

ANNEX A

Public redacted

From: Pre-Trial Chamber II communications
Sent: 28 January 2021 18:19
To: Office of the Director DJSS; [REDACTED]
Cc: [REDACTED]
Subject: Urgent - Case 01/14-01/21- Order rescheduling the hearing of first appearance following technical issues

Dear colleagues,

The Single Judge has been informed that the technical issues experienced this morning are of such a nature as to make it uncertain whether they will be solved by tomorrow morning at 10 as originally foreseen.

Accordingly, the start of the hearing is postponed to 13 hours tomorrow.

The Single Judge reiterates that it is of the essence that the first appearance be held without further delay and that all relevant language services are provided. He trusts that this further postponement will allow the competent services of the Registry to ensure an orderly start and conduct of the hearing.

The Registry is instructed to promptly liaise with the parties and to inform them of the rescheduling.

Thank you and kind regards.

[REDACTED], on behalf of the Single Judge

From: [REDACTED]
Sent: 01 February 2021 14:21
To: Macdonald, Eric
Cc: Pre-Trial Chamber II communications; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani - Single Judge Order

Dear Mr Macdonald,

please note that Judge Aitala orders the Prosecutor to submit a confidential redacted version of the [REDACTED] in accordance with paragraph 2 of said Request, by no later than 3 February 2021, at 16:00 hours.

Kind regards,
[REDACTED], on behalf of Judge Aitala

From: Pre-Trial Chamber II communications
Sent: 26 February 2021 15:20
To: Naouri, Jennifer
Cc: [REDACTED]; Court Management-Court Records; [REDACTED]
Subject: Order setting time limits for responses by the Defence to pending filings in case ICC-01/14-01/21

Dear Counsel,

Following your appointment as counsel for Mr Said in case ICC-01/14-01/21 (filing ICC-01/14-01/21-24), Judge Aitala, Single Judge of Pre-Trial Chamber II, sets the following time limits for responses to pending filings, on the basis of regulation 34 of the Regulations of the Court.

1. By no later than 16:00 hours on **3 March 2021**, the Defence shall submit a single document comprising:
 - (i) the Defence observations on the [REDACTED] within the meaning of [REDACTED] pursuant to [REDACTED]; and
 - (ii) the Defence response to the [REDACTED], also in light of the [REDACTED]
2. By no later than 16:00 hours on **8 March 2021**, the Defence shall submit a consolidated response to the 'Prosecution's Submissions on the Modalities and Procedure for Evidence Disclosure' (ICC-01/14-01/21-11-Conf) and the 'Prosecution's Proposal for Protocol on the Handling of Confidential Information and Contacts with Witnesses' (ICC-01/14-01/21-13+Conf-AnxA);
3. By no later than 16:00 hours on **12 March 2021**, the Defence shall submit the Defence response to the [REDACTED]. In the same document, the Defence may also address any related matters arising from the [REDACTED];

Thank you and kind regards.

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 1 March 2021 19:11
To: Naouri, Jennifer
Cc: Macdonald, Eric; [REDACTED]
Subject: RE: informations supplémentaires concernant la requête de la Défense [REDACTED]

Dear Counsel,

Please note that Judge Aitala has asked me to inform you that he exceptionally accepts the additional submissions contained in your email in light of your recent appointment and in view of the urgency of the matter under consideration.

In addition, the Single Judge instructs the Prosecutor to, if it is considered necessary, integrate her response to these additional submissions in the response that, according to the information received today, will be submitted tomorrow.

Best regards,
 [REDACTED], on behalf of Judge Aitala

-----Original Message-----

From: Naouri, Jennifer [REDACTED]
 Sent: 01 March 2021 17:59
 To: [REDACTED]
 Cc: Pre-Trial Chamber II communications [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]
 Subject: informations supplémentaires concernant la requête de la Défense [REDACTED]

[REDACTED],

J'espère que vous vous portez bien.

Dans sa requête d'aujourd'hui, la Défense informait le Juge unique de ce que [REDACTED].

Après le dépôt de cette requête, CMS indiquait à la Défense que [REDACTED].

La Défense estime nécessaire d'avoir accès à ces éléments pour pouvoir répondre de manière informée et complète à la requête du Procureur du 22 février 2021.

La Défense souhaiterait obtenir des indications du Juge Unique quant à la marche à suivre : est-ce que la présente information par email est suffisante ou est-ce que le Juge unique souhaite que la Défense dépose des soumissions complémentaires sur ce point ?

Pouvez-vous avoir la gentillesse de transmettre ce message au Juge unique?

Bien à vous,

Jennifer Naouri

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From: Pre-Trial Chamber II communications
Sent: 03 March 2021 09:34
To: [REDACTED]; Naouri, Jennifer; Macdonald, Eric
Cc: [REDACTED]; Office of the Director DJSS; [REDACTED]
Subject: Prosecutor v Mahamat Said Abdel Kani - Single Judge Order [REDACTED]

Dear [REDACTED],
Dear Counsel,

Please note that, in light of the [REDACTED], Judge Aitala has decided [REDACTED].

Judge Aitala considers that [REDACTED] is required to adopt a decision on the Prosecutor's request [REDACTED] following the appointment of Ms Jennifer Naouri as counsel for Mr Said on 26 February 2021 (ICC-01/14-01/21-24) and the resulting extension of the time limit for the Defence to respond to the Prosecutor's request (Single Judge Email Order of 26 February 2021).

Best regards,
[REDACTED], on behalf of Judge Aitala

From: [REDACTED]
Sent: 10 March 2021 17:39
To: [REDACTED]; Naouri, Jennifer; Macdonald, Eric
Cc: [REDACTED]; Office of the Director DJSS; [REDACTED]
Subject: Prosecutor v. Said - Single Judge Order Regarding Responses to [REDACTED] and Extending Time Limit Defence Response

Dear [REDACTED] and Counsel,

With regard to the request bearing the number [REDACTED] on behalf of the Defence for Mr Said, please note that Judge Aitala orders: (i) the Registry and the Prosecutor to submit a response indicating whether the redactions in [REDACTED] and [REDACTED], respectively, may be lifted or, if necessary, to provide reasoning as to why some or all redactions should be maintained; and (ii) the Registry to indicate whether the documents mentioned in [REDACTED] may be provided to the Defence or, if necessary, to provide reasoning as to why some or all documents should be withheld from the Defence. The Registry and the Prosecutor shall submit their responses by no later than 12 March 2021 (at 16:00 hours) and, if necessary, shall submit redacted and ex parte versions of their responses.

In addition, in view of the present request on behalf of the Defence for Mr Said, Judge Aitala extends the time limit for the Defence to respond to the [REDACTED], in which it may also address any related matters arising from the [REDACTED], to 19 March 2021 (at 16:00 hours).

Best regards,
[REDACTED], on behalf of Judge Aitala

From: Pre-Trial Chamber II communications
Sent: 12 March 2021 09:24
To: Naouri, Jennifer
Cc: [REDACTED]
Subject: RE: Prosecutor v Said - Appointment Mr Jacobs

Dear Ms Naouri,

Please note that Judge Aitala instructs you not to include Mr Jacobs in the notification sheet of your filings until he has been officially appointed as associate counsel.

Best regards,
 [REDACTED], on behalf of Judge Aitala

-----Original Message-----

From: Naouri, Jennifer [REDACTED]
 Sent: 11 March 2021 16:00
 To: Pre-Trial Chamber II communications [REDACTED]
 Cc: [REDACTED]
 Subject: RE: Prosecutor v Said - Appointment Mr Jacobs

[REDACTED],

Merci de votre mot.

Monsieur Jacobs a été nommé au poste d'assistant juridique et une demande est en cours pour qu'il soit nommé Conseil Associé prochainement.

En espérant vous avoir suffisamment informé.

Bien à vous,

Jennifer Naouri

De : Pre-Trial Chamber II communications [REDACTED]
 Envoyé : jeudi 11 mars 2021 09:37
 À : Naouri, Jennifer
 Cc : [REDACTED]
 Objet : Prosecutor v Said - Appointment Mr Jacobs

Dear Ms Naouri,

Could you please let us know if Mr Jacobs has been appointed as (associate) counsel to Mr Said or, if this is not the case, if his appointment is forthcoming?

Best regards,
 [REDACTED], on behalf of Judge Aitala

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From: Pre-Trial Chamber II communications
Sent: 07 April 2021 13:51
To: Macdonald, Eric
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: Instruction to the Prosecutor in relation to ICC-01/14-01/21-49-Conf

Dear Mr MacDonald,

With regard to the 'Information conjointe portant sur l'accord entre l'Accusation et la Défense concernant la langue dans laquelle seront divulgués les éléments de preuve à charge et les déclarations de témoins' (ICC-01/14-01/21-49-Conf) received on 31 March 2021, the Single Judge notes that the filing is only signed by Counsel for Mr Said. Accordingly, the Single Judge instructs the Prosecutor to confirm, by way of official filing, that ICC-01/14-01/21-49-Conf is a joint filing.

