

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 27 August 2026

TRIAL CHAMBER VI

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF

THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI

PUBLIC

Public Redacted Version of “Registry Observations on the “Demande de la Défense visant à obtenir la mise en œuvre de la décision de la Chambre du 3 mars 2022 (ICC-01/14-01/21-247-Conf) afin que le droit à la vie privée et familiale de Monsieur Said, présumé innocent, soit respecté lors de sa détention”, (ICC-01/14-01/21-350-Conf-Exp)” (ICC-01/14-01/21-366-Conf-Exp) dated 17 June 2022

Source: Registry

Document 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
M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☒ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. Introduction

1. In compliance with Trial Chamber VI's ("Chamber") instruction to the Registry issued by way of email on 13 June 2022¹ in the case of *The Prosecutor v. Mahamat Said Abdel Kani* ("Mr Said") to submit any observations on the "*Demande de la Défense visant à obtenir la mise en œuvre de la décision de la Chambre du 3 mars 2022 (ICC-01/14-01/21-247-Conf) afin que le droit à la vie privée et familiale de Monsieur Said, présumé innocent, soit respecté lors de sa détention*" ("Defence Request"),² by 17 June 2022 at the latest, the Registry hereby submits its observations.

II. Procedural history

2. On 3 March 2022, the Chamber issued the "Decision on the Defence Application for Interim Release of Mahamat Said Abdel Kani and Contact Restrictions" ("3 March 2022 Decision"),³ maintaining restrictions on Mr Said's contacts and ordering *inter alia* that all his non-privileged calls be actively monitored ("Monitored Contact List"), except for the non-privileged telephone calls with his vetted immediate family members ("Unmonitored Contact List").⁴ For the Unmonitored Contact List, the Chamber instructed the Defence to "file a list before the Chamber, available to the Registry, containing the full names and essential biographical information, including past and present occupation, of all members of Mr Said's immediate family members with whom he wishes to be in regular contact ('List of Family Names')".⁵ The Chamber also instructed the Registry to "make an assessment of whether any of Mr Said's immediate family members have any links with armed groups or other potential threat

¹ Email from Trial Chamber VI to the Registry on 13 June 2022 at 9:38.

² Defence for Mr Said, "*Demande de la Défense visant à obtenir la mise en oeuvre de la décision de la Chambre du 3 mars 2022 (ICC-01/14-01/21-247-Conf) afin que le droit à la vie privée et familiale de Monsieur , présumé innocent, soit respecté lors de sa detention*", ("Defence Request"), 10 June 2022, ICC-01/14-01/21-350-Conf-Exp.

³ Trial Chamber VI, "Decision on the Defence Application for Interim Release of Mahamat Abdel Kani and Contact Restrictions", ("3 March 2022 Decision"), 3 March 2022, ICC-01/14-01/21-247-Conf.

⁴ Trial Chamber VI, 3 March 2022 Decision, para. 45.

⁵ Trial Chamber VI, 3 March 2022 Decision, para. 46.

actors”,⁶ with the possibility to consult with the Office of the Prosecutor (“Prosecution”) and Mr Said, and to exclude from the Unmonitored Contact List “any immediate family members who the Registry considers possible vectors for attempts to obstruct the proceedings or to breach confidentiality”.⁷

3. On 14 March 2022, the Defence filed its *“Communication conformément au paragraphe 46 de la décision ICC-01/14-01/21-247-Red de la liste des membres de la famille de Monsieur Said (List of Family Names) avec lesquels il souhaite être en contact régulier dans le cadre des appels téléphoniques non-privilégiés dont il peut bénéficier”* transmitting to the Chamber and the Registry Mr Said’s family names (“List of Family Names”).⁸
4. The Registry thereafter started to assess the individuals on the List of Family Names requested by Mr Said to be added to his contact list, in accordance with the Chamber’s 3 March 2022 Decision.
5. On 14 April 2022, the Acting Chief Custody Officer of the ICC Detention Section (respectively “CCO” and “DS”), notified, on behalf of the Registrar, Mr Said that seven immediate family members from the List of Family Names will be added to his Unmonitored Contact List.⁹
6. On 9 May 2022, the CCO notified Mr Said that, based on the Registry’s confidential assessment pursuant to the 3 March 2022 Decision,¹⁰ three of his contacts provided in the List of Family Names could not be added to his Unmonitored Contact List, and that one of them was also not considered

⁶ Trial Chamber VI, 3 March 2022 Decision, para. 46.

