

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 11 June 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

Third Decision on Contact Restrictions

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, in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 64, 67(1)(b), and 68 of the Rome Statute (the ‘Statute’), regulations 99, 100 and 101 of the Regulations of the Court (the ‘Regulations’), and regulations 169, 173, 174, 175 and 184 of the Regulations of the Registry, issues this ‘Third Decision on Contact Restrictions’.

I. PROCEDURAL HISTORY

1. On 3 March 2022, the Chamber issued the ‘Decision on the Defence Application for Interim Release of Mahamat Said Abdel Kani and Contact Restrictions’ (the ‘First Decision on Contact Restrictions’).¹
2. On 11 December 2024, the Chamber issued the ‘Second Decision on Contact Restrictions’.²
3. On 25 February 2025, the Registry filed the ‘Registry Request for Guidance on the Implementation of the Restrictions on Contact Ordered by Trial Chamber VI’ (the ‘Registry’s Submission’).³ In the Registry’s Submission, the Registry notes that during a call on 2 February 2025 (the ‘2 February 2025 Call’) it appears that Mr Said ‘might have (1) talked about confidential case-related matters, (2) used threatening or intimidating language, (3) disclosed the name of a witness, and (4) made references that could be considered prejudicial to the accused.’⁴
4. The Registry requested guidance from the Chamber ‘as to whether it wishes to receive the transcript of the 2 February 2025 Call in its entirety or whether it would prefer to receive a redacted version of it and, if so, who should decide which information to redact.’⁵

¹ Decision on the Defence Application for Interim Release of Mahamat Said Abdel Kani and Contact Restrictions, 3 March 2022, [ICC-01/14-01/21-247-Red](#). A confidential version was filed simultaneously (ICC-01/14-01/21-247-Conf).

² Second Decision on Contact Restrictions, 11 December 2024, [ICC-01/14-01/21-903-Red](#). A confidential *ex parte* version was filed simultaneously (ICC-01/14-01/21-903-Conf-Exp).

³ Registry Request for Guidance on the Implementation of the Restrictions on Contact Ordered by Trial Chamber VI, 25 February 2025, ICC-01/14-01/21-923-Conf.

⁴ Registry’s Submission, ICC-01/14-01/21-923-Conf, para. 6.

⁵ Registry’s Submission, ICC-01/14-01/21-923-Conf, para. 7.

5. On 5 March 2025, the Chamber issued the ‘Order in Respect of the Registry’s Request for Guidance’, inviting the parties and participants to make submissions on matters raised in the Registry’s Submission no later than 28 March 2025.⁶ Therein, the Chamber specifically invited the parties and participants to address, *inter alia*: (i) to what extent the Chamber and/or the Office of the Prosecutor (the ‘Prosecution’) should receive an unredacted version of the transcript of the 2 February 2025 Call which may contain prejudicial information to the accused and his case; and (ii) if the transcript of the 2 February 2025 Call is to be redacted, who should redact such information.⁷

6. On 23 April 2025, following submissions from the parties,⁸ the Chamber, pursuant to article 64(4) of the Statute, referred the matter to an available judge of the Pre-Trial Division to apply redactions to information relating to issues of self-incrimination in the present case contained in the transcript of the 2 February 2025 Call (the ‘Article 64(4) Decision’).⁹ In addition, the Chamber ordered the Victims and Witnesses Unit (the ‘VWU’) and the Prosecution to take all necessary steps to ensure the safety and security of the protected witness who had been mentioned in the 2 February 2025 Call.¹⁰

7. On 8 May 2025, Judge Haykel Ben Mahfoudh, following his analysis of the transcript of the 2 February 2025 Call, ordered the Registry to apply certain redactions to the transcript and transmit the redacted version to the Chamber.¹¹

8. On 9 May 2025, the VWU transmitted an update to the Chamber regarding the protected witness.¹²

⁶ Order in Respect of the Registry’s Request for Guidance, 5 March 2025, ICC-01/14-01/21-933-Conf, para. 8.

⁷ Order in Respect of the Registry’s Request for Guidance, ICC-01/14-01/21-933-Conf, para. 8.

⁸ Prosecution request for the appointment of an Independent Counsel and the taking of additional measures to protect the Accused’s rights and integrity of proceedings, 26 March 2025, ICC-01/14-01/21-951-Conf; Soumissions de la Défense portant sur la discussion entre Monsieur Said et [REDACTED] du 2 février 2025 conformément à l’ordonnance de la Chambre du 5 mars 2025 (ICC-01/14-01/21-933-Conf), 28 March 2025, ICC-01/14-01/21-953-Conf (the ‘Defence’s Submissions’).

⁹ Public redacted version of Decision referring a matter pursuant to article 64(4) of the Statute, 23 April 2025, [ICC-01/14-01/21-968-Red](#). A confidential version was filed simultaneously (ICC-01/14-01/21-968-Conf).

¹⁰ Article 64(4) Decision, [ICC-01/14-01/21-968-Red](#), para. 29.

