

**Cour
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**International
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Court**

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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 “Victims' Response to *"Requête de la Défense visant à reclassifier 'public' des déclarations antérieures de témoins de l'Accusation afin d'assurer la publicité des débats composante essentielle du procès équitable"* (No. ICC-01/14-01/21-985)”

Source: Office of Public Counsel for Victims

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D33

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I. INTRODUCTION

1. Counsel representing the participating victims (the “Common Legal Representative”)¹ hereby submits her response to the “*Requête de la Défense visant à reclassifier ‘public’ des déclarations antérieures de témoins de l’Accusation afin d’assurer la publicité des débats composante essentielle du procès équitable*” (the “Request”).²

II. PROCEDURAL BACKGROUND

2. On 8 March 2022, Trial Chamber VI (the “Chamber”) issued the Directions on the Conduct of Proceedings setting out the procedure to request protective or special measures pursuant to rules 87 and 88 of the Rules of Procedure and Evidence (the “Rules”).³

3. On 21 September 2022, the Chamber issued its first decision on in-court protective measures (the “First Protective Measures Decision”).⁴

4. On 20 April 2023 and on 5 March 2024, the Chamber issued its second and third decisions on in-court protective measures respectively, referring to the applicable law contained in its First Protective Measures Decision.⁵

¹ See the “Decision on matters relating to the participation of victims during the trial” (Trial Chamber VI), [No. ICC-01/14-01/21-278](#), 13 April 2022, para. 29; the “Decision authorising 20 victims to participate in the proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-331](#), 27 May 2022; the “Second Decision Authorising Victims to Participate in the Proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-640-Conf](#) and [No. ICC-01/14-01/21-640-Red](#), 8 November 2023; the “Third Decision Authorising Victims to Participate in the Proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-695-Conf](#) and [No. ICC-01/14-01/21-695-Red](#), 14 February 2024; the “Fourth Decision Authorising Victims to Participate in Proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-812](#), 22 July 2024; the “Fifth Decision Authorising Victims to Participate in the Proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-906](#), 13 December 2024; and the “Sixth Decision on Victims’ Participation” (Trial Chamber VI), [No. ICC-01/14-01/21-960](#), 9 April 2025.

² See the “*Requête de la Défense visant à reclassifier ‘public’ des déclarations antérieures de témoins de l’Accusation afin d’assurer la publicité des débats composante essentielle du procès équitable*”, [No. ICC-01/14-01/21-985](#), 20 June 2025 (the “Request”).

³ See the “Directions on the Conduct of Proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-251](#), 9 March 2022, paras. 47-48.

⁴ See the “Decision on the Prosecution’s Request for In-Court Protective Measure” (Trial Chamber VI), [No. ICC-01/14-01/21-481-Conf](#) and [No. ICC-01/14-01-21-481-Red](#), 21 September 2022 (the “First Protective Measures Decision”).

⁵ See the “Decision on the Prosecution Second Request for In-Court Protective Measures” (Trial Chamber VI), [No. ICC-01/14-01/21-605-Conf](#) and [No. ICC-01/14-01/21-605-Red](#), 20 April 2023, para. 10;

5. On 13 September 2024 and on 4 October 2024, the Chamber issued decisions on in-court protective measures for P-1563 and P-3114,⁶ and for P-0529, P-2239 and P-0342 respectively,⁷ adopting once again its findings in respect of the applicable law as set out in its First Protective Measures Decision.⁸

6. On 26 May 2025, the Registry submitted its twelfth periodic report on the security and political situation in the Central African Republic (the “Twelfth Registry Report” and the “CAR”, respectively),⁹ covering the period between 11 February and 15 May 2025.

7. On 20 June 2025, the Defence submitted its Request.¹⁰

III. CLASSIFICATION

8. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the present filing is classified as “confidential”, since it contains information not known to the public. A public redacted version is filed simultaneously.

IV. SUBMISSIONS

9. The Common Legal Representative will address the Request only insofar as it pertains to the prior recorded testimony of dual status witnesses she represents,¹¹ or of

and the “Decision on the Prosecution’s Third Request for In-Court Protective Measures” (Trial Chamber VI), [No. ICC-01/14-01/21-714-Conf](#) and [No. ICC-01/14-01/21-714-Red](#), 5 March 2024 (the “Third Protective Measures Decision”), para. 16.

