

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 25 July 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

Decision Setting a Deadline in Respect of P-0405

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(2), 67(1)(b) of the Rome Statute (the ‘Statute’), issues this ‘Decision Setting a Deadline in Respect of P-0405’.

I. PROCEDURAL HISTORY & SUBMISSIONS

1. On 17 January 2025, the Defence filed its preliminary list of witnesses containing six witnesses, including P-0405.¹
2. On 2 April 2025, the Chamber granted the Defence’s request to introduce, *inter alia*, the prior recorded testimony of P-0405 pursuant to rule 68(2)(b) of the Rules.² In that decision, the Chamber explicitly stated that the Defence should start engaging with the Registry to organise certification given uncertainties regarding P-0405’s location.³
3. On 4 June 2025, the Chamber held an *ex parte* status conference with the Defence and the Registry. At that status conference, the Chamber sought, *inter alia*, updates regarding the certification of P-0405’s prior recorded testimony. In this regard, the Defence informed the Chamber that [REDACTED] regarding P-0405, with a view to locating him.⁴
4. On 12 June 2025, the Chamber held a further *ex parte* status conference with the Defence and the Registry. At that status conference, the Defence indicated that it had still been unable to locate P-0405 and it needed to identify the right interlocutor in order to find him and there had been difficulties in this regard.⁵

¹ Corrigendum de la « Liste préliminaire des témoins de la Défense conformément à la « Third Directions on the Conduct of Proceedings » (ICC-01/14-01/21-873) rendue par la Chambre de première instance VI le 8 octobre 2024 » déposée le 17 janvier 2025., 24 January 2025, ICC-01/14-01/21-908-Conf-AnxA-Corr (the ‘Defence List of Witnesses’).

² Decision on the Defence’s Request under Rule 68(2)(b) to Introduce the Prior Recorded Testimony of P-0015, P-0025, P-2926 and P-0405, 2 April 2025, [ICC-01/14-01/21-957-Red](#) (the ‘Defence Rule 68(2)(b) Decision’). A confidential version was filed simultaneously (ICC-01/14-01/21-957-Conf).

³ Defence Rule 68(2)(b) Decision, [ICC-01/14-01/21-957-Red](#), para. 31.

⁴ Transcript of hearing, 4 June 2025, ICC-01/14-01/21-T-137-CONF-EXP-ENG (the ‘4 June Transcript’), p. 26, line 20 to p. 27, line 1.

⁵ Transcript of hearing, 12 June 2025, ICC-01/14-01/21-T-138-CONF-EXP-ENG (the ‘12 June Transcript’) p. 24, line 25 to p. 25, line 14. *See also* p. 21, line 9 to p. 22, line 23.

5. On 13 and 20 June 2025, the Chamber issued a number of directions to the Defence and the Registry with regards to P-0405,⁶ including directing the Office of the Prosecutor (the ‘Prosecution’) to provide assistance [REDACTED],⁷ which was subsequently provided to the Defence.⁸

6. On 18 June 2025, the Defence informed the Chamber that it had been able to locate P-0405 and that it was taking steps with the Registry to arrange certification.⁹

7. On 23 June 2025, the Chamber issued the ‘Decision Setting Final Deadlines for the Defence’s Presentation of Evidence and Related Directions’, in which it, *inter alia*, ordered the Victims and Witnesses Unit (the ‘VWU’) to provide all necessary assistance to the Defence in order to facilitate P-0405’s certification.¹⁰ In addition, the Chamber ordered the Defence to provide weekly updates regarding the progress of the relevant steps for the certification and declaration of P-0405’s prior recorded testimony.¹¹

8. On 25 June, 2, 9, 16 and 23 July 2025, the Defence provided a number of updates to the Chamber regarding its progress with respect to the certification of P-0405’s prior recorded testimony.¹² Specifically, on 16 July 2025, the Defence informed the Chamber that there had been a number of delays and logistical issues regarding arranging the certification of P-0405’s prior recorded testimony and indicated that it could potentially take place [REDACTED].¹³ Furthermore, on 23 July 2025, the Defence informed the Chamber that it had been in contact with [REDACTED].¹⁴

⁶ Emails from the Chamber dated 13 June 2025, at 12:29; and 20 June 2025, at 14:02.

⁷ Email from the Chamber dated 13 June, at 12:32.

⁸ Email from the Prosecution dated 13 June 2025, at 16:15.

⁹ Email from the Defence dated 18 June 2025, at 12:02.

¹⁰ Decision Setting Final Deadlines for the Defence’s Presentation of Evidence and Related Directions, 23 June 2025, [ICC-01/14-01/21-986-Red](#) (the ‘Decision Setting Defence Deadlines’), para. 54. A confidential *ex parte* and confidential redacted version were filed simultaneously (ICC-01/14-01/21-986-Conf-Exp; ICC-01/14-01/21-986-Conf-Red).

¹¹ Decision Setting Defence Deadlines, [ICC-01/14-01/21-986-Red](#), para. 55

¹² Emails from the Defence dated 25 June 2025, at 12:05; 2 July 2025, at 15:29; 9 July 2025, at 14:29; 16 July 2025, at 13:10; and 23 July 2025, at 13:37.

¹³ Email from the Defence dated 16 July 2025, at 13:10.

¹⁴ Email from the Defence dated 23 July 2025, at 13:37.

II. ANALYSIS

9. The Chamber is concerned about the amount of uncertainty and delay regarding the organisation of the certification of P-0405's prior recorded testimony. In this regard, there are a number of steps outstanding, involving a number of stakeholders, and the Chamber is concerned that the Defence is not fully clear when certification can actually take place. In this respect, the only indication the Chamber has from the Defence is that certification could potentially happen [REDACTED], but this appears by no means to be certain.