⁷ Trial Chamber VI, 3 March 2022 Decision, para. 46.

⁸ Defence for Mr Said, *“Communication conformément au paragraphe 46 de la décision ICC-01/14-01/21-247-Red de la liste des membres de la famille de Monsieur (List of Family Names) avec lesquels il souhaite être en contact régulier dans le cadre des appels téléphoniques non-privilégiés dont il peut bénéficier”*, 9 March 2022, ICC-01/14-01/21-257-Conf-Exp-AnxA.

⁹ Detention Section, CCO Memorandum to Mr Said, 14 April 2022, DS/2021/031/HT/mcb.

¹⁰ Trial Chamber VI, 3 March 2022 Decision, para. 46.

immediate family member.¹¹ As a result, these 3 contacts have not been added to Mr Said's Unmonitored Contact List but to his Monitored Contact List.

7. On 6 June 2022, the CCO approved a batch of the remaining contacts from the List of Family Names for which Mr Said provided a form ("Contact Form") pursuant to regulation 173(4) of the Regulations of the Registry ("RoR") to be added to his Monitored Contact List. On 10 June 2022, the Registry informed the Defence that these additional contacts, which included Mr Said's children, were approved and would be notified to Mr Said shortly.¹²
8. Due to a clerical error, Mr Said was provided with his updated contact lists only on 14 June 2022, and he has since been able to make monitored telephone calls with *inter alia* his children.
9. On 10 June 2022, the Defence Request was filed,¹³ requesting the Chamber to order the Registry to implement the 3 March 2022 Decision in order for Mr Said to maintain his family links.

III. Classification

10. In accordance with regulation 23 *bis*(2) of the Regulations of the Court ("RoC"), the present submissions are classified as confidential, as: (a) they refer to the Defence Request with the same level of classification, and (b) they contain confidential information on internal Registry procedures.

IV. Applicable law

11. For the purpose of the present report, the Registry has considered, *inter alia*, regulations 23 *bis*(2), 24 *bis*(1), 90, 92, 99(1)(i) and 101 of the RoC, and regulations 88, 173, 174, and 175 of the RoR.

¹¹ Detention Section, CCO Memorandum to Mr Said, 9 May 2022, DS/2021/040/HT/mcb.

¹² Detention Section email to the Defence on 10 June 2022 at 12:39.

¹³ Defence for Mr Said, "Defence Request".

V. Submissions

12. The Registry will first address specific matters arising from the Defence Request and will then provide additional observations pursuant to regulation 24 *bis*(1) of the RoC on the procedure set out to implement the 3 March 2022 Decision.¹⁴

Observations on the Defence Request

13. The Defence stated in its request that *“le retard pris par le Greffe dans la mise en oeuvre de la décision de la Chambre a pour conséquence de porter atteinte au respect du droit à une vie privée et familiale normale de Monsieur Said, présumé innocent, lors de sa détention”*.¹⁵
14. At the outset, it should be recalled that in order for the Registry to add a contact to the list of contacts of a detained person, the latter must first fill out and submit a Contact Form to the CCO pursuant to regulation 174(3) of the RoR, which includes essential information such as telephone numbers of the contact(s) to be added. While the List of Family Names was provided as a starting point, the DCC verification procedure provides that Contact Forms should be submitted for each person on the List of Family Names. This was duly explained to Mr Said and the Defence on 25 March 2022.¹⁶
15. Contacts Forms were subsequently provided to the DS by Mr Said throughout the months of April and May. After verification of the information provided in these Contact Forms, 32 out of the 37 contacts from the List of Family Names were approved for Mr Said’s Monitored Contact List on 6 June 2022, and notified to Mr Said on 14 June 2022. For the remaining 5 contacts from the List of Family Names, the DS is liaising with Mr Said directly in order to receive the

¹⁴ Trial Chamber VI, 3 March 2022 Decision, para. 46.

