

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 25 March 2025

TRIAL CHAMBER VI

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

Public
with Confidential Annexes A, B, C and D

Prosecution clarifications on the Chamber's order on disclosure disputes (ICC-01/14-01/21-944)

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**

☒ **Counsel for the Defence**
SAID Defence Team

☒ **Legal Representatives of the Victims**
Legal Representative of Victims - OPCV

☐ **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**

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) respectfully submits that it has complied with the Chamber’s “Decision on Disclosure Disputes” of 25 February 2025,¹ and disclosed **162 of 166 requested items** (ANNEX A), which consist of the majority of the requested items by the Defence subject of the Decision. From this request, only four items are yet to be disclosed: a statement with lesser redactions of P-2087,² one Pre-Registration Form³; and two items⁴ pertaining to P-1077.

II. BACKGROUND

2. In December 2024, the Defence sent the Prosecution via email, several requests for additional disclosures in relation to 20 trial witnesses.
3. On 23 January 2025, the Prosecution sent via e-mail a Consolidated Response to the Defence on the above requests.
4. On 30 January 2025, the Defence maintained its requests regarding 26 items⁵ in its Consolidated Request.⁶
5. On 7 February 2025, the Prosecution responded to the Defence, agreeing partly to the requests and providing justifications for the non-disclosure of the remainder.⁷
6. On 25 February 2025, the Chamber issued its decision with respect to the Consolidated Request (“Decision”), granting the Defence Request in part and

¹ ICC-01/14-01/21-925.

² CAR-OTP-2130-2320.

³ CAR-OTP-2135-0933.

⁴ P-1077’s prior statement comprising 13 Article 55(2) transcripts and identity card.

⁵ The 26 items are listed in Annexes 7 and 38 of the Defence Consolidated Request (ICC-01/14-01/21-913-Conf).

⁶ *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.

⁷ 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.

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.⁸

III. CONFIDENTIALITY

7. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this document is filed public, whereas the annexes appended to this submission are classified confidential since they contain confidential information. Public redacted versions shall be filed as soon as practicable.

IV. CLARIFICATIONS

(i). The Prosecution complied with the Decision within the set deadline

8. The Prosecution respectfully submits that it complied with the Decision within the set deadline, and further clarifies that:
 - (a) On 4 March 2025, the Prosecution informed the Chamber by e-mail that it was in the process of disclosing the disputed material and lifting redactions as ordered by the Chamber except for the redactions maintained in eight items related to Witnesses P-1432, P-2239, P-1339, P-2269 and P-1424 (ANNEX B);
 - (b) In the same e-mail of 4 March 2025, the Prosecution provided justifications to the Chamber for maintaining redactions of the eight items listed at paragraph 8(a) above; and

⁸ ICC-01/14-01/21-925.

(c) On 4 and 10 March 2025, the Prosecution notified the Chamber that it had disclosed the remaining 162 items in Trial INCRIM package 181 and Trial Rule 77 packages 140 and 141.⁹

(ii) Oversight to disclose four requested items

9. The Prosecution omitted inadvertently to disclose two items,¹⁰ despite agreeing to disclose and informing the Defence by email on 4 March 2024 (ANNEX C). Similarly, two items related to Witness P-1077¹¹ were inadvertently not disclosed. The Prosecution has disclosed these items on 25 March 2025.

(iii) Items subject to authorisation from Trial Chamber V

10. In compliance with the Decision, the majority of requested material for P-2232 was disclosed to the Defence on 4 March 2025, in Trial Rule 77 package 140. On 21 March 2025, the Prosecution sought authorisation to disclose the remaining confidential transcripts from Trial Chamber V in the *Yekatom and Ngaissona* case, with respect to the court transcripts of P-1077, P-0446 and P-2012. Disclosure shall be effected once Trial Chamber V authorises the Prosecution to do so.

(iv) Matters not part of the Consolidated Request

11. On 12 December 2024, the Defence requested disclosure of expert reports prepared by P-3112 with respect to Camp de Roux, Colline des Panthères the Presidential Palace, the banks of the Oubangui River and the Section de Recherches et d'Investigations (SRI), and items related to the police technical and scientific

⁹ 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).

¹⁰ CAR-OTP-2130-2320 (P-2087 translation of statement already disclosed on 25 March 2025) and CAR-OTP-2135-0933 (PRF). CAR-OTP-2135-0933, formed part of ten PRFs requested by the Defence, nine of which were disclosed whereas CAR-OTP-2135-0933 was not tagged for disclosure through oversight.

¹¹ P-1077 prior statement and identity card.

examinations carried out at these places as well as the Pre-Registration Forms where all items seized at the OCRB were recorded.

12. On 23 January 2025, the Prosecution, responded informing the Defence that, it was already in possession of the relevant expert reports underpinning the Prosecution's case in the trial of Mahamat Said Abdel Kani. Further, the Defence was reminded that it had conducted an inspection of the collected material on 2 October 2024 upon the Prosecution's invitation. The Defence did not reiterate its request for disclosure of these material in its Consolidated Request of 30 January 2025 and therefore the Prosecution did not address this request in its response to the Chamber of 4 March 2025.
13. On 20 March 2025, the Defence reiterated its request regarding the above expert reports of P-3112 through email, to which the Prosecution maintains non-disclosure on the same grounds (ANNEX D).

V. CONCLUSION

14. For all these reasons and as shown in ANNEX A, the Prosecution respectfully submits that it has disclosed and lifted redactions for 162 of 166 requested items, forming the majority of items requested by the Defence in compliance with the Decision.



Karim A. A. Khan KC, Prosecutor

Dated this 25th day of March 2025

At The Hague, The Netherlands