Kind regards,

[REDACTED], on behalf of Single Judge Rosario Aitala

From: [REDACTED]
Sent: 09 April 2021 08:58
To: Court Management-Court Records
Cc: Naouri, Jennifer; Macdonald, Eric; [REDACTED]; Jacobs, Dov; [REDACTED]
Subject: Prosecutor v Said - Single Judge Order Reclassification

Dear CMS,

Please note that Judge Aitala, acting as Single Judge for Pre-Trial Chamber II, orders the Registry to reclassify the following filings as public: ICC-01/14-01/21-11-Conf and ICC-01/14-01/21-33-Conf.

Best regards,
[REDACTED], on behalf of Judge Aitala

From: Pre-Trial Chamber II communications
Sent: 04 May 2021 17:30
To: Macdonald, Eric
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: Order setting time limit for response to Defence request ICC-01/14-01/21-68-Conf-Corr

Dear Mr MacDonald,

The Single Judge notes the Defence's 'Demande de reconsidération ou, subsidiairement, demande d'autorisation d'interjeter appel de la «Decision on matters related to translation» (ICC-01/14-01/21-58-Conf)', (ICC-01/14-01/21-68-Conf-Corr) filed on 3 May 2021 and orders the Prosecution to submit a response, if any, by no later than Thursday, 6 May 2021 (16:00 hours).

Kind regards,
[REDACTED], on behalf of the Single Judge

From: [REDACTED]
Sent: 12 May 2021 09:40
To: CMS Management
Cc: [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani (ICC-01/14-01/21): Order for reclassification of filing ICC-01/04-01/21-46-Conf

Dear CMS,

Judge Aitala has asked me to convey you the following instruction:

The Single Judge instructs the Registry to reclassify ICC-01/04-01/21-46-Conf as public.

Thank you.

Kind regards,

[REDACTED], on behalf of Judge Aitala

From: Pre-Trial Chamber II communications
Sent: 12 May 2021 17:38
To: Naouri, Jennifer
Cc: Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications; Macdonald, Eric; [REDACTED]
Subject: RE: Demande d'instructions/Version publique expurgée 68-Conf-Corr

Dear Ms Naouri, dear Mr MacDonald,

The Single Judge notes today's email from the Defence concerning the public redacted version of its 'Corrigendum de la « Demande de reconsidération ou, subsidiairement, demande d'autorisation d'interjeter appel de la « Decision on matters related to translation » (ICC-01/14-01/21-58-Conf) » (ICC-01/14-01/21-68-Conf) » déposée le 3 mai 2021' (hereinafter the 'Request'). The Single Judge instructs the Defence to file a public redacted version of the Request and clarifies that a public redacted version of the 'Decision on matters related to translation' (ICC-01/14-01/21-58-Conf) is not necessary for that filing specifically. The Single Judge also clarifies that the same applies to the 'Prosecution's Response to Defence Request for Reconsideration or Alternatively Application for Leave to Appeal the Decision on Matters Related to Translation' (ICC-01/14-01/21-71-Conf).

Furthermore, in the interests of efficiency, the Single Judge considers that for any future filings, the Defence and the Prosecution are ordered to file, whenever possible, public redacted versions of their respective filings immediately after having filed the confidential version of said filing.

Thank you very much.

Kind regards,

[REDACTED], on behalf of the Single Judge

-----Original Message-----

From: Naouri, Jennifer [REDACTED]
Sent: 12 May 2021 12:15
To: [REDACTED]
Cc: Jacobs, Dov [REDACTED]; [REDACTED]; Pre-Trial Chamber II communications [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]
Subject: Demande d'instructions/Version publique expurgée 68-Conf-Corr

[REDACTED],

J'espère que vous vous portez bien.

Comme vous le savez, en application de la décision du Juge Unique du 7 mai 2021, nous avons déposé hier une version publique expurgée de l'"Information conjointe portant sur l'accord entre l'Accusation et la Défense concernant la langue dans laquelle seront divulgués les éléments de preuve à charge et les déclarations de témoins" (ICC-01/14-01/21-49-Conf).

La Défense a préparé aussi la version publique expurgée de son "Corrigendum de la « Demande de reconsidération ou, subsidiairement, demande d'autorisation d'interjeter appel de la « Decision on matters related to translation » (ICC-01/14-01/21-58-Conf) » (ICC-01/14-01/21-68-Conf) » déposée le 3 mai 2021" (ICC-01/14-01/21-68-Conf-Corr).

La Défense se tient prête à déposer cette version publique expurgée, mais elle n'est pas en position de la déposer dans l'immédiat puisqu'une version publique expurgée de cette demande de reconsidération/demande d'autorisation d'interjeter appel porte sur une décision qui est, à ce jour, classée confidentielle (décision du 23 avril 2021 ICC-01/14-01/21-58-Conf), sauf à expurger toute mention de la décision dans son écriture ICC-01/14-01/21-68-Conf-Corr.

En attendant une version publique expurgée de la décision ICC-01/14-01/21-58-Conf, la Défense demande donc respectueusement des instructions à la Chambre quant à la marche à suivre.

Les 13 et 14 mai 2021 sont des jours fériés officiels de la Cour et par conséquent la Défense n'est pas certaine si une version publique expurgée de la décision ICC-01/14-01/21-58-Conf lui sera notifiée avant le 17 mai 2021, le prochain jour ouvrable à la Cour. Puisque le délai pour les Parties pour déposer les versions publiques expurgées de leurs écritures expire lundi 17 mai 2021 (Règle 33(1)(d)), la Défense doit-elle attendre la version publique expurgée de la décision ICC-01/14-01/21-58-Conf avant de déposer la version publique expurgée de son écriture?

Auriez-vous la gentillesse de communiquer cet email au Juge Unique?

En vous remerciant par avance.

Bien à vous,

Jennifer Naouri

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From: Pre-Trial Chamber II communications
Sent: 12 May 2021 18:44
To: Naouri, Jennifer
Cc: Jacobs, Dov; [REDACTED]; Macdonald, Eric; [REDACTED]
Subject: RE: Demande d'instructions/Version publique expurgée 68-Conf-Corr

Dear Ms Naouri,

The Single Judge confirms that you have properly understood his instructions and that you can file a public redacted version of your request, referring to the decision, without having to wait for a public redacted version of that decision.

Kind regards,

[REDACTED], on behalf of the Single Judge

-----Original Message-----

From: Naouri, Jennifer [REDACTED]
 Sent: 12 May 2021 18:20
 To: Pre-Trial Chamber II communications [REDACTED]
 Cc: Jacobs, Dov [REDACTED]; [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]
 Subject: RE: Demande d'instructions/Version publique expurgée 68-Conf-Corr

[REDACTED],

Merci de votre mot.

Nous voulons être sûrs d'avoir bien compris les instructions du Juge Unique concernant le dépôt de la version publique expurgée de notre écriture ICC-01/14-01/21-68-Conf:

Avons-nous le droit de déposer une version publique expurgée qui mentionne la décision confidentielle du Juge Unique du 23 avril 2021?

En d'autres termes, même s'il n'y a pas encore de version publique de la décision du 23 avril 2021, le Juge Unique nous autorise-t-il à rendre publique l'existence de cette décision et d'en citer la teneur dans une version publique expurgée de notre écriture ICC-01/14-01/21-68-Conf?

Nous ne souhaitons pas commettre d'impair et rendre publiques des informations pour l'instant classées confidentielles; c'est pourquoi nous voulons nous assurer que nous avons bien compris les instructions du Juge.

Sans confirmation écrite qu'il s'agit de la bonne interprétation de l'email du Juge Unique, nous déposerons, conformément à nos obligations professionnelles, une version publique de notre écriture dans laquelle sera expurgée toute mention de la décision du 23 avril 2021 pour respecter à l'état du dossier au moment du dépôt de notre version publique expurgée.

Auriez-vous la gentillesse de communiquer cet email au Juge Unique?

En vous remerciant par avance.

Bien à vous,

Jennifer Naouri

De : Pre-Trial Chamber II communications [REDACTED]

Envoyé : mercredi 12 mai 2021 17:38

À : Naouri, Jennifer

Cc : Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications; Macdonald, Eric; [REDACTED]

Objet : RE: Demande d'instructions/Version publique expurgée 68-Conf-Corr

Dear Ms Naouri, dear Mr MacDonald,

The Single Judge notes today's email from the Defence concerning the public redacted version of its 'Corrigendum de la « Demande de reconsidération ou, subsidiairement, demande d'autorisation d'interjeter appel de la « Decision on matters related to translation » (ICC-01/14-01/21-58-Conf) » (ICC-01/14-01/21-68-Conf) » déposée le 3 mai 2021' (hereinafter the 'Request'). The Single Judge instructs the Defence to file a public redacted version of the Request and clarifies that a public redacted version of the 'Decision on matters related to translation' (ICC-01/14-01/21-58-Conf) is not necessary for that filing specifically. The Single Judge also clarifies that the same applies to the 'Prosecution's Response to Defence Request for Reconsideration or Alternatively Application for Leave to Appeal the Decision on Matters Related to Translation' (ICC-01/14-01/21-71-Conf).

Furthermore, in the interests of efficiency, the Single Judge considers that for any future filings, the Defence and the Prosecution are ordered to file, whenever possible, public redacted versions of their respective filings immediately after having filed the confidential version of said filing.

Thank you very much.