¹¹ Pre-Trial Division, Decision on a Preliminary Issues Arising before Trial Chamber VI Pursuant to Article 64(4) of the Statute, 8 May 2025, [ICC-01/14-01/21-977](#).

¹² Email from the VWU to the Chamber, dated 9 May 2025, at 15:28.

9. On 12 May 2025, the Registry transmitted to the Chamber the redacted transcript of the 2 February 2025 Call.¹³

10. On 15 May 2025, the Chamber ordered the Prosecution and Common Legal Representative of Victims (the ‘CLRv’) to make any submissions on whether Mr Said had violated the contact restrictions by 21 May 2025.¹⁴

11. On 21 May 2025, the Prosecution submitted observations on whether Mr Said had violated the contact restrictions, requesting that the Chamber order active monitoring of Mr Said’s non-privileged calls (the ‘Prosecution’s Observations’).¹⁵

12. The Defence and the CLRv did not respond to the Prosecution’s Observations.

II. SUBMISSIONS

A. Defence’s Submissions

13. The Defence makes a number of submissions in respect of the 2 February 2025 Call. The Defence submits that the 2 February 2025 Call relates to a conversation between Mr Said and [REDACTED] in which he discussed how he has experienced the trial, providing [REDACTED] with a summary of the proceedings.¹⁶

14. In this regard, the Defence submits that Mr Said discussed topics relating to: (i) [REDACTED];¹⁷ (ii) [REDACTED],¹⁸ noting that Mr Said inadvertently revealed a protected witness’s name;¹⁹ (iii) [REDACTED];²⁰ and (iv) [REDACTED].²¹

15. In respect of Mr Said revealing the name of a protected witness, the Defence submits that this was not intentional.²² In this regard, the Defence notes that Mr Said

¹³ Registry Transmission of the Redacted Transcript of Mr Mahamat Said Abdel Kani’s non-privilege call dated 2 February 2025, 12 May 2025, [ICC-01/14-01/21-979](#), with an *ex parte* annex (ICC-01/14-01/21-979-Conf-Exp-Anx). Pursuant to the Chamber’s instructions, dated 15 May 2025, this annex was reclassified as confidential.

¹⁴ Email from the Chamber to the Prosecution and CLRv, dated 15 May 2025, at 10:53.

¹⁵ Prosecution observations on whether Mr SAID has violated the contact restrictions, 21 May 2025, ICC-01/14-01/21-981-Conf.

¹⁶ Defence’s Submissions, ICC-01/14-01/21-953-Conf, paras 2-4.

¹⁷ Defence’s Submissions, ICC-01/14-01/21-953-Conf, para. 9.

¹⁸ Defence’s Submissions, ICC-01/14-01/21-953-Conf, paras 10-29.

¹⁹ Defence’s Submissions, ICC-01/14-01/21-953-Conf, para. 22.

²⁰ Defence’s Submissions, ICC-01/14-01/21-953-Conf, para. 30.

²¹ Defence’s Submissions, ICC-01/14-01/21-953-Conf, paras 31-33.

²² Defence’s Submissions, ICC-01/14-01/21-953-Conf, para. 22.

immediately corrected himself, apologised, and stated on the call that he knew not to name/give names during such phone calls.²³ The Defence further avers that Mr Said regrets and takes responsibility for his error.²⁴

B. Prosecution's Observations

16. The Prosecution submits that Mr Said has violated the contact restrictions by disclosing, to an unauthorised person, the name of a protected witness.²⁵ In this regard, the Prosecution submits that the witness had previously expressed fears about his safety and security and was granted protective measures by the Chamber.²⁶

17. The Prosecution avers that '[d]isclosing the name and other confidential information about a protected witness is not only a serious violation of the Statute, but also endangers the safety and security of a witness and the proceedings of the court as a whole, since the court relies on witnesses to discharge its functions under the Statute.'²⁷

18. Accordingly, the Prosecution requests that the contact restrictions 'should be heightened from passive to active monitoring of all the calls of Mr Said, in order to protect and ensure the safety and security of the witnesses, save for those excluded by the Statute.'²⁸ In addition, the Prosecution requests that 'the Chamber should issue a warning to Mr Said informing him that, together with [REDACTED], they risk being investigated and prosecuted for offences under the Statute if they engage in conduct prohibited under the Statute.'²⁹

III. APPLICABLE LAW

19. The Chamber recalls that in the First Decision on Contact Restrictions it set out the legal framework applicable to contact restrictions.³⁰ For the purposes of the present

²³ Defence's Submissions, ICC-01/14-01/21-953-Conf, para. 22.

²⁴ Defence's Submissions, ICC-01/14-01/21-953-Conf, paras 22-23.

²⁵ Prosecution's Observations, ICC-01/14-01/21-981-Conf, para. 12.

²⁶ Prosecution's Observations, ICC-01/14-01/21-981-Conf, para. 12.

²⁷ Prosecution's Observations, ICC-01/14-01/21-981-Conf, para. 13.

²⁸ Prosecution's Observations, ICC-01/14-01/21-981-Conf, para. 14 (footnote omitted).

²⁹ Prosecution's Observations, ICC-01/14-01/21-981-Conf, para. 14.