⁶ See the “Decision on the Prosecution’s Requests for In-Court Protective Measures for P-1563 and P-3114” (Trial Chamber VI), [No. ICC-01/14-01/21-857-Conf](#) and [No. ICC-01/14-01/21-857-Red](#), 13 September 2024.

⁷ See the “Decision on the Prosecution’s Request for In-Court Protective Measures for P-0529, P-2239 and P-0342” (Trial Chamber VI), [No. ICC-01/14-01/21-870-Conf](#) and [No. ICC-01/14-01/21-870-Red](#), 4 October 2024.

⁸ See the “Decision on the Prosecution’s Requests for In-Court Protective Measures for P-1563 and P-3114”, *supra* note 6, para. 24; and the “Decision on the Prosecution’s Request for In-Court Protective Measures for P-0529, P-2239 and P-0342”, *supra* note 7, para. 31.

⁹ See the Annex to the “Twelfth Periodic Report of the Registry on the Security and Political Situation in the Central African Republic”, [No. ICC-01/14-01/21-983-Conf-Anx](#), 26 May 2025 (the “Twelfth Registry Report”). See also UN News, “[Centrafrique : la MINUSCA en alerte face à la résurgence des violences et aux retards électoraux](#)”, 26 June 2025.

¹⁰ See the Request, *supra* note 2.

¹¹ Witnesses P-2400, P-1429, P-2692, P-2931, P-2241, P-1289, P-2519, P-2263, P-3047, P-1180, P-1762, P-2239, P-1432, and P-2295.

any other witness whose testimony overlaps with that of dual status witnesses, and which, if disclosed, could undermine the protective measures granted to her clients.¹²

10. More precisely, this response addresses the parts of the Request concerning the testimony of witnesses whose prior recorded testimony was introduced under rules 68(2)(b) and 68(2)(c) of the Rules and for whom protective measures have not yet been requested (dual witnesses P-1432, P-2295; and witnesses P-2337, P-1297, and P-3053), and the statements of individuals who were examined under rule 68(3) of the Rules (dual status witnesses P-2400, P-1429, P-2692, P-2931, P-2241, P-1289, P-2519, P-2263, P-3047, P-1180, P-1762, P-2239; and witnesses P-2240, P-0787, and P-0358). That being said, her silence regarding the remaining arguments and requests by the Defense should not be interpreted as an agreement thereon.

11. The Common Legal Representative fully acknowledges the fundamental importance of the principle of the publicity of proceedings, particularly insofar as it enables victims and their communities to follow the course of the trial, and to engage with and understand the discussions concerning the very events they experienced.¹³

12. However, said principle “*is not absolute and subject to exceptions, including for the purposes of protecting victims and witnesses*”.¹⁴ Article 68 of the Rome Statute (the “Statute”) and rules 87 and 88 of the Rules are not mere footnotes in the Court’s legal framework.¹⁵ Indeed, protective and special measures for witnesses and victims are essential legal means by which the Court can enable their participation in the proceedings, as such measures are critical to safeguarding their safety, physical and psychological well-being, dignity, and private life. These measures are not discretionary favours, but rather rights, firmly enshrined in article 68(1) of the Statute.¹⁶

¹² *Inter alia* witnesses P-2337, P-1297, P-3053, P-2240, P-0787 and P-0358.

¹³ See the Request, *supra* note 2, para. 24.

¹⁴ See the “First Protective Measures Decision”, *supra* note 4, para. 12.

¹⁵ See the Request, *supra* note 2, para. 23, footnote 24.