Kind regards,

[REDACTED], on behalf of the Single Judge

-----Original Message-----

From: Naouri, Jennifer [REDACTED]

Sent: 12 May 2021 12:15

To: [REDACTED]

Cc: Jacobs, Dov [REDACTED]; [REDACTED]; Pre-Trial Chamber II communications [REDACTED];

Macdonald, Eric [REDACTED]; [REDACTED]

Subject: Demande d'instructions/Version publique expurgée 68-Conf-Corr

[REDACTED],

J'espère que vous vous portez bien.

Comme vous le savez, en application de la décision du Juge Unique du 7 mai 2021, nous avons déposé hier une version publique expurgée de l'"Information conjointe portant sur l'accord entre l'Accusation et la Défense concernant la langue dans laquelle seront divulgués les éléments de preuve à charge et les déclarations de témoins" (ICC-01/14-01/21-49-Conf).

La Défense a préparé aussi la version publique expurgée de son "Corrigendum de la « Demande de reconsidération ou, subsidiairement, demande d'autorisation d'interjeter appel de la « Decision on matters related to translation » (ICC-01/14-01/21-58-Conf) » (ICC-01/14-01/21-68-Conf) » déposée le 3 mai 2021" (ICC-01/14-01/21-68-Conf-Corr).

La Défense se tient prête à déposer cette version publique expurgée, mais elle n'est pas en position de la déposer dans l'immédiat puisqu'une version publique expurgée de cette demande de reconsidération/demande d'autorisation d'interjeter appel porte sur une décision qui est, à ce jour, classée confidentielle (décision du 23 avril 2021 ICC-01/14-01/21-58-Conf), sauf à expurger toute mention de la décision dans son écriture ICC-01/14-01/21-68-Conf-Corr.

En attendant une version publique expurgée de la décision ICC-01/14-01/21-58-Conf, la Défense demande donc respectueusement des instructions à la Chambre quant à la marche à suivre.

Les 13 et 14 mai 2021 sont des jours fériés officiels de la Cour et par conséquent la Défense n'est pas certaine si une version publique expurgée de la décision ICC-01/14-01/21-58-Conf lui sera notifiée avant le 17 mai 2021, le prochain jour ouvrable à la Cour. Puisque le délai pour les Parties pour déposer les versions publiques expurgées de leurs écritures expire lundi 17 mai 2021 (Règle 33(1)(d)), la Défense doit-elle attendre la version publique expurgée de la décision ICC-01/14-01/21-58-Conf avant de déposer la version publique expurgée de son écriture?

Auriez-vous la gentillesse de communiquer cet email au Juge Unique?

En vous remerciant par avance.

Bien à vous,

Jennifer Naouri

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From: Pre-Trial Chamber II communications
Sent: 12 May 2021 18:48
To: Macdonald, Eric
Cc: [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: Order for reclassification or filing of a public redacted version of the Prosecution's First Report on Disclosure and Related Issues' (ICC-01/14-01-/21-51-Conf)

Dear Mr MacDonald,

In relation to the 'Prosecution's First Report on Disclosure and Related Issues' (ICC-01/14-01-/21-51-Conf), the Single Judge orders the Prosecution to indicate whether this filing may be reclassified as public or, in the alternative to submit a public redacted version of it by Tuesday, 18 May 2021 at 16:00 hours.

Thank you very much.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 17 May 2021 09:28
To: CMS Management
Cc: [REDACTED]
Subject: The Prosecutor v. Said - Single Judge order for reclassification of ICC-01/14-01/21-51-Conf

Dear CMS,

Please note that the Single Judge instructs the Registry to reclassify ICC-01/14-01/21-51-Conf as public.
Thank you very much.

Kind regards,
[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 18 May 2021 12:23
To: CMS Management
Cc: [REDACTED]
Subject: The Prosecutor v. Said - Single Judge instruction for reclassification of ICC-01/14-01/21-73-Conf

Dear CMS,

The Single Judge instructs the Registry to reclassify filing ICC-01/14-01/21-73-Conf as public.

Thank you very much.

Kind regards,
[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 09 June 2021 12:28
To: Naouri, Jennifer
Cc: Jacobs, Dov; [REDACTED]; Macdonald, Eric; [REDACTED]; Pre-Trial Chamber II communications
Subject: Order setting time limit for response to Prosecution filing ICC-01/14-01/21-92-Conf

Dear Ms Naouri,

The Single Judge notes the 'Prosecution's Response to the Second Decision on matters related to translation' (ICC-01/14-01/21-92-Conf), notified on 8 June 2021, and orders the Defence to submit a response, if any, by no later than Monday, 14 June 2021 (16:00 hours).

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 10 June 2021 08:28
To: Macdonald, Eric
Cc: [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: Single Judge's order instructing the Prosecution to submit a complete and detailed table of disclosed witnesses

Dear Mr MacDonald,

Noting the need to ensure an orderly and efficient management of the case file and in light of the significant number of Prosecution's witnesses in the present case, the Single Judge considers it essential that the Chamber, the parties and eventually the participants have a clear and accurate picture, at all times, of the witnesses statements and all related items thereto that have been disclosed by the Prosecution. Accordingly, the Prosecution is hereby ordered to submit a complete and detailed table of the its witnesses in relation to whom material(s) has/have been disclosed, by no later than Friday, 18 June 2021 at 16:00.

Such table shall consolidate all information related to each of the Prosecution's witnesses as specified hereinafter, with all ERN numbers easily accessible by way of hyperlink. The table shall consists of separate columns, containing the following information, where applicable, for each witness:

- a) the code of the witness;
- b) the name of the witness;
- c) the gender of the witness;
- d) the witness statement(s), including the ERN number, the date, the type, the language and the ERN number of the translated version, if applicable;
- e) the ERN number of any witness screening note(s);
- f) the ERN number of transcription of interview;
- g) the ERN number of any attachments or annexes to the witness statement(s), screening note or transcription;
- h) the date of disclosure for each item; and
- i) the ERN number of any other related supporting material in relation to any Prosecution witnesses.

This table should be available to the parties and eventually participants at all times and be promptly updated and transmitted to the Chamber, the parties and eventually participants as soon as new and/or additional witnesses are disclosed.

Thank you and kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 18 June 2021 12:08
To: Macdonald, Eric
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications; [REDACTED]
Subject: Single Judge's instructions concerning the Prosecution's table of witnesses with corresponding statements and annexes

Dear Mr MacDonald,

The Single Judge notes your email from 17 June 2021 concerning the Single Judge's email order of 10 June 2021, instructing the Prosecution to submit a complete and detailed table of disclosed witnesses. In this regard, the Single Judge instructs the Prosecution to file the version of the table, which hyperlinks all annexes (albeit with all annexes in their own cells/rows), in accordance with today's deadline.

Kind regards,
 [REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: 17 June 2021 13:43
To: Pre-Trial Chamber II communications [REDACTED]; [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; [REDACTED]
Subject: SAID - Proposed Draft table of witnesses with corresponding statements and annexes
Importance: High

Dear Pre-Trial Chamber,

Following Monday's constructive and helpful meeting with [REDACTED], legal Officers of the Chamber, Defence and members of the OTP, please find attached a draft table which captures the essential information requested by the Single Judge.

Please note that the ERNs of column **C - Witness Statement Doc ID** can be hyperlinked. However, the ERNs of the Annexes (Column **I – Annexes**) cannot. For purposes of keeping this table as compact as possible, all Annexes are in one cell/row. Unfortunately, it is only possible to hyperlink one ERN per cell/row. Therefore, if the Chamber insists on having the Annexes also hyperlinked, this is indeed possible but means that each Annex will have its own row and will be in one cell. This lengthens the table.

Finally, please note that some cells of column **I – Annexes** contain many Annexes in the same cell. You may have to click on the cell to visualise all identified Annexes since some may be hidden from view. This also prevents the OTP from providing the table in .Pdf format since, in some cases, the hidden ERNs of Annexes are not captured during the .Pdf conversion.

In conclusion, hyperlinking Annexes is possible if each ERN of the Annexes has its own row/cell. It also means that it is easier to .Pdf the document in its entirety. Finally, I am also informed that it is much

easier for the OTP (time and resources needed) to produce a table with the Annexes with their own row/cell. The only drawback is that it lengthens the number of pages of the table and eventual printing.

Please let us know if this proposed compromise is acceptable for the Single Judge.

Please do not hesitate to contact us if you have any further questions,

Kind regards,

Eric

From: Pre-Trial Chamber II communications
Sent: 18 June 2021 15:56
To: Macdonald, Eric; Pre-Trial Chamber II communications
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: RE: Request to be permitted to file after 4pm today - RE: Single Judge's instructions concerning the Prosecution's table of witnesses with corresponding statements and annexes

Dear Mr MacDonald,

Thank you for your message.

The Single Judge, having noted the request, acknowledges the situation, grants the request and clarifies that, should technical obstacles prevent the Prosecution from finalising the table today, the table can also be filed at the beginning of next week.