¹⁵ Defence for Mr Said, “Defence Request”, para. 42.

¹⁶ Detention Section, CCO Memorandum to Mr Said, 25 March 2022, DS/2021/033/HT/mcb.

outstanding Contact Forms. Thus, since 14 June 2022, Mr Said has been able to make monitored non-privileged telephone calls to *inter alia* his children.

16. As for Mr Said's Unmonitored Contact List, the Registry is in the process of making a final determination, in addition to the seven individuals already added to this list, as to whether additional immediate family members may be added to the Unmonitored Contact List.
17. Furthermore, the Defence in the Request stated that “[d]epuis son arrivée à La Haye, [Monsieur Said] n’a jamais pu communiquer avec ses enfants, notamment ses enfants mineurs”.¹⁷ While the Registry is cognizant of the importance and rights for detained persons to maintain family links, it observes that Mr Said only requested to add several of his children through the List of Family Names on 14 March 2022 whereas such a request could have been made since Pre-trial Chamber II’s “Decision on the ‘Prosecution’s Request for Contact Restrictions concerning Mahamat Said Abdel Kani in Pre-trial Detention’” issued on 3 February 2021.¹⁸
18. Lastly, in relation to the Defence’s statement that “[i]l apparaît que l’attitude du Greffe, qui consiste à ne pas répondre clairement aux questions posées par la Défense, à prétendre que tout « va bien » et d’esquiver tout dialogue approfondie sur la question, a aujourd’hui des conséquences néfastes qui aboutissent à la violation des droits de Monsieur Said”,¹⁹ the Registry wishes to recall the various email communications it had with the Defence. In this regard, the Registry has clarified that the verification process was underway and that given the novel nature of the verification process expected of the Registry as portrayed in the 3 March 2022 Decision, it needed time to assess its scope and impact.

¹⁷ Defence for Mr Said, “Defence Request”, para. 34.

¹⁸ Pre-Trial Chamber II, “Decision on the ‘Prosecution’s Request for Contact Restrictions concerning Mahamat Abdel Kani in Pre-trial Detention’” 3 February 2022, ICC-01/14-01/21-9-Conf-Red, para. 21.

¹⁹ Defence for Mr Said, “Defence Request”, para. 38.

Furthermore, the Registry notes that throughout the process, Mr Saïd has had access to calls to his family members on both his Unmonitored and Monitored Contact Lists, pending completion of the assessment of the full list.

Additional observations on the vetting and threat actor assessment ordered by the Chamber

19. As mentioned above, the Registry has noted the innovative nature of the verification process as described in the 3 March 2022 Decision. Indeed, the Chamber ordered the Registry to be responsible for “vetting” the information provided by Mr Saïd through the List of Family Names and “make an assessment of whether any of Mr Saïd’s immediate family members have any links with armed groups or other potential threat actors”²⁰ and to exclude from the Unmonitored Contact List “any immediate family members who the Registry considers possible vectors for attempts to obstruct the proceedings or to breach confidentiality”.²¹

20. As a result, and in accordance with the Chamber’s 3 March 2022 Decision, two lists of verified individuals are to be drawn for Mr Saïd (1) immediate family members that conform to the Chamber’s decision and are unmonitored (“Unmonitored Contact List”), and (2) the rest of his approved contacts that are monitored (“Monitored Contact List”).

