

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 24 August 2026

TRIAL CHAMBER VI

Before: Judge Miatta Maria Samba
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godínez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Public

Public redacted version of "Prosecution's Submissions regarding the Panel of Experts' Report concerning the Accused's fitness to stand trial", ICC-01/14-01/21-664-SECRET, dated 11 December 2023

Source: Office of the Prosecutor

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I. INTRODUCTION

1. On 14 August 2023, Trial Chamber VI ("Chamber") rendered its "Decision Appointing Experts for the Purpose of a Medical Examination pursuant to Rule 135 of the Rules of Procedure and Evidence" ("Decision") wherein it appointed two experts ("Panel") to examine and assess Mr Said's medical condition¹ and afforded parties and participants the opportunity to make submissions² following receipt of the Panel's report ("Panel of Experts' Report").
2. Based on the findings in the Panel of Experts' Report, the Prosecution respectfully requests that the Chamber conclude:
 - i. that Mr Said is fit to stand trial; and
 - ii. that trial proceedings in this case should resume in March 2024.
3. The Prosecution's request is supported by the Panel of Experts' Report which found that Mr Said's current state of health is stable³ and that he has the capacity to participate in trial proceedings and will be ready to do so once he returns to his cell from the prison's medical wing.⁴ It is further supported by the Panel's expert opinion that no reasonable adjustments are necessary at this stage to address Mr Said's medical condition should his trial resume.⁵

¹ ICC-01/14-01/21-630-SECRET-Red, paras. 31, 39.

² ICC-01/14-01/21-630-SECRET-Red, para. 50.

³ ICC-01/14-01/21-660-SECRET-Anx, p. 19.

⁴ ICC-01/14-01/21-660-SECRET-Anx, pp. 19, 21, "L'état de santé actuel de Monsieur MAHAMAT SAID ABDEL KANI est stable...Ces éléments nous permettent de conclure qu'à la fin de la période d'hospitalisation actuelle, et après son retour au centre pénitentiaire ordinaire, il aura la capacité de participer à la procédure."

⁵ ICC-01/14-01/21-660-SECRET-Anx, pp. 19, 21.

II. CONFIDENTIALITY

4. Pursuant to regulation 14 of the Regulations of the Registry, this submission is classified as Secret since it refers to documents with the same classification.

III. APPLICABLE LAW

5. Article 64(2) of the Rome Statute ("Statute") provides that Chambers should:

ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses

6. In so far as fairness may be impacted by an accused's medical condition, Chambers have held that the "concept of 'fitness to stand trial' 'must be viewed as an aspect of the broader notion of fair trial which is rooted in the idea [that an accused must be able to] meaningfully exercise his or her procedural rights.'"⁶
7. Chambers further held that article 67(1) of the Statute enumerated a number of relevant capacities which are necessary for the meaningful exercise of procedural rights and that these include:

the capacities to understand the charges and the conduct, purpose and possible consequences of the proceedings, instruct counsel and to make a statement.⁷

⁶ ICC-01/12-01/18-952-Red, para. 33; *see also* ICC-02/04-01/15-637-Red, para. 12 "...there must be indications suggesting the existence of medical conditions which may impact on the accused's ability to meaningfully exercise his fair trial rights....As already clarified in the jurisprudence of the Court and equally observed in the jurisprudence of the ICTY, the question of whether an accused is unfit to stand trial does not concern, in and of itself, whether he or she has particular medical conditions, but whether the accused is able to exercise effectively his fair trial rights in the proceedings against him irrespective of the existence of any such medical condition"; .

⁷ ICC-01/12-01/18-952-Red, para. 34; *see also* ICC-02/11-01/15-253, para. 13 "Article 67(1) of the Statute requires that an accused must have the capacity to understand and defend himself against the charges, which includes, inter alia, the capacity to:

- Understand the purpose, including the consequences, of the proceedings;
- Understand the course of the proceedings, including the nature and significance of pleading to the charges;
- Understand the evidence;
- Testify or give an unsworn statement (should the accused so choose); and
- Instruct counsel in the preparation and conduct of a defence."

8. “It is not however required that these capacities must be present at their notionally highest level, or at the highest level that a particular accused has ever enjoyed in respect of each capacity; the threshold is met when an accused has these capacities, viewed overall and in a reasonable manner.”⁸

IV. BACKGROUND

9. On 18 January 2023, the Chamber concluded hearing the testimony of the Prosecution’s sixteenth witness and adjourned proceedings.⁹
10. On 1 February 2023, the Chamber informed the parties and participants that it would not be possible to resume the trial and duly convened a status conference on 7 February 2023.¹⁰
11. On 7 February 2023, at the status conference, the Registry informed the Chamber and parties that due to medical reasons Mr Said was unable to attend and participate in proceedings for six months.¹¹
12. On 13 June 2023, the Chamber, acting pursuant to rule 135 of the Rules, ordered the Registry to submit to the Chamber, for its consideration, “a shortlist of experts who are qualified and in a position to assess: (i) the medical condition of the accused; (ii) his prognosis; (iii) his ability to participate in the proceedings, and (iv) whether any special measures or adjustments are necessary to address any medical condition of the accused during the trial proceedings.”¹²

⁸ ICC-01/12-01/18-952-Red, para. 34.

