

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 22 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

Corrected version of Public Redacted Version

**Decision on Request for Clarification of the Decision on a Request for
Cooperation by the Defence (ICC-01/14-01/21-949), 11 April 2025, ICC-
01/14/01/21-961-Red**

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**
Judicial Cooperation Support Section

TRIAL CHAMBER VI of the International Criminal Court, in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 57(3)(b), 64, 67, 86, 87, 93 and 96 of the Rome Statute (the ‘Statute’), rules 116 and 176 of the Rules of Procedure and Evidence (the ‘Rules’) issues this ‘Decision on Request for Clarification of the Decision on a Request for Cooperation by the Defence (ICC-01/14-01/21-949)’.

I. PROCEDURAL HISTORY

1. On 21 March 2025, the Defence filed a request for the Chamber to issue a request for cooperation from the relevant authorities of the [REDACTED] (the ‘Requested State’) regarding a limited number of documents in the latter’s possession, as further specified in Annex A (the ‘Request’).¹

2. On 25 March 2025, the Prosecution informed the Chamber that it did not intend to make submissions on the Request.

3. On 1 April 2025, the Chamber partially granted the Request (the ‘Decision’).² In particular, the Chamber issued a request to the Requested State to provide a limited number of specified items as well as information in relation to a specific issue.

4. On 3 April 2025, the Defence filed a request for clarification (the ‘Clarification Request’).³ The Defence claims that the Chamber failed to rule on part of its Request. In particular, the Defence avers that it had asked the Chamber to order the Requested State to provide an entire category of ‘missing documents’ for the period of July until December 2013.

II. ANALYSIS

5. First, the Chamber observes that the Request lacked clarity. Indeed, in the application for relief, the Defence asked the Chamber to order the Requested State to

¹ Version publique expurgée de la « Demande visant à obtenir la coopération [EXPURGÉ] » (ICC-01/14-01/21-949-Conf-Exp) 28 March 2025 ([ICC-01/14-01/21-949-Red](#)). An *ex parte* version was filed simultaneously (ICC-01/14-01/21-949-Conf-Exp).

² Decision on a Request for Cooperation by the Defence (ICC-01/14-01/21-949) (ICC-01/14-01/21-954-Conf-Exp), 1 April 2025, [ICC-01/14-01/21-954-Red](#).

³ Demande de clarification de la décision « Decision on a Request for Cooperation by the Defence (ICC-01/14-01/21-949) » (ICC-01/14-01/21-954-Conf-Exp), 3 April 2025, ICC-01/14-01/21-958-Conf.

provide “the missing [REDACTED] from July until December 2013 [...] as specified in the Defence’s request of 6 June 2024”. Moreover, in paragraph 7 of the Request, the Defence stated that it had identified the missing [REDACTED] in a precise manner; without, however, providing further details in this regard. The Chamber stresses that it is not responsible for deciphering unclear filings, much less for any resulting misunderstandings. The Chamber notes, in this regard, that Annex A is a letter addressed by the Defence to the Requested State of 12 pages and that the Request does not provide any reference to where in the letter the missing items were identified. The Chamber would thus have been well within its right to simply dismiss the Request for lacking clarity.

6. Nevertheless, in an effort to assist the Defence at this advanced stage of the proceedings, the Chamber made an attempt to discern the scope of the Request by analysing Annex A. The Chamber was able to identify a sufficiently specific list of items on pages 3 and 4 of Annex A. In light of the Clarification Request, the Chamber now understands that the Defence in fact wanted the Chamber to make a much broader request for all [REDACTED] from July until December 2013 (the ‘Broad Request’). The Chamber observes, however, that both the Request and the Clarification Request indicate that the Defence already received such items from July 2013.

7. Although the Defence is entitled to ask for this type of official record,⁴ the request for all [REDACTED] that were exchanged during a period of six months, without a clear limitation, is overly broad and onerous.⁵ Indeed, it is likely that a large volume of such exchanges took place in this period, many of which in all likelihood have no bearing on the topics identified in paragraph 8 of the Request. The Chamber notes, in this regard, that the only limitation provided by the Defence is by way of two broad – and presumably non-exhaustive - examples (i.e. ‘the OCRB and the prevailing security

⁴ Trial Chamber I, *The Prosecutor v. Abd-Al-Rahman (“Kushayb”)*, Public redacted version of the Decision on the Defence request for cooperation pursuant to Article 57(3)(b) of the Statute, 11 February 2022, [ICC-02/05-01/20-590-Red](#), para. 7.

⁵ Trial Chamber IV, *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, Decision on “Defence Application pursuant to Articles 57(3)(b) & 64(6)(a) of the Statute for an order for the preparation and transmission of a cooperation request to the African Union”, 1 July 2011, [ICC-02/05-03/09-170](#), para. 16; Trial Chamber V, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the Yekatom Defence Request for Cooperation from the Special Criminal Court in the Central African Republic, 7 November 2023, ICC-01/14-01/18-2192, para. 3

situation in Bangui in 2013'). The Requested State cannot be asked to surmise which [REDACTED] contain relevant information. Nor can it be asked to hand over all of them, regardless of relevance. In other words, although the Broad Request meets the specificity requirement in terms of providing adequate limitations regarding the temporal scope and identification of the type of material sought, it fails to meet this requirement in terms of the content/subject matter of the documents it seeks to obtain.

8. Moreover, the Chamber finds that the Broad Request also fails to meet the relevance criterion, in that the Defence has not articulated a cogent argument showing that there is a reasonable prospect that all (or at least a large proportion) of the requested items are relevant to issues being adjudicated in this case.⁶ The Broad Request therefore fails to meet the requirements of article 96(2) of the Statute.

⁶ Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on Defence Request for Deadline Extension and Cooperation from Uganda, 4 May 2018, [ICC-02/04-01/15-1254](#), para. 9.

FOR THESE REASONS, THE CHAMBER HEREBY

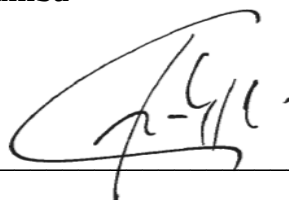
REJECTS the Clarification Request.



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 22 April 2025

At The Hague, The Netherlands