Kind regards

[REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: 18 June 2021 15:11
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: Request to be permitted to file after 4pm today - RE: Single Judge's instructions concerning the Prosecution's table of witnesses with corresponding statements and annexes

Dear Chamber,

Our colleague [REDACTED] is working hard on the production of the table. Unfortunately, a few issues remain to be completed such as :

- Adding the information about the statement (type, title, date, disclosure)
- Adding redaction versions to the annexes
- Hyperlink Annexes

The Prosecution would kindly seek an extension to file the table after 4pm today. We would of course send a courtesy email of the submission. However, for now please see attached the current version which is still helpful.

Kind regards,

Eric

From: Pre-Trial Chamber II communications [REDACTED]
Sent: 18 June 2021 12:08
To: Macdonald, Eric [REDACTED]

Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]; Pre-Trial Chamber II communications [REDACTED]; [REDACTED]

Subject: Single Judge's instructions concerning the Prosecution's table of witnesses with corresponding statements and annexes

Dear Mr MacDonald,

The Single Judge notes your email from 17 June 2021 concerning the Single Judge's email order of 10 June 2021, instructing the Prosecution to submit a complete and detailed table of disclosed witnesses. In this regard, the Single Judge instructs the Prosecution to file the version of the table, which hyperlinks all annexes (albeit with all annexes in their own cells/rows), in accordance with today's deadline.

Kind regards,
[REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]

Sent: 17 June 2021 13:43

To: Pre-Trial Chamber II communications [REDACTED]; [REDACTED]

Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]

Subject: SAID - Proposed Draft table of witnesses with corresponding statements and annexes

Importance: High

Dear Pre-Trial Chamber,

Following Monday's constructive and helpful meeting with [REDACTED], legal Officers of the Chamber, Defence and members of the OTP, please find attached a draft table which captures the essential information requested by the Single Judge.

Please note that the ERNs of column **C - Witness Statement Doc ID** can be hyperlinked. However, the ERNs of the Annexes (Column **I – Annexes**) cannot. For purposes of keeping this table as compact as possible, all Annexes are in one cell/row. Unfortunately, it is only possible to hyperlink one ERN per cell/row. Therefore, if the Chamber insists on having the Annexes also hyperlinked, this is indeed possible but means that each Annex will have its own row and will be in one cell. This lengthens the table.

Finally, please note that some cells of column **I – Annexes** contain many Annexes in the same cell. You may have to click on the cell to visualise all identified Annexes since some may be hidden from view. This also prevents the OTP from providing the table in .Pdf format since, in some cases, the hidden ERNs of Annexes are not captured during the .Pdf conversion.

In conclusion, hyperlinking Annexes is possible if each ERN of the Annexes has its own row/cell. It also means that it is easier to .Pdf the document in its entirety. Finally, I am also informed that it is much easier for the OTP (time and resources needed) to produce a table with the Annexes with their own row/cell. The only drawback is that it lengthens the number of pages of the table and eventual printing.

Please let us know if this proposed compromise is acceptable for the Single Judge.

Please do not hesitate to contact us if you have any further questions,

Kind regards,

Eric

From: Pre-Trial Chamber II communications
Sent: 25 June 2021 16:56
To: Naouri, Jennifer
Cc: Jacobs, Dov; Macdonald, Eric; [REDACTED]
Subject: Single Judge's order instructing the Defence to file a public redacted version of its filing ICC-01/14-01/21-99-Conf

Dear Ms Naouri,

The Single Judge recalls his email order of 12 May 2021, in which he, *inter alia*, ordered the parties 'to file, whenever possible, public redacted versions of their respective filings immediately after having filed the confidential version of said filing'. Accordingly, the Single Judge instructs the Defence to submit a public redacted version of its 'Réponse de la Défense à la « Prosecution's Response to the Second Decision on matters related to translation » (ICC-01/14-01/21-92-Conf) portant sur le processus de divulgation', ICC-01/14-01/21-99-Conf, by Monday, 28 June 2021.

Kind regards,
[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 07 July 2021 11:40
To: Macdonald, Eric; [REDACTED]
Cc: [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications
Subject: The Prosecutor v. Said - the Single Judge's instructions concerning the notification of an inadvertent disclosure

Dear [REDACTED], dear Mr MacDonald, dear CMS,

The Single Judge grants the request and instructs CMS to restrict access to [REDACTED] accordingly. The Single Judge further reminds the Prosecution that utmost care must be exercised whenever a witness's safety is at stake.

Kind regards,
 [REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: 07 July 2021 10:30
To: [REDACTED]; Pre-Trial Chamber II communications [REDACTED]
Cc: [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: RE: 210707 - CAR IIA - SAID - Notification of inadvertent disclosure

Merci beaucoup.

From: [REDACTED]
Sent: 07 July 2021 10:05
To: [REDACTED]; Pre-Trial Chamber II communications [REDACTED]
Cc: Macdonald, Eric [REDACTED]; [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: RE: 210707 - CAR IIA - SAID - Notification of inadvertent disclosure

[REDACTED],

Merci de votre mot.

La Défense prend bonne note de votre email et vous confirme être en train de prendre les mesures nécessaires.

Bien à vous,

[REDACTED]

From: [REDACTED]
Sent: 07 July 2021 09:36
To: Pre-Trial Chamber II communications [REDACTED]

Cc: Macdonald, Eric [REDACTED]; [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]

Subject: 210707 - CAR IIA - SAID - Notification of inadvertent disclosure

Dear Pre-Trial Chamber II,
Dear Ms Naouri,

The Prosecution has realised that an inadvertent disclosure occurred with the Pre-Confirmation INCRIM package 027 of 28 June 2021, in relation to item [REDACTED].

The Prosecution reminds the Defence of the Protocol on the Handling of Confidential Information and Contacts with Witnesses, at paragraphs 19 and 20, and requests that use of [REDACTED] should be ceased, any copies (paper or electronic) should be destroyed or returned to the Prosecution and the document should not be shared with Mr SAID.

The Prosecution respectfully requests the Chamber to authorise the restriction of the access to [REDACTED] in the ICC_0114_0121 E-Court database by CMS.

The Prosecution undertakes to disclose a corrected version of [REDACTED] as soon as practicable and without delay.

Kind regards,

[REDACTED]

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From: Pre-Trial Chamber II communications
Sent: 12 July 2021 20:27
To: [REDACTED]
Cc: Associate Legal Officer-Court Officer; Court Management-Court Records; [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Macdonald, Eric; [REDACTED]
Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-121 - Notification pursuant to the “Decision on legal representation of victims and related matters” (No. ICC-01/14-01/21-119)

Dear [REDACTED],

The Single Judge retroactively grants access to all confidential filings and materials in the Said case to the OPCV.

With kind regards,

[REDACTED], on behalf of the Single Judge

From: [REDACTED]
Sent: 12 July 2021 14:32
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED]; Court Management-Court Records [REDACTED]
Subject: FW: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-121 - Notification pursuant to the “Decision on legal representation of victims and related matters” (No. ICC-01/14-01/21-119)

Dear colleagues,

The Registry has taken good note of the below Decision.

However, could you please let us know if the OPCV is now entitled to be notified of all confidential documents, on a retroactive basis?

Many thanks in advance for your guidance.

Kind regards,
 [REDACTED], on Behalf of CMS.

From: Pre-Trial Chamber II communications
Sent: 13 July 2021 12:45
To: Macdonald, Eric; [REDACTED]; Pre-Trial Chamber II communications
Cc: Associate Legal Officer-Court Officer; Court Management-Court Records; [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-121 - Notification pursuant to the “Decision on legal representation of victims and related matters” (No. ICC-01/14-01/21-119)

Dear Mr Macdonald,

The “materials” mean all material disclosed by the Prosecution.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: 13 July 2021 11:09
To: [REDACTED]; Pre-Trial Chamber II communications [REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED]; Court Management-Court Records [REDACTED]; [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-121 - Notification pursuant to the “Decision on legal representation of victims and related matters” (No. ICC-01/14-01/21-119)

Dear PTCII,

In order to provide the necessary access, beyond the confidential filings, we would seeking clarification as to was is intended by “materials”.

Kind regards,

Eric

From: [REDACTED]
Sent: 13 July 2021 08:45
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED]; Court Management-Court Records [REDACTED]; [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]
Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-121 - Notification pursuant to the “Decision on legal representation of victims and related matters” (No. ICC-01/14-01/21-119)

Dear [REDACTED],

Thank you very much for your e-mail.
CMS will implement accordingly.

Kind regards,
[REDACTED]

From: Pre-Trial Chamber II communications [REDACTED]

Sent: 12 July 2021 20:27

To: [REDACTED]

Cc: Associate Legal Officer-Court Officer [REDACTED]; Court Management-Court Records [REDACTED]; [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]

Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-121 - Notification pursuant to the "Decision on legal representation of victims and related matters" (No. ICC-01/14-01/21-119)

Dear [REDACTED],

The Single Judge retroactively grants access to all confidential filings and materials in the Said case to the OPCV.

With kind regards,

[REDACTED], on behalf of the Single Judge

From: [REDACTED]

Sent: 12 July 2021 14:32

To: Pre-Trial Chamber II communications [REDACTED]

Cc: Associate Legal Officer-Court Officer [REDACTED]; Court Management-Court Records [REDACTED]

Subject: FW: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-121 - Notification pursuant to the "Decision on legal representation of victims and related matters" (No. ICC-01/14-01/21-119)

Dear colleagues,

The Registry has taken good note of the below Decision.

