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

Date: **14 April 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

Public redacted version of “Prosecution’s submissions in support of maintaining the current regime of contact restrictions for Mahamat Said Abdel Kani”, ICC-01/14-01/21-898-Conf, dated 21 November 2024

Source: Office of the Prosecutor

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I. INTRODUCTION

1. Pursuant to Trial Chamber VI 's ("Chamber") email dated 18 November 2024, the Office of the Prosecutor ("Prosecution") provides its submissions in favour of maintaining the current regime of contact restrictions for Mahamat Said Abdel Kani ("Mr SAID"). The Prosecution notes that its submissions are limited in scope, since it does not have access to redacted material in the Defence submissions¹ or in the "Fourth Registry Report on the Implementation of the Restrictions on Contact Ordered by Trial Chamber VI" ("Fourth Registry Report").²

2. Pursuant to regulation 101(2)(b) and (c) of the Regulations of the Court ("Regulations"), the Prosecution submits that the current regime of contact restrictions should remain in place, as there has been no meaningful change in circumstances to warrant reassessment, and the conditions justifying their imposition continue to persist. Specifically, the restrictions currently in place are required to protect witnesses, victims and ongoing investigations including those that relate to former associates of Mr SAID such as Nourredine ADAM. Restrictions are also required because of the volatile security situation in the Central African Republic ("CAR").

3. The Prosecution submits that the current regime of contact restrictions remains both necessary and proportionate.

II. CONFIDENTIALITY

4. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this submission is classified as confidential since it contains confidential information. A public redacted version shall be filed as soon as practicable.

¹ ICC-01/14-01/21-788-Conf-Red.

² ICC-01/14-01/21-782-Conf-Red.

III. SUBMISSIONS

A. The contact restrictions remain necessary to protect witnesses, victims, and ongoing investigations.

5. The Prosecution adopts the Chamber's "Legal Framework Applicable to Contact Restrictions."³ In particular, the Chamber held that *"whether the Current Restrictions are still necessary and proportionate is guided by: (i) the factors set out in paragraphs 20 to 24 above; (ii) the stage of the proceedings; and (iii) the Chamber's determination to protect the evidence from undue influence, to ensure victims and witnesses' safety and the integrity of the proceedings."* It further held that Mr SAID's right fair trial must be balanced against *"preserving the proceedings' integrity and the protection of witnesses for the conduct of a fair trial."*⁴

6. The Prosecution submits that the current regime of contact restrictions are required to "ensure victims and witnesses' safety and the integrity of the proceedings."

7. As previously submitted⁵, Mr SAID was a prominent figure within the Seleka. By virtue of his position, he associated with and communicated with other Seleka leaders including Nourredine ADAM, who is the subject of an arrest warrant and remains at large.

8. The Prosecution submits that relaxing contact restrictions significantly raises the likelihood of Mr SAID communicating, either directly or indirectly, with his former associates, even if such communication occurs unintentionally. This consequence would have an irreversible impact on the Prosecution's investigations and ongoing arrest strategies.

³ ICC-01/14-01/21-247-Conf, paras 20-24.

⁴ ICC-01/14-01/21-247-Conf, para 42.

⁵ ICC-01/14-01/21-10-Conf-Red2; ICC-01/14-01/21-22-Conf; ICC-01/14-01/21-61-Conf-Red-Corr; ICC-01/14-01/21-108-Conf-Exp; ICC-01/14-01/21-148-Conf.

9. Relaxing contact restrictions also places the lives of witnesses and vulnerable victims at significant risk. The Prosecution submits that the Chamber is aware of these risks⁶ and further relies on the evidence of Witness P-0342 to substantiate them. Witness P-0342 refused to answer certain questions and explicitly conveyed to the Chamber his fear and perception of engaging with proceedings: “[REDACTED].”⁷

10. Finally, the current regime of contact restrictions should be maintained because the risks to witnesses and victims are exacerbated by the prevailing security environment in CAR which as acknowledged by the Chamber “remained unpredictable and complex.”⁸

B. Mr SAID has failed to comply with the current regime of contact restrictions.

11. Mr SAID is aware of his obligation to comply with the contact restrictions. These restrictions are designed to ensure that his communications occur in a controlled and regulated manner, safeguarding the integrity of the judicial process and protecting the rights and interests of witnesses and victims.

12. Despite this, on 10 June 2024, the Registry reported in its Fourth Registry Report that monitoring of Mr SAID’s communications revealed violations of the current contact restrictions. Specifically, the Registry raised concerns that on 13 May 2024, Mr SAID:

a) [REDACTED]⁹

b) [REDACTED]¹⁰

c) [REDACTED]¹¹

⁶ ICC-01/14-01/21-859-Conf-Red, para 8.

⁷ ICC-01/14-01/21-T-124- CONF-ENG ET, page 18, l.13-22.

⁸ ICC-01/14-01/21-839-Conf-Anx, para 2.

⁹ ICC-01/14-01/21-782-Conf-Red, para. 10.

¹⁰ ICC-01/14-01/21-782-Conf-Red, para. 12.

¹¹ ICC-01/14-01/21-782-Conf-Red, para. 13.

13. Mr SAID's disregard of the current regime of contact restrictions, undermine any justification for relaxing them.

14. The Prosecution submits that the recent violation demonstrates that Mr SAID is either willing to defy the Chamber or that he is unable to responsibly manage his communications. In either case, there is an increased likelihood of future violations if the contact restrictions are relaxed.

C. The current regime of contact restrictions are necessary and proportionate

15. The trial against Mr SAID is still ongoing, and the Prosecution continues to investigate other individuals for alleged crimes in CAR. In such circumstances, the current regime neither unfairly restricts Mr SAID's communications nor impedes his ability to prepare his defence.

16. Under the current regime, Mr SAID is permitted to communicate with his immediate family members and several other authorised persons. Communications with immediate family members who are not considered to be "possible vectors for attempts to obstruct the proceedings or to breach confidentiality" are not monitored. He is also fully represented and can communicate through his representatives.

17. In such circumstances, the Prosecution submits that the current regime of contact restrictions is proportionate and effectively balances the various competing interests including the obligation to protect the safety and wellbeing of victims and witnesses pursuant to article 68(1) of the Statute.

IV. RELIEF SOUGHT

18. For the aforementioned reasons, the current regime of contact restrictions should remain in place, as there has been no meaningful change in circumstances to warrant reassessment, and the conditions justifying their imposition continue to persist.



Karim A. A. Khan KC, Prosecutor

Dated this 14th day of April 2025
At The Hague, The Netherland