10. The Chamber notes that P-0405 was on the Defence's provisional list of witnesses submitted in January 2025.¹⁵ Furthermore, the Chamber recalls that it granted the Defence's request for the introduction of P-0405's prior recorded testimony in April 2025 and it explicitly stated in that decision that the Defence should start engaging with the Registry to organise certification.¹⁶

11. Despite having P-0405 on its list of witnesses since January 2025 and the Chamber's explicit instruction in April 2025, the Chamber observes that very little was done by the Defence in this regard. Specifically, the Chamber notes that the only step apparently taken by the Defence was the request to the [REDACTED].¹⁷ The Chamber observes that no other concrete, proactive steps were apparently taken by the Defence to locate P-0405 and arrange certification. The Chamber does not accept the Defence's submissions to the effect that it did everything it could from March 2025.¹⁸ The Chamber finds that the Defence could have proactively engaged with the Registry and the Prosecution to locate P-0405, or sought assistance from the Chamber if such steps were not fruitful. Indeed, it was not until the Chamber directly intervened that progress regarding locating and contacting P-0405 was made.¹⁹ As indicated by the Presiding

¹⁵ See Defence List of Witnesses, ICC-01/14-01/21-908-Conf-AnxA-Corr.

¹⁶ Defence Rule 68(2)(b) Decision, [ICC-01/14-01/21-957-Red](#), para. 31.

¹⁷ 4 June Transcript, ICC-01/14-01/21-T-137-CONF-EXP-ENG, p. 26, line 20 to p. 27, line 1.

¹⁸ 12 June Transcript, ICC-01/14-01/21-T-138-CONF-EXP-ENG, p. 24, line 25 to p. 25, line 14.

¹⁹ See emails from the Chamber, dated 5 June 2025, at 17:27; 13 June 2025, at 12:29; 13 June 2025, at 12:32; 20 June 2025, at 14:02.

Judge during the *ex parte* status conference on 12 June 2025, the Chamber finds that the Defence should have taken proactive steps much earlier.²⁰

12. The Chamber has granted a number of extensions of time to the Defence to allow it to complete a number of steps with regards to its case.²¹ However, the Chamber is concerned that the uncertainty with regards to P-0405 will result in unacceptable delays in the closure of the Defence's case. The Chamber notes that it has an obligation, pursuant to article 64(2) of the Statute, to ensure that the proceedings remain expeditious, and, in this regard, there is a need to complete the evidentiary phase of the case as soon as possible. Accordingly, the Chamber finds it necessary to now set a final deadline for the completion of the certification of P-0405's prior recorded testimony.

13. Although the Defence indicates that certification could potentially take place [REDACTED], this is by no means certain and the risk that there will be more delays is high. The Chamber recalls that it originally set 22 August 2025 as the final deadline for the Defence's presentation of evidence,²² however, the Chamber further notes that the last Defence witness will now testify from 1 to 2 September 2025.²³ Accordingly, the Chamber considers it appropriate to set the deadline for the filing of the declaration and certification of P-0405's prior recorded testimony to the week of the 1 September 2025, so that the presentation of Defence evidence can also close that week. At this juncture, in setting this deadline, the Chamber also has had regard to the content of P-0405's prior recorded testimony and notes that it is largely duplicative of evidence already on the record.

²⁰ See 12 June Transcript, ICC-01/14-01/21-T-138-CONF-EXP-ENG, p. 22, line 24 to p. 23, line 6; p. 24, lines 9 to 14, 21 to 24. See also Decision Setting Defence Deadlines, [ICC-01/14-01/21-986-Red](#), para. 39.

²¹ See Decision on the Defence's Request for an Extension of Time to File its Final List of Witnesses, List of Evidence and Complete Disclosure, 21 February 2025, [ICC-01/14-01/21-920-Red](#). A confidential *ex parte* version was filed simultaneously (ICC-01/14-01/21-920-Conf-Exp); Decision on the Defence's Request for an Extension of Time to File Requests to Submit Evidence other than through a Witness, 20 March 2025, [ICC-01/14-01/21-942](#); Decision on the Defence's Request for Additional Time to Complete Its Investigation, 1 April 2025, [ICC-01/14-01/21-955-Red](#), p. 9. A confidential version was filed simultaneously (ICC-01/14-01/21-955-Conf); Decision Setting Defence Deadlines, [ICC-01/14-01/21-986-Red](#).

²² Decision Setting Defence Deadlines, [ICC-01/14-01/21-986-Red](#), para. 56.

²³ Email from the Chamber, dated 24 July 2025, at 17:07.

14. The Chamber therefore sets 5 September 2025 as the deadline for the filing of the declaration and certification of P-0405's prior recorded testimony. If the declaration and certification are not filed by this date, then P-0405's prior recorded testimony will not form part of the evidentiary record. Connected with the foregoing, the Defence is ordered to file a formal notice notifying the conclusion of its presentation of evidence on 5 September 2025.

FOR THESE REASONS, THE CHAMBER HEREBY

SETS 5 September 2025 as the deadline for the filing of the declaration and certification of P-0405's prior recorded testimony; and

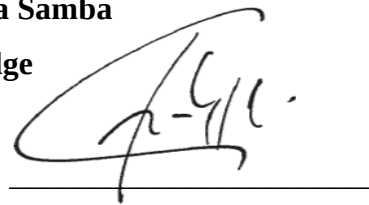
ORDERS the Defence to file its formal notice notifying the conclusion of its presentation of evidence on 5 September 2025.



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 25 July 2025

At The Hague, The Netherlands