However, could you please let us know if the OPCV is now entitled to be notified of all confidential documents, on a retroactive basis?

Many thanks in advance for your guidance.

Kind regards,
[REDACTED], on Behalf of CMS.

From: Pre-Trial Chamber II communications
Sent: 23 July 2021 09:41
To: Naouri, Jennifer
Cc: Pre-Trial Chamber II communications; Jacobs, Dov; [REDACTED]; Macdonald, Eric; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Clarification as to order to [REDACTED]

Dear Counsel,
 Dear colleagues,

The Single Judge notes the Defence's request for clarification of 21 July 2021 in relation to the [REDACTED], *inter alia* ordering the parties and the Registry to [REDACTED].

The Single Judge (i) recalls that Decision no. [REDACTED] specifically indicated that [REDACTED]; (ii) notes that the order should be construed and implemented in such a way as to preserve the integrity of confidential information as long as necessary and (iii) clarifies that public redacted versions of parties' filings should not mention decisions which are still not public, at least in redacted form.

In light of the difficulties highlighted by the Defence and the overall sensitivity of the subject matter, the Single Judge considers it appropriate to defer and delay the implementation of the order [REDACTED] until such time as circumstances and developments will make it feasible and advisable to disclose [REDACTED]. The Single Judge will keep monitoring relevant circumstances and developments so as to ensure that this step can be safely taken at the earliest possible opportunity.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Naouri, Jennifer [REDACTED]
Sent: 21 July 2021 13:33
To: [REDACTED]
Cc: Pre-Trial Chamber II communications [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]
Subject: Ecritures restrictions/Versions publiques expurgées

[REDACTED],

J'espère que vous vous portez bien.

Comme vous le savez, [REDACTED], le Juge Unique a ordonné [REDACTED].

En application de cette ordonnance, la Défense est en train de préparer les versions publiques expurgées de ses écritures déposées portant sur la question [REDACTED].

Dans le cadre de la préparation des versions publiques expurgées de nos écritures, nous comprenons la décision du Juge comme autorisant les parties à rendre publique l'existence des décisions (aujourd'hui encore confidentielles) du Juge Unique et d'en citer la teneur dans les versions publiques expurgées de leurs écritures (comme cela a déjà été le cas précédemment).

S'agit-il de la compréhension correcte de la décision?

Pourriez-vous avoir la gentillesse de transmettre cet e-mail à la chambre?

En vous remerciant par avance.

Bien à vous,

Jennifer Naouri

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From: Pre-Trial Chamber II communications
Sent: 23 July 2021 15:03
To: Macdonald, Eric; Naouri, Jennifer
Cc: [REDACTED]; Jacobs, Dov; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

Dear Ms Naouri, dear Mr MacDonald,

The Single Judge notes that, at this stage of the proceedings, there is no information before him on whether the parties have reached agreements or conducted *inter partes* discussions on agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence. In this regard, the Single Judge stresses the desirability of such agreements in light of their potential usefulness in enhancing the efficiency of the confirmation proceedings, and instructs the parties to indicate by way of email to the Chamber by no later than 30 July 2021, whether they have initiated *inter partes* discussions on agreed facts, and if so, the outcome of such discussions.

Thank you.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: [REDACTED]
Sent: 23 July 2021 15:11
To: Macdonald, Eric; Naouri, Jennifer
Cc: [REDACTED]; Jacobs, Dov; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge's instructions on disclosure and related matters

Dear Mr MacDonald, dear Ms Naouri,

The Single Judge notes the 'Prosecution's Third Report on Disclosure and Related Matters' (ICC-01/14-01/21-114-Conf-Red) and its annexes filed on 1 July 2021, and the 'Observations de la Défense en réponse au « Confidential Redacted Version of "Prosecution's Third Report on Disclosure and Related Matters", dated 1 July 2021 » (ICC-01/14-01/21-114-Conf-Red)' (ICC-01/14-01/21-123-Conf-Red) filed on 12 July 2021. The Single Judge first notes the Prosecution's indication [REDACTED]. In this regard, the Single Judge recalls the 'Second order on disclosure and postponement of the confirmation hearing' (ICC-01/14-01/21-112) issued on 30 June 2021, in which the Prosecution was ordered to, *inter alia*, disclose 'the totality of evidence, including all witness statements, intended to be relied upon at the confirmation hearing' by no later than 16 August 2021, and 'all evidence within the meaning of article 67(2) of the Statute and all material referred to in rule 77 of the Rules' by no later than 30 August 2021, and indicates in this respect that the Prosecution is expected to [REDACTED].

In addition, the Single Judge notes the Defence's observations in relation to the necessity of receiving the transcripts of video material disclosed by the Prosecution, and instructs the Prosecution to provide the Defence with transcripts of the video material or the exact portions thereof, which it intends to rely on for the purpose of the confirmation hearing, by no later than 30 August 2021.

Furthermore, in light of the Defence's observations on the Prosecution's withdrawal of witnesses from its provisional witness list, the Single Judge instructs the Prosecution, to indicate by way of email to the Defence and the Chamber by no later than 30 July 2021, whether there are any security concerns for any of the witnesses withdrawn, and if not, to disclose the relevant witness statements and all related material to the Defence by no later than 20 August 2021.

Thank you,

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 29 July 2021 10:16
To: Macdonald, Eric; Pre-Trial Chamber II communications
Cc: [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: RE: Request [REDACTED]

Dear Counsel,
 Dear Colleagues,

The Single Judge [REDACTED]. The Prosecution needs not file its request [REDACTED].

With kind regards,
 [REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: 28 July 2021 18:39
To: Pre-Trial Chamber II communications [REDACTED]
Cc: [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: Request [REDACTED]

Dear Pre-Trial Chamber II,

The Prosecution is communicating its request by way of email immediately in light of the impending deadlines but will of course file a formal request on the matter in the record of the case (unless told otherwise). The Prosecution has also reached out to the Defence who consent to the said request. They can confirm this separately.

The Prosecution while working on applying redactions to [REDACTED], also took note of [REDACTED]. The details of which obviously cannot be shared with the Defence but which nevertheless may have a significant impact on the number of redactions to be applied to [REDACTED].

The Prosecution is currently conducting discussions for [REDACTED]. These discussions, if fruitful, will facilitate and certainly reduce the number of redactions to [REDACTED] to be disclosed to the Defence. In other words, [REDACTED], the Prosecution could be in a position to disclose more information [REDACTED] to the Defence than it currently will do [REDACTED].

Therefore, the Prosecution is kindly seeking the authorisation of the Single Judge to [REDACTED]. This [REDACTED] will assist greatly the Prosecution in furthering its discussions in order to be able to provide more information to the Defence. [REDACTED].

The Prosecution could of course file a redacted version of [REDACTED]. However, some of these redactions may become unnecessary [REDACTED] and would have to be lifted. With the consent of the Defence, the Prosecution would not have to do this redactions exercise twice [REDACTED]. It also goes without saying that this [REDACTED] would also be very much welcomed since the Prosecution is quite busy with other tasks and deadlines all the while having to juggle the summer recess and associated staff leave.

Please do not hesitate to contact me directly if the Single Judge has any specific questions.

Kind regards,



Visiting address: Oude Waalsdorperweg 10, 2597 AK, The Hague

Mail address: PO Box 19519, 2500 CM, The Hague, Netherlands

From: Pre-Trial Chamber II communications
Sent: 09 August 2021 14:55
To: Naouri, Jennifer; [REDACTED]
Cc: Jacobs, Dov; Macdonald, Eric; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order for responses

Dear Ms Naouri, dear [REDACTED],

The Single Judge notes the 'Confidential redacted version of "Prosecution's Request for Non-Disclosure of Identities of Witnesses P-2478, P-0776 and P-2283, and Prosecution's Request for Delayed Disclosure of the Identity of Witness P-0481"' (ICC-01/14-01/21-138-Conf-Red) notified today, 9 August 2021, and orders the Defence and the Office of the Public Counsel for Victims to submit a response, if any, by no later than Wednesday, 11 August 2021 (16:00 hours).

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: 06 August 2021 17:27
To: Naouri, Jennifer [REDACTED]
Cc: Jacobs, Dov [REDACTED]; [REDACTED]; Pre-Trial Chamber II communications [REDACTED]; [REDACTED]
Subject: CRV - Non-Disclosure of Identities of Witnesses P-2478 P-0776 and P-2283 and Delayed Disclosure of Witness P-0481
Importance: High

Dear Ms Naouri,

We are sorry for the delay. Please find attached the Confidential redacted version of the Prosecution's request on non-disclosure of the identities of three witnesses and delay disclosure in relation to one witness.

Kind regards,



Eric MacDonald
 Senior Trial Lawyer
 Office of Prosecutor/ Prosecution Division
 International Criminal Court
 [REDACTED]
www.icc-cpi.int

Visiting address: Oude Waalsdorperweg 10, 2597 AK, The Hague

Mail address: PO Box 19519, 2500 CM, The Hague, Netherlands

From: Pre-Trial Chamber II communications
Sent: 13 August 2021 11:20
To: Court Management-Court Records
Cc: [REDACTED]; Macdonald, Eric; [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order for reclassification

Dear CMS,

The Single Judge instructs the Registry to reclassify filings [REDACTED] as confidential.