⁹ Transcript of hearing, 18 January 2023, ICC-01/14-01/21-T-046-CONF-ENG CT, p. 76.

¹⁰ Email of Trial Chamber IV, titled “SAID-Cancellation of hearings”, dated 01 February 2023.

¹¹ Transcript of hearing, 7 February 2023, ICC-01/14-01/21-T-047-SECRET-ENG, p. 5.

¹² ICC-01/14-01/21-616-SECRET.

13. On 21 July 2023, the Registry filed two lists of potential experts.¹³
14. On 28 July 2023, the Prosecution,¹⁴ the Defence¹⁵ and the Common Legal Representative of Victims'¹⁶ filed observations on the Registry's shortlists.
15. On 14 August 2023, the Chamber issued its "Decision Appointing Experts for the Purpose of a Medical Examination pursuant to Rule 135 of the Rules of Procedure and Evidence" wherein it appointed [REDACTED] and [REDACTED] to examine Mr Said" and "assess: (i) the medical condition of the accused; (ii) his prognosis; (iii) his ability to participate in the proceedings; and, (iv) whether any special measures or adjustments are necessary to address any medical condition of the accused during the trial proceedings."¹⁷ The Decision further instructed that the Panel's report be submitted within 15 days after it had finalised its examination of Mr Said¹⁸ and also provided that the parties and participants may make submissions on the Panel's report within five days of it being received.¹⁹
16. On 9 November 2023, the Prosecution submitted an email to the Chamber and parties requesting to be notified if the medical examination of Mr Said had been conducted and also requested a status conference.²⁰
17. On 10 November 2023, the Chamber informed parties and participants that "based on information it formally received on 9 November 2023, the medical examination of Mr Said [was] scheduled to take place on the 17 November 2023."²¹

¹³ ICC-01/14-01/21-621-SECRET-RED; ICC-01/14-01/21-621-SECRET-Anx1; ICC-01/14-01/21-621-SECRET-Anx2.

¹⁴ ICC-01/14-01/21-624-SECRET; ICC-01/14-01/21-624-SECRET-AnxA.

¹⁵ ICC-01/14-01/21-626-SECRET-Exp; ICC-01/14-01/21-626-SECRET-Red.

¹⁶ ICC-01/14-01/21-625-SECRET.

¹⁷ ICC-01/14-01/21-630-SECRET-Red, paras 31, 39.

¹⁸ ICC-01/14-01/21-630-SECRET-Red, para. 47.

¹⁹ ICC-01/14-01/21-630-SECRET-Red, para. 50.

²⁰ Email of Prosecution, titled "Prosecution Request for a Status Conference", dated 09 November 2023.

²¹ Email of Trial Chamber IV, titled "Prosecution Request for a Status Conference", dated 10 November 2023

18. On 13 November 2023, the Defence requested that specific information be given to the Panel in order for it to be able to make an informed assessment of Mr Said and determine whether any special measures are required to preserve his health during the trial.²²
19. On 17 November 2023, the Prosecution²³ and Common Legal Representative of Victims²⁴ filed responses to the Defence's filing of 13 November 2023. On the same day, the Chamber issued its Decision rejecting the Defence's request to provide information to the Panel of Experts.²⁵
20. On 4 December 2024, the Registry filed on the case record the Defence's proposed redacted version of the Panel of Experts' Report dated 30 November 2023.²⁶

V. SUBMISSIONS

Mr Said is fit to resume trial and requires no special measures or adjustments

21. Mr Said's current state of health renders him able to meaningfully exercise his fair trial rights including rights listed in article 67(1) of the Statute such as understanding the purpose, including the consequences, of the proceedings; understanding the course of the proceedings, including the nature and significance of pleading to the charges; understanding the evidence; preparing his defence and communicating freely with counsel; being present at the trial unaided; and testifying (should he so choose).

²² ICC-01/14-01/21-642-SECRET-Red; ICC-01/14-01/21-642-SECRET-Exp.

²³ ICC-01/14-01/21-645-SECRET.

²⁴ ICC-01/14-01/21-644-SECRET.

²⁵ ICC-01/14-01/21-648-SECRET.

²⁶ ICC-01/14-01/21-660-SECRET; ICC-01/14-01/21-660-SECRET-Anx.

