

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 21 April 2021

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF

THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI

CONFIDENTIAL

**Second Registry Report on the Implementation of the Restrictions on Contact
Ordered by the Single Judge**

Source: Registry

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

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Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of the Public Counsel for
Victims**

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REGISTRY

Registrar

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Mr Nigel Verrill

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**Victims Participation and Reparations
Section**

I. Introduction

1. Following the "Decision on the 'Prosecution's Request for Extension of Contact Restrictions'" ("5 March 2021 Decision")¹ issued by the Single Judge of Pre-Trial Chamber II ("Single Judge" and "Chamber" respectively) on 5 March 2021, in which the Registry is ordered to submit a report on the implementation of the restrictions on contact for Mr Mahamat Said Abdel Kani ("Mr Said") by no later than 21 April 2021 and immediately inform the Single Judge of any violation of the applicable restrictions on contact, the Registry hereby submits its report.²

II. Procedural history

2. On 22 January 2021, following a request from the Office of the Prosecutor ("Prosecutor"),³ the Single Judge ordered the Registry to provisionally apply certain restrictions to Mr Said's contacts upon his arrival at the International Criminal Court's Detention Centre ("ICC" and "DC" respectively).⁴
3. On 3 February 2021, the Single Judge issued his "Confidential Redacted Version of 'Decision on the 'Prosecution's Request for Contact Restrictions concerning Mahamat Said Abdel Kani in Pre-trial Detention'", 3 February 2021, ICC-01/14-01/21-9-US-Exp" ("3 February 2021 Decision")⁵ directing the Registry to put in place the following restrictions on contact until 3 March 2021 (inclusive): (1) actively monitor Mr Said's non-privileged telephone calls, non-privileged visits

¹ Pre-Trial Chamber II, "Decision on the 'Prosecution's Request for Extension of Contact Restrictions'" ("5 March 2021 Decision"), 5 March 2021, ICC-01/14-01/21-31-Conf.

² *Ibid.*, para. 41.

³ Office of the Prosecutor, "Prosecution's Request for Contact Restrictions concerning Mahamat Said Abdel Kani in Pre-trial Chamber II", 22 January 2021, ICC-01/14-133-US-Exp.

⁴ Email from the Single Judge to the Office of the Director DJSS on 22 January 2021 at 18:42.

⁵ Pre-Trial Chamber II, "Confidential Redacted Version of 'Decision on the 'Prosecution's Request for Contact Restrictions concerning Mahamat Said Abdel Kani in Pre-trial Detention'" ("3 February 2021 Decision"), 3 February 2021, ICC-01/14-01/21-9-Conf-Red.

and written correspondence, with the exception of those to or from the persons identified in regulation 97 and 98 of the RoC and 174(1) of the RoR; (2) restrict his non-privileged contacts to “immediate family members provided that their identities and contact details have been thoroughly verified with the support of the Victims and Witnesses Unit in liaison with the Prosecutor”; (3) communications limited to French and Sango; (4) limit non-privileged telephone calls to 60 minutes per week; (5) prohibit the use of obscure or coded language and any case-related discussion with his non-privileged contacts; and (6) orders the Chief Custody Officer (“CCO”) to stop any non-privileged telephone calls, visits or intercept written correspondence violating the Single Judge’s order.⁶ The Single Judge also ordered the Registry to submit a report on the implementation of these restrictions and immediately inform the Single Judge of any violation of the restrictions on contact.⁷

4. On 24 February 2021, the Registry submitted its “Confidential Redacted Version of “Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge”, filed on 24 February.”⁸ reporting no incidents.⁹
5. On 3 March 2021, the Single Judge decided to extend the restrictions on contacts until 5 March 2021 (inclusive).¹⁰
6. On 5 March 2021, the Single Judge issued his 5 March 2021 Decision maintaining the restrictions on contact specified in the 3 February 2021 Decision, with modifications that: (1) Mr Said’s non-privileged contacts for telephone calls and written correspondence may include family members and

⁶ *Ibid.*, paras. 21-26.

⁷ 3 February 2021 Decision, para. 27.

⁸ Registry, “Confidential Redacted Version of “Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge”, filed on 24 February.”, 24 February 2021, ICC-01/14-01/21-23-Conf-Red.

⁹ *Ibid.*, para. 10.

¹⁰ Email from the Single Judge to the Office of the Director DJSS on 3 March 2021 at 09:34.

other individuals; (2) Mr Said is prohibited from discussing substantive aspects of his case in non-privileged communications; and (3) Mr Said may have two hours of non-privileged telephone calls for a maximum of two days per week.¹¹

III. Classification

7. In accordance with regulation 23 *bis*(1) of the Regulations of the Court ("RoC"), the present report is classified as confidential, as it refers to a decision with the same level of confidentiality, and as it contains confidential information pertaining to the internal operations of the Registry, and information on Mr Said's private life.

IV. Applicable law

8. For the purpose of the present submission, the Registry has considered regulations 99(1)(i), 100 and 101 of the RoC, and regulations 168, 169, 170, 173, 174, 175, 179 and 180 of the Regulations of the Registry ("RoR").

V. Submissions

In relation to non-privileged telephone calls

9. Pursuant to the Single Judge's restrictions on contact, Mr Said is authorized to make non-privileged telephone calls to authorized individuals whose identities and contact information are thoroughly verified by the Registry including with the support of the Victims and Witnesses Unit ("VWU"), twice a week for a total of two hours.¹² Mr Said is offered two 75-minutes time periods a week for his non-privileged telephone calls which are actively monitored. This includes the

¹¹ 5 March 2021 Decision, paras. 33-39.

¹² 3 February 2021 Decision, para. 21; 5 March 2021 Decision, paras. 34-36, 39.

time to set up the call and potential interruptions on the line. The Registry has no incidents to report.

10. Nevertheless, the Registry informs the Single Judge that recently there have been connection difficulties to telephone numbers from certain network providers in the Central African Republic, and therefore the Registry has been unable to connect many of Mr Said's contacts during this period. The Information Management Services Section has been apprised of the difficulties and solutions are currently being sought. The Detention Section has kept Mr Said informed of the ongoing connection issues, and has encouraged him to provide alternative contact telephone numbers from different network providers as a temporary solution, which he has.

In relation to Non-privileged Visits

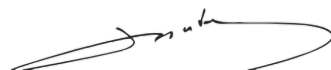
11. Pursuant to the 3 February 2021 Decision, Mr Said's non-privileged visits shall be actively monitored and recorded, with a limited number of individuals such as family members, whose identity and contact details have been thoroughly verified.¹³ Nevertheless, the Registry recalls that, following the COVID-19 Temporary Measures in place at the DC, all in-person visits to the DC are currently suspended, therefore no non-privileged visits took place during the reporting period.

In relation to non-privileged incoming and outgoing mail

12. Pursuant to the 5 March 2021 Decision, Mr Said's is authorized to send or receive non-privileged letters from individuals whose identity and contact

¹³ 3 February 2021 Decision, para. 25.

details have been thoroughly verified.¹⁴ Any written correspondence or packages that are sent or received pursuant to regulations 168, 169 and 170 of the RoR shall also be closely monitored in accordance with the Mr Said's restrictions on contact. The Registry has no incidents to report regarding written correspondence.



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

Dated this 21 April 2021

At The Hague, the Netherlands

¹⁴ 3 February 2021 Decision, para. 24; 5 March 2021 Decision, para. 34.