

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **24 April 2025**

THE PRESIDENCY

Before: Judge Tomoko Akane, President
Judge Rosario Salvatore Aitala, First Vice-President
Judge Reine Alapini-Gansou, Second Vice-President

SITUATION IN CENTRAL AFRICAN REPUBLIC II

THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI

Public

**Decision assigning an issue to a judge of the Pre-Trial Division pursuant to
article 64(4) of the Rome Statute**

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

1. The Presidency has before it the decision of Trial Chamber VI in the case of *The Prosecutor v. Mahamat Said Abdel Kani* dated 23 April 2025 which referred to the Presidency the need to assign an issue to an available judge of the Pre-Trial Division, pursuant to article 64(4) of the Rome Statute ('Decision of 23 April 2025').¹
2. The Presidency notes that the issue relates to the transcript of a phone call made by Mr Said on 2 February 2025. The Presidency recalls the finding of Trial Chamber VI that: '[t]he Chamber finds that it is necessary for its effective and fair functioning that an available judge of the Pre-Trial Division review the transcript of the 2 February 2025 Call and instruct the Registry to redact information which relates to issues of self-incrimination in the present case, before transmitting it to this Chamber. To the extent that any passages contain such prejudicial information *and* are relevant to determining whether Mr Said has violated his contact restrictions, the Chamber respectfully requests that such passages still be redacted but identified to the Chamber, which will then determine how to proceed'.²
3. Article 64(4) of the Rome Statute provides that '[t]he Trial Chamber may, if necessary for its effective and fair functioning, refer preliminary issues to the Pre-Trial Chamber or, if necessary, to another available judge of the Pre-Trial Division'. The Presidency notes the finding of Trial Chamber VI that the present referral of the assignment of an available judge to the Presidency falls within the scope of article 64(4) of the Rome Statute.³
4. The Presidency recalls that in applying the procedure established in article 64(4) of the Rome Statute, Trial Chamber VI considered that it could not refer the issue to the Pre-Trial Chamber currently seized of the relevant situation due

¹ Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, Public Redacted Decision referring a matter pursuant to article 64(4) of the Statute, 23 April 2025, ICC-01/14-01/21-968-Red, paras 24, 27, p. 12. A confidential version was filed simultaneously (ICC-01/14-01/21-968-Conf).

² Decision of 23 April 2025, para. 26.

³ Decision of 23 April 2025, paras 22-27.

to, *inter alia*, a member of Trial Chamber VI also being a member of that Pre-Trial Chamber.⁴ Trial Chamber VI accordingly considered that it 'is not in a position to determine who is an available judge of the Pre-Trial Division and considers that, under the circumstances, and in accordance with article 38(3)(a) of the Statute, the Presidency is in a better position to make such an assessment. Accordingly, the Chamber decides to refer the matter to the Presidency for it to assign it to an available judge of the Pre-Trial Division'.⁵ The Presidency considers that article 64(4) does not prevent a trial chamber from seeking the assistance of the Presidency in making the assignment to an available judge of the Pre-Trial Division, considering that this is also consistent with the functions of the Presidency in article 38(3)(a) of the Rome Statute.

5. Acting in accordance with the referral from Trial Chamber VI, the Presidency hereby assigns Judge Haykel Ben Mahfoudh to consider the issue raised by Trial Chamber VI in the Decision of 23 April 2025, pursuant to article 64(4) of the Rome Statute. In addition, the Presidency hereby orders the Registry to ensure that Judge Ben Mahfoudh has access to all filings necessary to enable him to perform this function, acting in consultation with Trial Chamber VI in this regard, as necessary.

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



Judge Tomoko Akane
President

⁴ Decision of 23 April 2025, para. 24.

⁵ Decision of 23 April 2025, para. 24.



Judge Rosario Salvatore Aitala
First Vice-President



Judge Reine Alapini-Gansou
Second Vice-President

Dated this 24 April 2025

At The Hague, The Netherlands