

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 1 April 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 Redacted Version of

**Decision on the Defence's Request for Additional Time to Complete Its
Investigation**

Decision 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 (the ‘Chamber’), in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 64(2) and 67(1)(b) of the Statute and regulation 35 of the Regulations of the Court (the ‘Regulations’) issues this ‘Decision on the Defence’s Request for Additional Time to Complete Its Investigation’.

I. PROCEDURAL HISTORY

1. On 9 March 2022, the Chamber issued the Directions on the Conduct of Proceedings (the ‘Directions on the Conduct of Proceedings’), in which it regulated the process of submitting evidence other than through a witness (via the ‘bar table’).¹
2. On 8 October 2024, the Chamber issued the ‘Third Directions on the Conduct of proceedings’.² Therein, the Chamber ordered the Defence to file any applications for the submission of evidence via the bar table no later than one week after the last Defence witness has finished testifying.³
3. On 15 November 2024, the Prosecution formally closed the presentation of its evidence.⁴
4. On 12 December 2024, the Defence notified the Chamber that it would present a case subject to the progress of collecting evidence, including witness testimony.⁵
5. On 17 January 2025, the Defence provided a preliminary list of seven witnesses.⁴ The Defence also explained that it was facing difficulties in finding witnesses who were prepared to testify and that it was still in consultation with the Prosecution about additional disclosure and the lifting of redactions.

¹ Directions on the Conduct of Proceedings, 22 March 2022, [ICC-01/14-01/21-251](#), paras 45-6.

² Third Directions on the Conduct of Proceedings, 8 October 2024, [ICC-01/14-01/21-873](#).

³ Third Directions on the Conduct of Proceedings, 8 October 2024, [ICC-01/14-01/21-873](#), paras 19.

⁴ 3 Notification of the Conclusion of the Prosecution’s Presentation of Evidence, 15 November 2024, [ICC-01/14-01/21-895](#).

⁵ Notification de la Défense conformément au paragraphe 12 de 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, 12 December 2024, [ICC-01/14-01/21-904](#), para. 4.

6. On 30 January 2025, at the Chamber's invitation, the Defence filed observations on the progress of its investigation since the start of the trial and informed the Chamber of the current situation regarding the finalisation of its list of witnesses.⁶

7. On 17 February 2025, the Defence filed a request pursuant to regulation 35 of the Regulations for an extension of time to conclude its ongoing investigations.⁷ In this request, the Defence informed the Chamber that it had requested the assistance of the Central African Republic through the good offices of the Registry. However, because the Central African authorities required a formal order by the Court, the Defence asked the Chamber to intervene.

8. On 21 February 2025, the Defence filed its List of Evidence and List of Witnesses.⁸

9. On the same date, the Chamber issued its Decision on the Defence's Request for an Extension of Time to File its Final List of Witnesses, List of Evidence and Complete Disclosure, in which it authorised the Defence to update its List of Witnesses and List of Evidence by 21 March 2025.⁹ The Chamber also denied the Defence's request for an order to the Central African authorities and ordered it to file a renewed request for cooperation in accordance with the requirements of specificity, relevance, and necessity.¹⁰

10. On 25 February 2025, the Defence filed a revised request for cooperation (the 'Revised Request').¹¹

⁶ Observations de la Défense conformément à l'ordonnance rendue par la Chambre le 24 janvier 2025 (ICC-01/14-01/21-909). ICC-01/14-01/21-912-Conf-Exp, 3 February 2025, [ICC-01/14-01/21-912-Red](#).

⁷ Demande d'extension de délais ciblée pour terminer des actes d'enquêtes en cours conformément à la Norme 35 du Règlement de la Cour, 17 February 2025 (ICC-01/14-01/21-917-Conf-Exp), 24 March 2025, [ICC-01/14-01/21-917-Red](#).

⁸ Notification de la liste de témoins et de la liste des éléments de preuve 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, 21 February 2025, [ICC-01/14-01/21-921](#).

⁹ Decision on the Defence's Request for an Extension of Time to File its Final List of Witnesses, List of Evidence and Complete Disclosure, 21 February 2025, ICC-01/14-01/21-920-Conf-Exp, [ICC-01/14-01/21-920-Red](#).