21. In this regard, the Registry wishes to clarify, in light of the well-established verification procedure for detained persons’ contacts and on the basis of its internal assessment capacity, that while it is not in a position to perform [REDACTED], through several steps [REDACTED] such as looking into

²⁰ Trial Chamber VI, 3 March 2022 Decision, para. 46.

²¹ *Ibid.*

[REDACTED], the Registry performs a verification procedure as described below.

22. This verification procedure has been implemented for the purpose of adding contacts to either of Mr Said's contact list prior to the 3 March 2022 Decision as follows:²² 1) initial verification by Detention Centre ("DC") Registry staff, followed by 2) consultation with the Victims and Witnesses Unit ("VWU"), and, when necessary 3) consultation with the Prosecution and Mr Said.
23. Following the 3 March 2022 Decision to exclude from the Unmonitored Contact List "any immediate family members who the Registry considers possible vectors for attempts to obstruct the proceedings or to breach confidentiality",²³ the Registry has implemented the following procedure: 1) verification procedure as described in paragraph above, following which an approved contact can be added to Mr Said's Monitored Contact List; 2) additional research by the VWU, who may have consultations with the Prosecution and Mr Said, as necessary, and 3) final decision by the Registrar on whether an immediate family member may be added to the Unmonitored Contact List.
24. As implemented in other cases,²⁴ the procedure consists in the VWU verifying the information received mainly through open sources but also through sources of information otherwise available to the VWU and recorded in its confidential database in accordance with regulation 88 of the RoR. In accordance with its mandate, the VWU mainly focuses on information that could have an impact on the security of potential witnesses and/or victims. Information that can assist the Registry in determining whether any of the relevant persons have any links with armed groups or other potential threat actors, or are possible vectors for

²² Registry, "Registry Report on the Implementation of the Restrictions on Contact Ordered by Trial Chamber VI", 24 January 2022, ICC-01/14-01/21-232-Conf, paras. 8-10.

²³ Trial Chamber VI, 3 March 2022 Decision, para. 46.

²⁴ See "Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge", 24 February 2021, ICC-01/14-01/21-23-Conf-Exp, paras. 19-30.

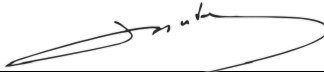
attempts to obstruct the present proceedings or to breach confidentiality, if identified by the VWU, is communicated to the CCO as well as any elements that raise questions or concerns.

25. In some instances the VWU's ability to fully verify an individual might be limited. Therefore and where strictly necessary in order to identify threat actors or define the need for additional protective measures to be implemented, the names of the individuals may also be shared with the Prosecution to benefit from its own knowledge of potential threat actors. The VWU's consultation with the Prosecution, if any, and as authorised by the Chamber in the present case, is made with the aim to fully implement the Chambers' relevant decisions on the monitoring regime of the detained person.

26. The Prosecution, in order to assist in the verification and threat actor assessment, also shares identity related information with the VWU on a confidential basis. The VWU would also welcome any other exchange of information with the Prosecution, in particular [REDACTED] that may enhance the VWU's verification process and threat actor assessment. This would ensure that the VWU, which is a neutral organ of the Court, requests the support of the Prosecution only when necessary in the performance of the verification process as ordered by the Chamber.

27. The Registry wishes to inform the Chamber that internal consultations within the Registry are currently being held in order to streamline the verification process of contacts of detained persons. The Registry will keep the Chamber informed of any changes in the verification of contact procedures. In this respect, the Registry stands ready to adapt the present approach as the Chamber sees fit, within the limits of its capabilities.

28. Should the Chamber wish the Registry to undertake further actions in the context of the contacts verification process for the purpose of Mr Said's Unmonitored Contact list, the Registry remains available to provide the Chamber with additional observations and clarifications on *inter alia* what these actions would entail for the Registry.



Marc Dubuisson, Director Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 27 August 2026

At The Hague, the Netherlands