22. The Chamber's Decision appointing two experts to provide an "objective, independent assessment of Mr Said's health"²⁷ was taken expressly in order to ensure the fairness and expeditiousness of the proceedings and to determine whether or not Mr Said could "effectively exercise his ... fair trial rights in the proceedings."²⁸
23. Following a review of Mr Said's medical history, the Panel established that [REDACTED]²⁹ [REDACTED].³⁰ [REDACTED]³¹ [REDACTED]³² [REDACTED].³³ [REDACTED].³⁴
24. The Panel of Experts' Report concludes that Mr Said's medical condition is now stable and that he is fit to resume trial. [REDACTED].³⁵ [REDACTED]³⁶; [REDACTED]³⁷; [REDACTED]³⁸. [REDACTED].³⁹
25. [REDACTED]⁴⁰; [REDACTED].⁴¹
26. [REDACTED].⁴² [REDACTED].⁴³
27. The Panel's expert opinion is in line with the views expressed by Mr Said. Mr Said informed the Panel that he feels in good shape;⁴⁴ [REDACTED];⁴⁵ [REDACTED].⁴⁶

²⁷ ICC-01/14-01/21-630-SECRET-Red, para. 24, 37.

²⁸ ICC-01/14-01/21-630-SECRET-Red, paras. 34, 39.

²⁹ ICC-01/14-01/21-660-SECRET-Anx, pp. 10, 16, 18.

³⁰ ICC-01/14-01/21-660-SECRET-Anx, pp. 5, 8-10.

³¹ ICC-01/14-01/21-660-SECRET-Anx, pp. 3, 5, 8, 9, 13, 16, 18.

³² ICC-01/14-01/21-660-SECRET-Anx, pp. 5-6, 16, 18.

³³ ICC-01/14-01/21-660-SECRET-Anx, pp. 4, 6, 13-14, 17-18.

³⁴ ICC-01/14-01/21-660-SECRET-Anx, pp. 6, 17.

³⁵ ICC-01/14-01/21-660-SECRET-Anx, pp. 17-18.

³⁶ ICC-01/14-01/21-660-SECRET-Anx, pp. 7, 17, 19.

³⁷ ICC-01/14-01/21-660-SECRET-Anx, pp. 17, 19.

³⁸ ICC-01/14-01/21-660-SECRET-Anx, pp. 19, 21.

³⁹ ICC-01/14-01/21-660-SECRET-Anx, pp. 7, 17,

⁴⁰ ICC-01/14-01/21-660-SECRET-Anx, pp. 6-7, 17.

⁴¹ ICC-01/14-01/21-660-SECRET-Anx, pp. 19, 21.

⁴² ICC-01/14-01/21-660-SECRET-Anx, pp. 19, 21, "[REDACTED]."

⁴³ ICC-01/14-01/21-660-SECRET-Anx, pp. 20-21.

⁴⁴ ICC-01/14-01/21-660-SECRET-Anx, pp. 6, 17.

⁴⁵ ICC-01/14-01/21-660-SECRET-Anx, pp. 6, 17.

⁴⁶ ICC-01/14-01/21-660-SECRET-Anx, pp. 7.

He also stated his preference to resume trial in two to three months' time⁴⁷. Mr Said's statements to the Panel reflect a sincere belief that he is fit to resume trial.

28. In this regard, Mr Said also informed the Panel that [REDACTED].⁴⁸ However, these ailments are insufficient to prevent the trial of Mr Said resuming. As the Panel of Experts' Report finds, these complaints are managed by pain medication. Moreover, these complaints were taken into account by the Panel when reaching its conclusion that Mr Said is fit to resume trial.⁴⁹
29. In summary, Mr Said's laboratory examination results, his clinical examination results, the Panel's expert opinion and Mr Said's own views are consistent and allow the Chamber to be satisfied that Mr Said's current medical condition is not an impediment to trial proceedings resuming.

Trial proceedings should resume in March 2024

30. [REDACTED]. [REDACTED].
31. The Panel of Experts' Report does not indicate [REDACTED]. The Prosecution proposes that the Chamber set a date to resume trial proceedings in March 2024. This is because Mr Said indicated that he will be in a position to resume trial in two or three months' time. A date should be set now to ensure the fairness and expeditiousness of the proceedings. Finally, as has previously been conveyed to the Chamber, this timeframe provides the Prosecution appropriate time to inform its witnesses of the resumption of trial.⁵⁰

⁴⁷ ICC-01/14-01/21-660-SECRET-Anx, p. 6.

⁴⁸ ICC-01/14-01/21-660-SECRET-Anx, pp. 18-19.

⁴⁹ ICC-01/14-01/21-660-SECRET-Anx, pp. 6, 18-19.

⁵⁰ Transcript of hearing, 7 February 2023, ICC-01/14-01/21-T-047-SECRET-ENG ET, p. 7 lines 19-21.

VI. RELIEF REQUESTED

32. The Prosecution respectfully requests the Chamber to conclude that Mr Said is fit to resume trial and to direct that the trial resume in March 2024.

A handwritten signature in black ink, appearing to read 'Mandiaye Niang', with a large, stylized initial 'M'.

Mame Mandiaye Niang, Deputy Prosecutor

Dated this 24th day of August 2026
At The Hague, The Netherlands