Thank you.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 18 August 2021 15:49
To: Macdonald, Eric; [REDACTED]
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications
Subject: Instruction to the Prosecution regarding its [REDACTED]

Dear Mr Macdonald,

The Single Judge notes that the Prosecution's [REDACTED] annexed to the [REDACTED] appears to be affected by some inaccuracies and/or inconsistencies (e.g. [REDACTED]). The Prosecution is hereby instructed to thoroughly review the document, provide clarifications on the matter and, if needed, take appropriate action to resolve it by no later than Friday, 20 August 2021.

Furthermore, recalling that it is essential to have, at all times, a clear and accurate picture of the witnesses and all related evidentiary items in the case, the Single Judge hereby instructs the Prosecution to provide the Chamber and the Defence, by no later than Friday, 20 August 2021, with a complete list of all witnesses the Prosecution intends to rely upon for the purposes of the confirmation hearing, which shall also include, for each of them, all related evidentiary items that are included in the Prosecution's [REDACTED] (the Prosecution may follow the model of [REDACTED]).

Thank you and kind regards.
 [REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 18 August 2021 16:07
To: Court Management-Court Records
Cc: [REDACTED]; Macdonald, Eric; [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Order for transfer of filing and reclassification

Dear CMS,

The Single Judge instructs the Registry to transfer filing [REDACTED] and related annexes currently filed in the record of the Central African Republic Situation II into the case record of *The Prosecutor v. Mahamat Said Abdel Kani* (ICC-01/14-01/21).

Filings [REDACTED] are available to the Defence and OPCV. Any other related annexes to filing [REDACTED] remain [REDACTED].

Furthermore, the Single Judge instructs the Registry to reclassify filing [REDACTED] as confidential.

The Registry is also requested to ensure that the metadata for the confidential and confidential-redacted versions of the above-mentioned filings do not disclose information that is [REDACTED].

Thank you.

With kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 20 August 2021 16:49
To: [REDACTED]; Macdonald, Eric; [REDACTED]
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications
Subject: RE: Instruction to the Prosecution regarding its [REDACTED]

Dear [REDACTED],

Based on the difficulties raised in your below message, the Single Judge has decided to postpone the time limit to implement his instruction to Monday, 23 August 2021.

Thank you and kind regards,
 [REDACTED], on behalf of the Single Judge

From: [REDACTED]
Sent: 20 August 2021 16:30
To: Pre-Trial Chamber II communications [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: RE: Instruction to the Prosecution regarding its [REDACTED]

Dear [REDACTED],

due to a high amount of disclosures being processed today paired with staff shortages in our Information and Evidence Unit, there is an unfortunate but unavoidable delay in the production of the requested report. However, the Pre-Trial Chamber will still receive the report and clarifications today before the close of business.

Kind regards, [REDACTED]

From: Pre-Trial Chamber II communications [REDACTED]
Sent: 18 August 2021 15:49
To: Macdonald, Eric [REDACTED]; [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]; Pre-Trial Chamber II communications [REDACTED]
Subject: Instruction to the Prosecution regarding its [REDACTED]

Dear Mr Macdonald,

The Single Judge notes that the Prosecution's [REDACTED] annexed to the [REDACTED] appears to be affected by some inaccuracies and/or inconsistencies (e.g. [REDACTED]). The Prosecution is hereby instructed to thoroughly review the document, provide clarifications on the matter and, if needed, take appropriate action to resolve it by no later than Friday, 20 August 2021.

Furthermore, recalling that it is essential to have, at all times, a clear and accurate picture of the witnesses and all related evidentiary items in the case, the Single Judge hereby instructs the Prosecution to provide the Chamber and the Defence, by no later than Friday, 20 August 2021, with a complete list

of all witnesses the Prosecution intends to rely upon for the purposes of the confirmation hearing, which shall [REDACTED] include, for each of them, all related evidentiary items that are included in the Prosecution's [REDACTED] (the Prosecution may follow the model of [REDACTED]).

Thank you and kind regards.

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 24 August 2021 11:29
To: Naouri, Jennifer; Macdonald, Eric; Pre-Trial Chamber II communications
Cc: [REDACTED]; Jacobs, Dov; [REDACTED]
Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

Dear Ms Naouri, dear Mr MacDonald,

On 30 July, the Single Judge was informed that the parties intended to make a joint filing on agreed facts. The Single Judge directs the parties to provide, by Thursday, 26 August, information on when they will make their joint filing on this issue.

With kind regards,
 [REDACTED], on behalf of the Single Judge

-----Original Message-----

From: Naouri, Jennifer [REDACTED]
 Sent: 30 July 2021 13:14
 To: Macdonald, Eric [REDACTED]; Pre-Trial Chamber II communications [REDACTED]
 Cc: [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
 Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

[REDACTED],

Merci de votre mot.

C'est bien noté.

Bien à vous,

Jennifer Naouri

De : Macdonald, Eric [REDACTED]
 Envoyé : vendredi 30 juillet 2021 13:00
 À : Pre-Trial Chamber II communications; Naouri, Jennifer
 Cc : [REDACTED]; Jacobs, Dov; [REDACTED]
 Objet : RE: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

Much appreciated.

Best,

Eric

-----Original Message-----

From: Pre-Trial Chamber II communications [REDACTED]

Sent: 30 July 2021 12:57

To: Naouri, Jennifer [REDACTED]; Macdonald, Eric [REDACTED]; Pre-Trial Chamber II communications [REDACTED]

Cc: [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]

Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

Dear Ms Naouri,

Kindly be informed that the Single Judge took note of your message.

Kind regards,

[REDACTED], on behalf of the Single Judge

-----Original Message-----

From: Naouri, Jennifer [REDACTED]

Sent: 30 July 2021 10:32

To: Macdonald, Eric [REDACTED]; Pre-Trial Chamber II communications [REDACTED]

Cc: [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]

Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

[REDACTED],

J'espère que vous vous portez bien.

Suite à l'ordonnance rendue par email par le Juge Unique le 23 juillet 2021 concernant les "agreed facts", [REDACTED].

[REDACTED].

[REDACTED].

Le 26 juillet 2021, l'Accusation indiquait à la Défense être d'accord avec cette procédure.

Pourriez-vous avoir la gentillesse d'en informer le Juge Unique ?

Bien à vous,

Jennifer Naouri

De : Macdonald, Eric [REDACTED]

Envoyé : lundi 26 juillet 2021 13:38

À : Naouri, Jennifer; Pre-Trial Chamber II communications

Cc : [REDACTED]; Jacobs, Dov; [REDACTED]

Objet : RE: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

Indeed, well noted.

Best,

Eric

From: Naouri, Jennifer [REDACTED]

Sent: 23 July 2021 15:33

To: Pre-Trial Chamber II communications [REDACTED]; Macdonald, Eric [REDACTED]

Cc: [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]

Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

[REDACTED],

Merci de votre mot.

C'est bien noté.

Bien à vous,

Jennifer Naouri

From: Pre-Trial Chamber II communications [REDACTED]

Sent: vendredi 23 juillet 2021 15:03

To: Macdonald, Eric [REDACTED]; Naouri, Jennifer [REDACTED]

Cc: [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]

Subject: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge Order concerning agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence

Dear Ms Naouri, dear Mr MacDonald,

The Single Judge notes that, at this stage of the proceedings, there is no information before him on whether the parties have reached agreements or conducted inter partes discussions on agreed facts pursuant to rule 69 of the Rules of Procedure and Evidence. In this regard, the Single Judge stresses the desirability of such agreements in light of their potential usefulness in enhancing the efficiency of the confirmation proceedings, and instructs the parties to indicate by way of email to the Chamber by no later than 30 July 2021, whether they have initiated inter partes discussions on agreed facts, and if so, the outcome of such discussions.

Thank you.

Kind regards,

[REDACTED], on behalf of the Single Judge

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From: Pre-Trial Chamber II communications
Sent: 2 September 2021 15:31
To: Naouri, Jennifer; Macdonald, Eric; [REDACTED]
Cc: [REDACTED]; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications
Subject: Said - organisation of confirmation hearing

Dear Counsel,

Please be advised that the Single Judge of Pre-Trial Chamber II seeks the observations of the parties and participants in relation to the organisation of the confirmation of charges hearing scheduled to commence on 12 October 2021. Please include in your observations the estimated time you wish to be allotted during the confirmation hearing and what you intend to use it for, bearing in mind the scope of the case and the number of charged crimes.

The Prosecutor and the Defence are also instructed to indicate whether they intend to raise any objections or make observations concerning an issue related to the proper conduct of the proceedings prior to the confirmation hearing.

Any observations should be submitted by Wednesday, 8 September 2021, at the latest.

With kind regards,
[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 07 September 2021 12:22
To: Court Management-Court Records; [REDACTED]
Cc: [REDACTED]; Pre-Trial Chamber II communications; Macdonald, Eric; [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: RE: 210907 - CAR IIA - SAID - Request for reclassification

Dear CMS,

Please note that the Single Judge instructs the Registry to reclassify ICC-01/14-01/21-158-Conf as public. Thank you very much.