³⁰ First Decision on Contact Restriction, [ICC-01/14-01/21-247-Red](#), paras 20-24.

decision, the Chamber adopts the legal framework applicable to contact restrictions as set out in the First Decision on Contact Restrictions.

IV. ANALYSIS

20. At the outset, the Chamber finds that a number of filings in relation to the present issue do not have public redacted versions. In respect of ICC-01/14-01/21-923-Conf; ICC-01/14-01/21-951-Conf; ICC-01/14-01/21-953-Conf; and ICC-01/14-01/21-981-Conf, the Chamber orders the Prosecution, Defence and Registry to file public redacted versions forthwith.

21. In respect of ICC-01/14-01/21-933-Conf, the Chamber orders the Registry to reclassify this order as ‘public’.

22. Turning to the alleged violation of contact restrictions, the Chamber notes that on 2 February 2025, during a non-privileged telephone call with [REDACTED], Mr Said mentioned the name of a protected witness.³¹ The Chamber recalls that the contact restrictions permit Mr Said to discuss the present case during non-privileged calls ‘insofar as he does not reveal the identity of protected persons or other confidential information’.³² Accordingly, the Chamber finds that Mr Said has violated the contact restrictions imposed by the Chamber.

23. Having found that Mr Said violated the contact restrictions, the Chamber will now assess whether the contact restrictions should be increased. The Chamber recalls that, in the Second Decision on Contact Restrictions, it stated that any attempt by Mr Said at obstructing the proceedings or breaching confidentiality would lead to a reinstatement of strict restrictions.³³ In this regard, the Chamber notes that the Prosecution requests that the Chamber order active monitoring of all of Mr Said’s non-privileged phone calls.³⁴

24. The Chamber has analysed the redacted version of the transcript of the 2 February 2025 Call and notes that the mentioning of the name of the protected witness appears

³¹ See ICC-01/14-01/21-979-Conf-Anx, p. 3, para. 41.

³² Second Decision on Contact Restrictions, [ICC-01/14-01/21-903-Red](#), para. 42.

³³ Second Decision on Contact Restrictions, [ICC-01/14-01/21-903-Red](#), para. 44.

³⁴ Prosecution’s Observations, ICC-01/14-01/21-981-Conf, para. 14.

to be inadvertent, with Mr Said immediately realising he should not have mentioned the name.³⁵ In this regard, the Chamber finds that Mr Said has not made a conscious effort to cause harm to Prosecution witnesses.³⁶

25. In light of the foregoing, the Chamber finds that it would be disproportionate to increase the contact restrictions at this time. In this regard, the Chamber notes that whilst it has an obligation to ensure the protection of victims and witnesses, it also has an obligation to enable the detained person to have contact with his or her family during detention.³⁷ The Chamber finds that to increase the contact restrictions in the present circumstances would unduly inhibit Mr Said's ability to maintain contact with his family. Furthermore, since the 2 February 2025 Call, the Chamber has not received any reports of any further incidents regarding Mr Said's telephone calls. Last, the Chamber also notes that VWU has indicated that all necessary steps to ensure the safety and security of the protected witness have been taken and that any risks to the protected witness can be sufficiently addressed by the local protection measures in place.³⁸ Accordingly, the Chamber will maintain the existing contact restrictions as set out in the Second Decision on Contact Restrictions.

26. That notwithstanding, the Chamber warns the Defence and Mr Said that if any further incidents occur, then the Chamber will not hesitate to reinstate stricter restrictions. In this regard, the Chamber orders Mr Said to exercise greater caution and diligence when discussing his case during non-privileged calls and reminds him that the Court retains jurisdiction over any alleged offences pursuant to article 70 of the Statute. Last, the Defence is ordered to re-explain the contact restrictions to Mr Said to ensure that he fully understands their scope.

³⁵ See ICC-01/14-01/21-979-Conf-Anx, p. 3, para. 41.

³⁶ See also Second Decision on Contact Restrictions, [ICC-01/14-01/21-903-Red](#), para. 38.

³⁷ See also Second Decision on Contact Restrictions, [ICC-01/14-01/21-903-Red](#), paras 36-39 and references therein.

³⁸ See Email from the VWU to the Chamber, dated 9 May 2025, at 15:28.

FOR THESE REASONS, THE CHAMBER HEREBY

MAINTAINS the current contact restrictions as set out in the Second Decision on Contact Restrictions;

ORDERS Mr Said and the Defence to have regard to paragraph 26 above;

ORDERS the Prosecution, Defence and Registry to file public redacted versions of ICC-01/14-01/21-923-Conf; ICC-01/14-01/21-951-Conf; ICC-01/14-01/21-953-Conf and; ICC-01/14-01/21-981-Conf; and

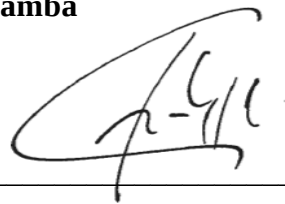
ORDERS the Registry to reclassify ICC-01/14-01/21-933-Conf as ‘public’.



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 11 June 2025

At The Hague, The Netherlands