

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 17 June 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 observations on whether Mr SAID has violated the contact restrictions", ICC-01/14-01/21-981-Conf, dated 21 May 2025

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the Regulations of the Court to:

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(Participation/Reparation)

☐ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

Mr Zavala Giler Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

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I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) respectfully submits that Mahamat Said Abdel Kani (“Mr SAID”) has violated the contact restrictions imposed on him.

II. CONFIDENTIALITY

2. Pursuant to regulation 23*bis*(1) 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.

III. PROCEDURAL HISTORY

3. On 3 March 2022, Trial Chamber VI (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 In this decision, the Chamber prohibited Mr Said from discussing the substance of his case during non-privileged communications.

4. On 11 December 2024, the Chamber issued the “Second Decision on Contact Restrictions”,² in which it, *inter alia* allowed Mr Said to discuss the present case during non-privileged communications, subject to not divulging the identities of protected persons or other confidential information.³

5. 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

¹ Public Redacted Version of 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. An ex parte Defence and Registry only version was filed simultaneously (ICC-01/14-01/21-903-Conf-Exp).

³ Trial Chamber VI, 11 December 2024 Decision, para. 42.

“Registry Submission”).⁴ The Registry noted therein that during a call on 2 February 2025 (the “2 February 2025 Call”) [REDACTED]⁵. [REDACTED]⁶.

6. On 5 March 2025, the Chamber ordered the Parties and Participants to address: (i) to what extent the Chamber and/or the Office of the Prosecutor 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 should be redacted, who should redact such information.⁷

7. On 23 April 2025, after considering the submissions received from the Prosecution⁸ and the Defence,⁹ the Chamber issued a decision (the “Decision of 23 April 2025”),¹⁰ referring the matter to the Presidency for its assignment to an available judge of the Pre-Trial Division, pursuant to article 64(4) of the Rome Statute (the “Statute”).

8. On 24 April 2025, the Presidency assigned Judge Haykel Ben Mahfoudh (the “Single Judge”), to consider the issue raised by the Chamber in the Decision of 23 April 2025, pursuant to article 64(4) of the Statute (the “Presidency Decision”).¹¹

9. On 8 May 2025, the Single Judge instructed the Registry to redact the passages from the transcript of the 2 February 2025 Call, identified in Annex A to his decision and to transmit the redacted transcript to the Chamber.¹² The Single Judge also

⁴ 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.

⁵ Registry Submission, ICC-01/14-01/21-923-Conf, para. 6.

⁶ Registry Submission, ICC-01/14-01/21-923-Conf, para. 7.

⁷ 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.

⁹ Soumissions de la Défense portant sur la discussion entre Monsieur Said et son épouse 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, with two confidential ex parte annexes.

¹⁰ Decision referring a matter pursuant to article 64(4) of the Statute (ICC-01/14-01/21-968-Conf), ICC01/14-01/21-968-Red, 23 April 2025

¹¹ Decision assigning an issue to a judge of the Pre-Trial Division pursuant to article 64(4) of the Rome Statute, 24 April 2025, ICC-01/14-01/21-969.

¹² Decision on a Preliminary Issue Arising before Trial Chamber VI Pursuant to Article 64(4) of the Statute, 8 May 2025, ICC-01/14-01/21-977.

identified at least one passage in the transcript which may indicate that Mr Said has violated the contact restrictions.

10. On 12 May 2025, the Registry transmitted the redacted transcript to the Chamber, through a confidential *Ex parte* Annex only available to the the Chamber (the “Redacted Transcript”).¹³

11. On 15 May 2025,¹⁴ the Chamber instructed the Registry to reclassify the Redacted Transcript from Confidential *Ex Parte* to Confidential, and invited the Prosecution and the Common Legal Representative to make submissions on the question as to whether Mr Said may have violated the applicable contact restrictions.

IV. SUBMISSIONS

Mr Said has violated applicable contact restrictions

12. The Prosecution submits that Mr Said has violated applicable contact restrictions by disclosing to an unauthorized person, the name of a protected witness (“P-2573”), and other information which was discussed in closed session.¹⁵ Prior to his testimony, P-2573 expressed fears about his safety and security, and even went to the extent of changing his name.¹⁶ During his testimony, P-2573 was granted face and voice distortion as incourt protective measures to mitigate the risks that he may face.¹⁷ This is in addition to protective measures granted by the Chamber¹⁸.

13. Disclosing 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

¹³ Registry Transmission of the Redacted Transcript of Mr Mahamat Said Abdel Kani’s non-privileged call dated 2 February 2025, 12 May 2025, ICC-01/14-01/21-979.

¹⁴ Email of 15 May 2025 at 10.52am.

¹⁵ ICC-01/14-01/21-979-Conf-Anx at para. 7, 41 and 43.

¹⁶ P-2573: T-092-CONF-ENG-CT, 4 :23-24 – 5 :1-6.

¹⁷ P-2573: T-090-ENG-CONF-CT, 18:22-25 (Open Session).

¹⁸ Decision on the Prosecution’s Request for In-Court Protective Measures, 21 September 2022, ICC-01/14-01/21-481, para. 46.

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.¹⁹

14. Considering the seriousness of Mr SAID's contact restriction violations, the current contact restrictions are not sufficient, and 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,²⁰ save for those excluded by the Statute. Moreover, the Prosecution respectfully submits that the Chamber should issue a warning to the Mr SAID informing him that, [REDACTED] being investigated and prosecuted for offences under the Statute if they engage in conduct prohibited under the Statute.

15. The current contact restrictions as they stand, permit Mr SAID to discuss the present case, during non-privileged communications, insofar as he does not reveal the identity of protected persons or other confidential information.²¹ At paragraph 41 of the Redacted Transcript,²² during the telephone communication with [REDACTED], Mr SAID reveals the name of Prosecution Witness P-2573, as well as partially the contents of the witness testimony in Court. Furthermore, at paragraph 59 of the Redacted Transcript Mr SAID [REDACTED].

16. In light of the foregoing, the Prosecution respectfully submits that [REDACTED], which amount to confidential information, Mr SAID has violated applicable contact restrictions.

V. RELIEF SOUGHT

17. In view of the foregoing, the Prosecution requests the Chamber to;

¹⁹ Article 64(2) and article 68 of the Statute.

²⁰ See Regulations 174 – 175 of the Regulations of the Registry.

²¹ Second Decision on Contact Restrictions, 11 December 2024, ICC-01/14-01/21-903-Red. An ex parte Defence and Registry only version was filed simultaneously (ICC-01/14-01/21-903-Conf-Exp), para. 42.

²² ICC-01/14-01/21-979-Conf-Anx.

- a) Order the registry to actively monitor all the calls of Mr SAID other than those with Counsel, assistants to Counsel entitled to legal privilege, representatives of the independent inspecting authority, representatives of the Registry, a Chamber or the Presidency;
- b) Order the Registry to terminate any calls of Mr SAID if there are reasonable grounds to believe that the Accused is attempting to interfere with or intimidate witnesses or for any justifiable reason under the Statute; and
- c) Issue a warning to Mr SAID to desist from disclosing confidential information to unauthorized persons and that the Accused and [REDACTED] risk being investigated and prosecuted if their conduct amounted to prohibited conduct under the Statute.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 17th day of June 2025

At The Hague, The Netherlands