¹⁶ See, *inter alia*, the “Decision on victims’ participation” (Trial Chamber I), [No. ICC-01/04-01/06-1119](#), 18 January 2008, paras. 128-129; and the “Decision defining the status of 54 victims who participated at

1. Witnesses whose prior recorded testimony was introduced under rules 68(2)(b) and 68(2)(c) of the Rules

13. The Defence submits that, unless the Prosecution establishes an objective risk and the necessity of protective measures for each of the 23 witnesses falling under rule 68(2)(b) or 68(2)(c), there is no justification at this stage for maintaining the confidential classification of their prior recorded statements.¹⁷

14. The Common Legal Representative points out that, while “*the need for in-court protective measures must be assessed on a case-by-case basis in order to determine whether such measures are necessary in light of an objectively justifiable risk to individual witnesses*”,¹⁸ it is equally important to recall that “*a chamber may identify factual circumstances warranting, in principle, protective measures for specific categories of witnesses*”.¹⁹ In particular, the Chamber noted that “*a large number of witnesses in this case are potentially affected by the volatile security situation in the CAR and the continued operation of armed groups on its territory*”,²⁰ and “*the fact that these justifications potentially apply to a large number of witnesses does not render them less objective or less specific to the individual witnesses affected*”.²¹

15. In this regard, the Common Legal Representative emphasises the Registry’s conclusion in its Twelfth Report that the “[REDACTED]”.²² Throughout the present proceedings, victims have repeatedly stressed their vulnerable position and the permanent fear they are living in,²³ and they continue to do so considering the

the pre-trial stage, and inviting the parties’ observations on applications for participation by 86 applicants” (Trial Chamber III), [No. ICC-01/05-01/08-699](#), 22 February 2010, para. 24.

¹⁷ See the Request, *supra* note 2, paras. 27, and 31.

¹⁸ See the “First Protective Measures Decision”, *supra* note 4, para. 16.

¹⁹ *Ibid.*

²⁰ *Idem*, para. 17.

²¹ *Idem*, para. 18.

²² See the Twelfth Registry Report, *supra* note 9, para. 52.

²³ See, *inter alia*, the “Victims’ response to the ‘Prosecution’s Request for In-Court Protective Measures (ICC-01/14-01/21-356-Red)’”, [No. ICC-01/14-01/21-377-Conf](#) and [No. ICC-01/14-01/21-377-Red](#), 27 June 2022, para. 19; and the “Victims’ response to the ‘Demande d’autorisation d’interjeter appel de la ‘Decision on the Prosecution Second Request for In-Court Protective Measures’ (ICC-01/14-01/21-605-Conf)’ (ICC-01/14-01/21-607-Conf)”, [No. ICC-01/14-01/21-609-Conf](#) and [No. ICC-01/14-01/21-609-Red](#), 5 May 2023, para. 22.

unchanged security situation. Dual status witnesses P-1432 and P-2295 still reside in the CAR, making them easily reachable by potential threat actors, thus justifying the need for protective measures to be granted in the form of redactions to their prior recorded testimony.

16. Regarding witnesses P-3053, P-2337, and P-1297, the Common Legal Representative underlines that their testimonies overlap with those of dual status witnesses who testified with protective measures. In fact, witness P-3053 refers to P-3056, P-3064, and P-0547 by name on multiple occasions in his statement.²⁴ Similarly, witness P-2337 refers to P-2400 by name,²⁵ and P-1297 to P-0547.²⁶ As such, disclosing their statements publicly would directly compromise the protective measures granted to the dual status witnesses concerned, by revealing their names along with other identifying information.

17. In the course of her review of the prior recorded statements introduced under rules 68(2)(b) and 68(2)(c) of the Rules, which primarily focused on identifying information concerning her clients, the Common Legal Representative nonetheless observed that nearly all said statements contain names or other identifying information – whether relating to witnesses who testified under protective measures, or to victims of the Séléka, or of the conflict more broadly. Therefore, it would be unwise to simply reclassify these statements as public without first conducting a thorough, line-by-line analysis of each one. Such an exercise would be resource-intensive and time-consuming, and may not even be possible to complete before the deadline for submission of the closing briefs.²⁷

18. In conclusion, the Common Legal Representative requests that the necessary redactions be implemented in the prior recorded statements of witnesses P-1432, P-2295, P-3053, P-2337, and P-1297, in order to protect the dual status individuals

²⁴ See, *inter alia*, P-3053: [CAR-OTP-2130-6359-R01 \[FR\]](#) at 6363, 6367, and 6371, paras. 24-27, 47-48, and 71.

²⁵ See P-2337: [CAR-OTP-2104-0411-R01 \[ENG\]](#) at 0418-0420, paras. 17, 24, 26, 29, 31, 33, 35-38, 40-42, and 45-46.