¹⁰ Decision on the Defence's Request for an Extension of Time to File its Final List of Witnesses, List of Evidence and Complete Disclosure, 21 February 2025, [ICC-01/14-01/21-920-Red](#)v, paras 28-30.

¹¹ Demande visant à obtenir la coopération de [REDACTED] avec l'équipe de Défense de Monsieur Said, 25 February 2025, ICC-01/14-01/21-926-Conf-Exp (a public redacted version was filed on 26 February 2025, [ICC-01/14-01/21-926-Red](#)).

11. On 5 March 2025, the Chamber filed the Fourth Directions on the Conduct of Proceedings, instructing the Defence to file any application for the submission of evidence other than through a witness one week after the first block of witness(es) and to make further requests to file additional evidence as soon as feasible.¹²

12. On 7 March 2025, the Defence informed the Chamber of the progress in its efforts to obtain the cooperation with the [REDACTED] authorities to interview four [REDACTED] officials and appended a protocol regulating the interviewing of [REDACTED] officials (the ‘Protocol’).¹³

13. On 12 March 2025, the Defence filed a request for an extension of time to file its bar table motion by 17 April 2025.¹⁴ The Prosecution did not oppose the Request but did solicit that reasonable time frames be set, which would provide it with ample time for the review of evidence on a rolling basis.

14. On 13 March 2025, the Chamber partially granted the Revised Request and instructed the Registry to prepare and transmit forthwith, in consultation with the Defence the necessary request for assistance to the relevant authorities of the Central African Republic.¹⁵ As far as the Chamber knows, the execution of this request is still pending.

15. On 17 March 2025, the Defence called one witness, who finished testifying that day. Accordingly, the Defence would have had to file its bar table motion(s) by no later than 25 March 2025.

16. On 20 March 2025, the Chamber issued its Decision on the Defence’s Request for an Extension of Time to File Requests to Submit Evidence other than through a

¹² Fourth Directions on the Conduct of Proceedings, 5 March 2025, [ICC-01/14-01/21-932](#), para. 17.

¹³ Email from the Defence to Trial Chamber VI, dated 7 March 2025 at 14:46.

¹⁴ Version publique expurgée de la « Demande de prorogation de délai conformément à la Norme 35 du Règlement de la Cour pour déposer la requête Bar Table de la Défense » (ICC-01/14-01/21-936-Conf-Exp), 12 March 2025, [ICC-01/14-01/21-936-Red](#).

¹⁵ Decision on a Request for Cooperation by the Defence, 13 March 2025, [ICC-01/14-01/21-937-Red-tFRA](#), p. 10.

Witness, in which it authorised the Defence to file any bar table motions by 17 April 2025.¹⁶

17. On the same date, the Chamber ordered the Prosecution to disclose to the Defence all of the remaining items and lift all remaining redactions by 27 March 2025.¹⁷

18. On 21 March 2025, the Defence filed its updated List of Witnesses and List of Evidence and informed the Chamber of the progress made in relation to a number of investigatory avenues it was pursuing and asked for additional time to complete its investigation (the ‘Request’).¹⁸

19. On the same date, the Defence requested the Chamber to issue a request for cooperation to the [REDACTED] authorities on its behalf (the ‘Cooperation Request’).¹⁹

20. On 25 March 2025, the Prosecution²⁰ and the Common Legal Representative of Victims both indicated that they did not wish to respond to the Request or the Cooperation Request.

21. On the same date, the Prosecution informed the Chamber that it had disclosed and lifted redactions of all but four items requested by the Defence.²¹

II. ANALYSIS

22. In the Request, the Defence asked the Chamber for:

¹⁶ Decision on the Defence’s Request for an Extension of Time to File Requests to Submit Evidence other than through a Witness, 20 March 2025, [ICC-01/14-01/21-942](#).

¹⁷ Order on Disclosure Disputes, 20 March 2025, [ICC-01/14-01/21-944](#).

¹⁸ Soumissions de la Défense conformément à la « Decision on the Defence’s Request for an Extension of Time to File its Final List of Witnesses, List of Evidence and Complete Disclosure » (ICC-01/14-01/21-920-Conf-Exp) rendue par la Chambre de première instance VI le 21 février 2025 (ICC-01/14-01/21-948-Conf-Exp), 26 March 2025, [ICC-01/14-01/21-948-Red](#), with two confidential annexes.