With kind regards,
 [REDACTED], on behalf of the Single Judge

From: [REDACTED]
Sent: 07 September 2021 10:34
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Macdonald, Eric [REDACTED]; [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: 210907 - CAR IIA - SAID - Request for reclassification

Dear Pre-Trial Chamber II,

The Prosecution has reviewed its filing ICC-01/14-01/21-158-Conf (Prosecution's Fifth Report on Disclosure and Related Matters) and respectfully requests for reclassification of this document, as it does not require redactions. The annex to the filing should remain confidential.

Kind regards,

[REDACTED]

From: Pre-Trial Chamber II communications
Sent: 09 September 2021 12:26
To: [REDACTED]
Cc: Naouri, Jennifer; Jacobs, Dov; Macdonald, Eric; [REDACTED]
Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-161-Conf - Requête de la Défense visant à ce que lui soient communiqués tous les éléments de l'affaire connexe Yekatom et Ngaïssona utiles à la préparation de l'audience de confirmation des ch

Dear Counsel,

The Single Judge notes the 'Requête de la Défense visant à ce que lui soient communiqués tous les éléments de l'affaire connexe *Yekatom et Ngaïssona* utiles à la préparation de l'audience de confirmation des charges dans l'affaire *Said*' notified on 8 September 2021 (ICC-01/14-01/21-161-Conf), and instructs the OPCV, to file its response, if any, by no later than Monday, 13 September 2021.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: [REDACTED]
Sent: 08 September 2021 17:29
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]
Subject: FW: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-161-Conf - Requête de la Défense visant à ce que lui soient communiqués tous les éléments de l'affaire connexe Yekatom et Ngaïssona utiles à la préparation de l'audience de confirmation des ch

Your Honours, dear Pre-Trial Chamber,

the Prosecution wishes to inform that it intends to respond to the Defence request ICC-01/14-01/21-161-Conf (see below) by Friday, 10 September 2021.

Kind regards, [REDACTED]

From: Pre-Trial Chamber II communications
Sent: 17 September 2021 14:41
To: [REDACTED]
Cc: Office of the Director DJSS; [REDACTED]; Pre-Trial Chamber II communications
Subject: Said case - public redacted versions of 2 filings

Dear Registry,

The Single Judge instructs VPRS to file, by no later than Monday, 20 September 2021, public redacted versions of the following two filings:

- (i) First Registry Transmission of Group C Applications for Victims' Participation in Pre-Trial Proceedings (ICC-01/14-01/21-167-Conf); and
- (ii) Second Registry Assessment Report on Victim Applications for Participation in Pre-Trial Proceedings (ICC-01/14-01/21-168-Conf).

With kind regards,
[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 23 September 2021 11:59
To: Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Macdonald, Eric; [REDACTED]
Cc: Pre-Trial Chamber II communications
Subject: Said - public redacted versions of 2 filings

Dear Counsel,

The Single Judge instructs the Defence and the Prosecution to file, by 12:00 on Monday, 27 September 2021, public redacted versions of their respective filings: ICC-01/14-01/21-161-Conf and ICC-01/14-01/21-166-Conf.

With kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 24 September 2021 10:27
To: Macdonald, Eric; [REDACTED]
Cc: Pre-Trial Chamber II communications; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: Said - time limits to responses to the Defence's requests

Dear Counsel,

The Single Judge instructs the Prosecution and the OPCV to file their responses, if any:

- to the Defence's request ICC-01/14-01/21-175-Conf-Red by 14:00 on Tuesday, 28 September 2021; and
- to the Defence's request ICC-01/14-01/21-176-Conf by 14:00 today, 24 September 2021. Responses to this request, if any, shall be submitted by email.

With kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 24 September 2021 14:35
To: [REDACTED]; Macdonald, Eric; Pre-Trial Chamber II communications
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: Said - decision on request for extension of time

Dear Counsel,

The Single Judge notes the ‘Requête urgente aux fins de prorogation du délai donné par la Chambre à la Défense pour lui notifier sa liste d’éléments de preuve pour l’audience de confirmation des charges’ (ICC-01/14-01/21-176-Conf), filed on 23 September 2021 (the ‘Defence’s Urgent Request’), in which the Defence requests an extension of the time limit to file its list of evidence for the confirmation hearing until 4 October 2021. The Single Judge also notes the responses of the Office of the Prosecutor and the Office of Public Counsel for Victims received by way of email on 24 September 2021, specifying that they leave it to the Chamber’s discretion to decide whether to grant the Defence’s Urgent Request.

The Single Judge finds it appropriate to grant the Defence’s Urgent Request, irrespective of the arguments presented by the Defence and instructs the Defence to provide the list of evidence it intends to present at the confirmation hearing pursuant to article 61(6) of the Statute, by no later than 1 October 2021.

Furthermore, the Single Judge notes with concern that the Defence’s Urgent Request was filed a few days before the expiry of the time limit set out in rule 121(6) of the Rules of Procedure and Evidence and reiterated in the ‘Order setting the schedule for the confirmation of charges hearing’ (ICC-01/14-01/21-172). The Single Judge warns that requests for extension of time limits have to be filed sufficiently in advance of the expiry of the deadline in order to allow the Chamber for a timely decision and an efficient preparation for the confirmation hearing by the parties and participants.

[REDACTED], on behalf of the Single Judge

From: [REDACTED]
Sent: 24 September 2021 12:25
To: Macdonald, Eric [REDACTED]; Pre-Trial Chamber II communications [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: RE: Said - time limits to responses to the Defence's requests

Dear [REDACTED],

Counsel for the OPCV wishes to inform the Chamber that she also leaves it to the discretion of the Chamber to grant the request.

Kind regards,

[REDACTED]

From: Macdonald, Eric [REDACTED]
Sent: 24 September 2021 12:17
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: RE: Said - time limits to responses to the Defence's requests

Dear Pre-Trial Chamber,

Please note that in relation to request ICC-01/14-01/21-176-Conf, the Prosecution leaves it to the discretion of the Chamber to grant the request.

Kind regards,

Eric

From: Pre-Trial Chamber II communications [REDACTED]
Sent: 24 September 2021 10:27
To: Macdonald, Eric [REDACTED]; [REDACTED]
Cc: Pre-Trial Chamber II communications [REDACTED]; Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: Said - time limits to responses to the Defence's requests

Dear Counsel,

The Single Judge instructs the Prosecution and the OPCV to file their responses, if any:

- to the Defence's request ICC-01/14-01/21-175-Conf-Red by 14:00 on Tuesday, 28 September 2021; and
- to the Defence's request ICC-01/14-01/21-176-Conf by 14:00 today, 24 September 2021. Responses to this request, if any, shall be submitted by email.

With kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 24 September 2021 15:53
To: Macdonald, Eric
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: RE: Said - public redacted versions of 2 filings

Dear Counsel,

The Single Judge instructs the Prosecution to redact the passage highlighted in green at paragraph 4 of filing ICC-01/14-01/21-166-Conf.

With kind regards,

[REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: 24 September 2021 13:54
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: RE: Said - public redacted versions of 2 filings

Dear Trial Chamber,

The Prosecution submits that our filing ICC-01/14-01/21-166-Conf can be reclassified without redactions. However, the Defence believes that the following passage in para. 4 should be redacted:

4. As previously recognised by Chambers of this Court, disclosure should first and foremost be handled *inter partes*.^[1] If and when *inter partes* communications have failed, the parties may seize the Chamber, who will then make a determination, and if necessary, order disclosure.^[2] [REDACTED]. The Prosecution reiterates its invitation to the Defence to send requests regarding any disclosure related issues via E-Mail or by letter on an *inter partes* basis before seizing the Single Judge. This will not only help to avoid misunderstandings but contribute to the efficiency of the proceedings.

The Prosecution is of the view that this passage in green can be made public since its content does not refer to privileged information [REDACTED] or security related. If however, the Chamber believes that it should be redacted we shall file a Public redacted version as ordered by Monday noon.

^[1] ICC-01/09-02/11-465, para. 9; ICC-02/04-01/15-457, para. 5.

^[2] ICC-01/12-01/18-859-Red, para. 9. See also ICC-01/05-01/08-3336, para.51.

Kind regards,

Eric

From: Pre-Trial Chamber II communications [REDACTED]

Sent: 23 September 2021 11:59

To: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]

Cc: Pre-Trial Chamber II communications [REDACTED]

Subject: Said - public redacted versions of 2 filings

Dear Counsel,

The Single Judge instructs the Defence and the Prosecution to file, by 12:00 on Monday, 27 September 2021, public redacted versions of their respective filings: ICC-01/14-01/21-161-Conf and ICC-01/14-01/21-166-Conf.

With kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 28 September 2021 08:12
To: Macdonald, Eric; [REDACTED]
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: Said - time limit to responses to the Defence's request

Dear Counsel,

The Single Judge instructs the Prosecution and the OPCV to file their responses, if any, to the Defence's request ICC-01/14-01/21-179-Conf by Wednesday, 29 September 2021.