²⁶ See P-1297: [CAR-OTP-2039-0167-R01 \[ENG\]](#) at 0176, para. 58.

²⁷ See the Request, *supra* note 2, paras. 25-26.

concerned pursuant to rule 87(1) of the Rules. Furthermore, she requests to be consulted before any reclassification occurs, so that she can verify each necessary redaction. More generally, the Common Legal Representative posits that, at the very least, a cautious approach should be adopted with regard to all other prior recorded statements to prevent the inadvertent disclosure of identifying information.

2. Witnesses whose prior recorded testimony was introduced under rule 68(3) of the Rules

19. The Defence questions the continued validity of the previously granted protective measures and requests that the VWS verify whether any change of circumstances warrants their reconsideration.²⁸

20. In the view of the Common Legal Representative, there is no apparent need for the VWS to conduct such a verification exercise, given the absence of any significant changes concerning the security situation over the years.²⁹ Moreover, such an undertaking would be both burdensome and potentially harmful. It would indeed require the VWS to contact all affected individuals to assess their current circumstances, which could cause unnecessary distress and/or re-traumatisation. This is particularly relevant if they fear that their identities or other identifying information might be disclosed publicly.

21. In any event, the Common Legal Representative has contacted the dual status individuals concerned (witnesses P-2400, P-1429, P-2692, P-2931, P-2241, P-1289, P-2519, P-2263, P-3047, P-1180, P-1762, and P-2239) and they have all reported that their personal circumstances have not changed since testifying before the Court. Indeed, they all still reside in the CAR, making them easily reachable by potential threat actors.

22. Accordingly, the Common Legal Representative submits that the previously granted protective measures remain necessary. She therefore posits that her clients'

²⁸ *Idem*, paras. 38-39.

²⁹ See *supra* para. 15, and accompanying footnotes.

prior recorded testimony must not be reclassified as public without applying the necessary redactions, as acknowledged by the Defence,³⁰ and requests to be consulted prior to any such reclassification in order to verify each necessary redaction.

23. In this regard, she underlines, in particular, that any information in the prior recorded statements that may lead to the identification of the dual status individuals who testified with protective measures – such as names of their relatives or their place of residence – should be redacted.

24. In addition, the Common Legal Representative notes that the testimonies of witnesses P-2240, P-0787, and P-0358 overlap with those of dual status witnesses who testified with protective measures. In their respective statements, witness P-2240 refers by name to P-2239 and P-2241,³¹ witness P-0787 to P-1429,³² and witness P-0358 to P-1180.³³ Disclosing their statements publicly would directly compromise the protective measures granted to the dual status witnesses concerned, by revealing their names along with other identifying information.

25. Finally, the Common Legal Representative noted the same pattern during her review of the prior recorded statements introduced under rule 68(3) of the Rules, many of which likewise contain identifying information concerning protected witnesses or other victims.³⁴ Accordingly, for the reasons set out *supra*, a cautious and case-by-case approach remains necessary before any such statements are reclassified as public.³⁵

³⁰ See the Request, *supra* note 2, para. 40.

³¹ See P-2240: [CAR-OTP-2107-8860-R01 \[ENG\]](#) at 8868-8869, paras. 30, 34-35, and 37.

³² See P-0787: [CAR-OTP-2036-0410-R01 \[ENG\]](#) at 0428, para. 85.

³³ See P-0358: [CAR-OTP-2043-0433-R01 \[ENG\]](#) at 0444-0447, paras. 80-83, 85-86, 89, 91, and 93-96.

³⁴ See *supra* para. 17.

³⁵ *Ibid.*

FOR THESE REASONS, the Common Legal Representative respectfully requests the Chamber not to reclassify the prior recorded testimony of witnesses P-1432, P-2295, P-2337, P-1297, P-3053, P-2400, P-1429, P-2692, P-2931, P-2241, P-1289, P-2519, P-2263, P-3047, P-1180, P-1762, P-2239, P-2240, P-0787, and P-0358 as public without the application of the necessary redactions, and to be consulted prior to any such reclassification in order to verify each necessary redaction. She further emphasises the need for a cautious and individualised approach to all other prior recorded statements, to prevent inadvertently disclosing identifying information.



Sarah Pellet

Dated this 3rd day of July 2025

At The Hague, The Netherlands