01/21-908-Red](#).

⁴ Order in relation to the Defence Notification of its Preliminary List of Witnesses, 24 January 2025, [ICC-01/14-01/21-909](#).

4. On 30 January 2025, the Defence submitted a consolidated request for the disclosure of certain items of evidence as well as for the lifting of a number of redactions (the ‘Consolidated Request’).⁵

5. On 7 February 2025, the Prosecution submitted its response to the Consolidated Request (the ‘Response’).⁶

6. On 26 February 2025, the Chamber issued its decision with respect to the Consolidated Request, granting the Defence Request in part and ordering the Prosecution to disclose the requested items and lift the remaining redactions, unless it can provide a clear and sufficiently detailed justification for its refusal (the ‘Decision’).⁷

7. On 27 February 2025, 5 and 17 March 2025, the Prosecution filed notices of disclosure containing, among others, part of the documents requested by the Defence (the ‘Notices of Disclosure’).⁸

8. On 4 March 2024, the Prosecution informed the Chamber via email of its intention to maintain redactions in certain documents related to five witnesses and offered a justification for non-disclosure (the ‘Prosecution’s Justifications’).⁹

⁵ Version publique expurgée de la « Demande consolidée de la Défense visant à obtenir la divulgation d’éléments nécessaires à la préparation de la Défense conformément à la Règle 77 du Règlement de procédure et de preuve et visant à obtenir la levée d’un certain nombre d’expurgations », filed 30 January 2025 (ICC-01/14-01/21-913-Conf), 5 February 2025, [ICC-01/14-01/21-913-Red](#), with 38 confidential annexes.

⁶ Prosecution Response to Defence Consolidated Request ‘Demande consolidée de la Défense visant à obtenir la divulgation d’éléments nécessaires à la préparation de la Défense conformément à la Règle 77 du Règlement de procédure et de preuve et visant à obtenir la levée d’un certain nombre d’expurgations’ (ICC-01/14-01/21-913-Conf), 7 February 2025, [ICC-01/14-01/21-914](#).

⁷ Decision on Disclosure Disputes, 25 February 2025, [ICC-01/14-01/21-925](#).

⁸ Prosecution Communication of the Disclosure of Evidence on 21 and 25 February 2025, 26 February 2025, [ICC-01/14-01/21-927](#); Prosecution Communication of the Disclosure of Evidence on 04 March 2025, 5 March 2025, [ICC-01/14-01/21-934](#); Prosecution Communication of the Disclosure of Evidence on 10 March 2025, 17 March 2025, ICC-01/14-01/21-939 (with confidential annex).

⁹ Email from the Prosecution to the Chamber, 4 March 2025, 16:20.

II. ANALYSIS

9. First, in relation to the Prosecution's Justifications, the Chamber has noted the justifications given by the Prosecution for maintaining the redactions in the following items:

CAR-OTP-00025569	CAR-OTP-2130-4729	CAR-OTP-00000017
CAR-OTP-2050-0191	CAR-OTP-2102-0105	CAR-OTP-00001620
CAR-OTP-2104-0918	CAR-OTP-2041-0741	

10. The Chamber further notes that the Defence has not objected to or made any other observations in relation to the Prosecution's Justifications. Under these circumstances, the Chamber authorises the maintenance of the redactions in the abovementioned documents.

11. As regards the remainder of the outstanding disclosure disputes, the Chamber has consulted the Notices of Disclosure and e-Court, and concludes that the Prosecution has not fully complied with its obligations as per the Decision. Indeed, it appears that the majority of the items requested by the Defence have not been disclosed yet and that a large number of contested redactions have not been lifted, despite the Prosecution not providing a justification for their maintenance.

12. The Chamber must therefore conclude that the Prosecution has failed to comply with the deadline imposed in the Decision to either disclose the requested items and lift the remaining redactions or provide a clear and sufficiently detailed justification for its refusal to do so. The Chamber also notes that the Prosecution did not make a request for variation of time limit pursuant to regulation 35 of the Regulations.

13. In the absence of any justification provided by the Prosecution, the Prosecution must forthwith disclose all remaining items and lift all remaining disputed redactions. This is without prejudice to the Prosecution's ongoing obligations pursuant to article 68(1) of the Statute.

FOR THESE REASONS, THE CHAMBER HEREBY

ORDERS the Prosecution to disclose the remaining items and lift the remaining redactions identified in the Consolidated Request by no later than 27 March 2025.



Judge Miatta Maria Samba
Presiding Judge



Judge María del Socorro Flores Liera



Judge Sergio Gerardo Ugalde Godínez

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

Dated 20 March 2025

At The Hague, The Netherlands