¹⁹ Version confidentielle expurgée de la « Demande visant à obtenir la coopération des Autorités [REDACTED] sur une demande pendante concernant l’obtention de télégrammes diplomatiques additionnels et d’éléments précis sur la base de télégrammes diplomatiques déjà communiqués » (ICC-01/14-01/21-949-Conf-Red). An *ex parte* version was filed simultaneously (ICC-01/14-01/21-949-Conf-Exp). A public redacted version was filed on 28 March 2025 (ICC-01/14-01/21-949-Red).

²⁰ Email by Prosecution to Trial Chamber VI dated 25 March 2025 at 10:58; Email from Common Legal Representative to Trial Chamber VI dated 25 March 2025 at 10:15.

²¹ Prosecution clarifications on the Chamber’s order on disclosure disputes (ICC-01/14-01/21-944), 25 March 2025, [ICC-01/14-01/21-950](#).

- a. One more month to accomplish the first phase of the Protocol for the interviewing of [REDACTED] officials.
- b. Two more weeks to submit items related to a witness residing in the United States.
- c. The time required to add (i) items of evidence still to be disclosed by the Prosecution; (ii) items obtained from the [REDACTED] authorities; and (iii) items obtained from the Central African authorities.²²

23. Regulation 35(2) of the Regulations of the Court provides that the Chamber may extend a time limit if good cause is shown.

24. The Chamber has considered the current state of progress of all outstanding issues. Although progress on all fronts seems still possible, the Chamber is concerned about the uncertainty of whether and, if so, when the Defence will obtain the information it is still waiting for. It is also uncertain whether any newly obtained material will prove relevant for the preparation of Mr Said's defence.

25. In principle, the Defence investigation should already have been finalised by now. Although the Chamber wants to avoid imposing arbitrary deadlines if there is a realistic chance that important information can still be obtained, it will not postpone deadlines indefinitely. The Chamber understands that the Defence has minimal control over the speed with which several of its interlocutors respond to its requests.

26. At the same time, it is also the case that the Defence has had several years to conduct its investigation, including one full year during which there were no hearings due to Mr Said's medical situation. The Chamber is cognisant of the fact that the Prosecution only finalised the presentation of its evidence on 15 November 2024. However, the Chamber is not persuaded that the Defence had to wait until the end of the Prosecution case to be in a position to usefully investigate most of the topics that are the subject of the pending cooperation requests. In this regard, the Chamber recalls that it encouraged the Defence, over three years ago, to begin its investigative work without delay, highlighting that, at that time, the Defence was already in possession of

²² Request, [ICC-01/14-01/21-948-Red](#), p. 8.

the core of the Prosecution's evidence and was therefore in a position to begin preparing its main investigative steps.²³

27. The above notwithstanding, the Chamber is prepared to grant one more extension. After this, the Chamber will only consider exceptions in relation to specific items of evidence or witnesses that are demonstrably material to central issues in this case and only if the Defence can show that there is a realistic prospect that they can be obtained within a short timeframe.

28. If the Defence considers asking the Chamber to summons any witnesses to testify, it must make such request as soon as possible.

²³ Decision Setting the Commencement Date of the Trial and Related Deadlines, 21 February 2022, [ICC-01/14-01/21-243](#), para. 19.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request; and

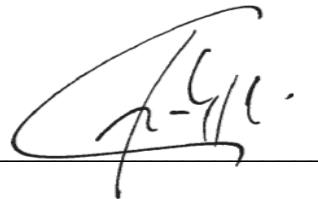
SETS 2 May 2025 as the deadline for (i) adding new items of evidence obtained as a result from any of the pending requests mentioned in paragraph 22 above to the Defence List of Evidence; (ii) filing requests to introduce such evidence other than through a witness; (iii) adding additional witnesses to the Defence List of Witnesses; and (iv) filing requests to introduce the prior recorded testimony pursuant to rule 68 of the Rules.



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 1 April 2025

At The Hague, The Netherlands