Thank you.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 29 September 2021 14:36
To: Macdonald, Eric
Cc: [REDACTED]; Court Management-Court Records; [REDACTED]
Subject: Said: Order instructing the Prosecution to provide an abridged version of the Document Containing the Charges at the confirmation hearing

Dear Counsel,

The Single Judge instructs the Prosecution to produce an abridged version of the Document Containing the Charges to be read out in public session by the Court Officer at the start of the confirmation hearing in accordance with rule 122(1) of the Rules of Procedure and Evidence. The document should be apt to be read out in a reasonable time with the aim of informing the public of the charges brought by the Prosecution against the suspect. The abridged version should therefore focus on the alleged criminal conduct, with less emphasis on the corresponding legal qualification thereof. Repetition and unnecessary technical language should be avoided as much as possible.

The Single Judge further instructs the Prosecution to indicate an estimate of the time that will be needed for the reading of the abridged version of the Document Containing the Charges.

Thank you.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 30 September 2021 14:19
To: Naouri, Jennifer; [REDACTED]
Cc: Jacobs, Dov; [REDACTED]; Macdonald, Eric; [REDACTED]
Subject: Said - Order on public redacted version of filings

Dear Counsel,

The Single Judge instructs the Defence and the OPCV to file, by no later than 14:00, on Friday, 1 October 2021, public redacted versions of the following filings:

- (i) OPCV Observations on the “Second Registry Assessment Report on Victim Applications for Participation in Pre-Trial Proceedings” (ICC-01/14-01/21-168-Conf), ICC-01/14-01/21-180-Conf-Exp;
- (ii) Réponse de la Défense au « Second Registry Assessment Report on Victim Applications for Participation in Pre-Trial Proceedings » (ICC-01/10-01/21-168-Conf), ICC-01/14-01/21-181-Conf

The Single Judge further instructs the Defence to file, by no later than 12:00, on Monday, 4 October 2021, a public redacted version of the following filing:

- (i) Demande d’autorisation de répliquer aux « Prosecution’s Observations on the « Second Registry Assessment Report on Victim Applications for Participation in Pre-Trial Proceedings » (ICC-01/14-01/21-168-Conf) » et aux « OPCV Observations on the “Second Registry Assessment Report on Victim Applications for Participation in Pre-Trial Proceedings » (ICC-01/14-01/21-168-Conf) », ICC-01/14-01/21-186-Conf

Thank you.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 01 October 2021 17:59
To: Macdonald, Eric; Pre-Trial Chamber II communications
Cc: Jacobs, Dov; [REDACTED]
Subject: RE: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-193-Conf -
 Requête de la Défense afin que l'Accusation informe la Chambre et la
 Défense des démarches entreprises conformément aux instructions du Juge
 Unique [REDACTED]

Dear Counsel,

The Single Judge instructs the Prosecution to file its response to the above-mentioned request from the Defence (ICC-01/14-01/21-193-Conf) by Tuesday, 5 October 2021 at the latest.

Thank you.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: 01 October 2021 17:19
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Jacobs, Dov [REDACTED]; [REDACTED]
Subject: FW: The Prosecutor v. Mahamat Said Abdel Kani: ICC-01/14-01/21-193-Conf - Requête de la
 Défense afin que l'Accusation informe la Chambre et la Défense des démarches entreprises
 conformément aux instructions du Juge Unique [REDACTED]

Dear Chamber,

This Prosecution will indeed provide the requested information. Would it be acceptable to the Chamber if we filed our submission by Wednesday 6 October on the matter?

Kind regards,

Eric

From: Pre-Trial Chamber II communications
Sent: 11 October 2021 09:37
To: Naouri, Jennifer
Cc: Pre-Trial Chamber II communications; Macdonald, Eric; [REDACTED]; Jacobs, Dov; [REDACTED]
Subject: RE: Decision regarding Demande urgente amendement limité inventaire de preuve/Affaire Said

Dear Counsel,

The Single Judge grants your request to amend the Defence list of evidence to include the six items mentioned in your request.

Kind regards,

[REDACTED], on behalf of the Single Judge

-----Original Message-----

From: Naouri, Jennifer [REDACTED]
 Sent: 10 October 2021 20:16
 To: [REDACTED]
 Cc: Pre-Trial Chamber II communications [REDACTED]; Macdonald, Eric [REDACTED]; [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
 Subject: Demande urgente amendement limité inventaire de preuve/Affaire Said

[REDACTED],

J'espère que vous vous portez bien.

Lors de la préparation de l'audience, nous nous sommes rendus compte que:

1) suite à une erreur rédactionnelle (clerical error), trois éléments divulgués par l'Accusation auxquels nous souhaitons nous référer à l'audience n'ont pas été mis sur notre inventaire d'éléments de preuve. Il s'agit des pièces [REDACTED].

2) suite à un oubli (oversight), trois éléments de preuve de la Défense dont nous souhaitons nous servir lors de l'audience n'ont pas été divulgués et inclus dans notre inventaire d'éléments de preuve. Nous avons procédé à la divulgation ce matin. Il s'agit des éléments [REDACTED].

Vous voudrez bien trouver ces six éléments en pièces jointes.

Par conséquent, nous souhaiterions demander l'autorisation de la Chambre de procéder à un amendement limité de l'inventaire de preuve de la Défense, pour y inclure les 6 éléments susvisés. Nous joignons aussi en pièce jointe une copie de courtoisie de l'inventaire amendé pour la pleine information de la Chambre, que nous pouvons déposer, si la Chambre devait nous autoriser les modifications demandées.

Il s'agit d'un amendement extrêmement limité qui participera à la vérité et à la compréhension du dossier de l'Accusation lors de l'audience de confirmation de charges.

Cet amendement limité ne portera pas préjudice à l'Accusation puisque celle-ci a déjà connaissance des trois éléments qu'elle a divulgués à la Défense et que les autres éléments sont courts (2 pages, 2 pages et 12 pages), facilement compréhensibles et ne devraient pas impacter le travail de préparation de l'Accusation.

Pour des raisons de gain de temps, nous formulons la présente demande par email, mais pouvons bien évidemment déposer une écriture formelle en ce sens, si la Chambre le souhaitait.

Pourriez-vous avoir la gentillesse de transmettre cet email à la Chambre?

Bien à vous,

Jennifer Naouri

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From: Pre-Trial Chamber II communications
Sent: 11 October 2021 12:12
To: Macdonald, Eric
Cc: Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications
Subject: RE: Order for a revised version of the draft summary of the Charged crimes for the confirmation hearing

Dear Counsel,

We noted the following discrepancies in the abridged version of the document containing the charges sent on 6 October 2021: [REDACTED].

The Single Judge instructs the Prosecution to send a revised version of the abridged version of the document containing the charges addressing these discrepancies before the end of the day.

Thank you.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Macdonald, Eric [REDACTED]
Sent: October 6, 2021 11:46 AM
To: Pre-Trial Chamber II communications [REDACTED]
Cc: Naouri, Jennifer [REDACTED]; Jacobs, Dov [REDACTED]; [REDACTED]
Subject: Draft summary of the Charged crimes for the confirmation hearing

Dear PTC,

Please find attached the requested document. Please note that we have noticed a clerical typo in the DCC for count 1. In the DCC, we refer to article 7(1)(c) but It should be article 7(1)(e) as it is here.

Kind regards,



Eric MacDonald

Senior Trial Lawyer
 Office of Prosecutor/ Prosecution Division
 International Criminal Court
 [REDACTED]
www.icc-cpi.int

Visiting address: Oude Waalsdorperweg 10, 2597 AK, The Hague

Mail address: PO Box 19519, 2500 CM, The Hague, Netherlands

From: Pre-Trial Chamber II communications
Sent: 11 October 2021 12:49
To: Naouri, Jennifer
Cc: Jacobs, Dov; [REDACTED]; Macdonald, Eric; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Single Judge's Decision on Defence's request ICC-01/14-01/21-179-Conf

Dear Counsel,

The Single Judge notes the Defence's 'Requête visant à ce que soient prises les mesures nécessaires pour garantir la publicité de l'audience de confirmation des charges conformément à l'Article 67(1) du Statut' (ICC-01/14-01/21-179-Conf), filed on 24 September 2021 (the 'Defence's Request'), and the response from the Office of the Prosecutor (the 'Prosecution') filed on 29 September 2021 (ICC-01/14-01/21-187-Conf) (the 'Prosecution's Response').

The Defence requests that the Chamber order the Prosecution to revise the public redacted versions of the document containing the charges (the 'DCC') and the pre-confirmation brief (the 'PCB') as well as the classification of items of evidence disclosed, including all witness statements. The Defence argues, *inter alia*, that it will be impossible for it to publicly challenge the Prosecution's evidence during the confirmation hearing if it is classified as confidential without going into private session extensively, and that this would violate Mr Said's right to a public hearing. The Prosecution opposes the Defence's Request on the grounds that the redactions to the DCC and PCB are proportionate and necessary for the protection of Prosecution victim-witnesses and that they do not prejudice the Defence.

Having carefully considered the submissions of the parties, the Single Judge rejects the Defence's Request in its entirety for the following reasons. In relation to the DCC, the Single Judge finds that the redactions applied by the Prosecution concern identifying information relating to Prosecution victim-witnesses which, pursuant to article 68(1) of the Rome Statute and for the reasons provided by the Prosecution, may not, at this stage of the proceedings, be disclosed to the public.

With respect to the PCB, the Single Judge notes that the Prosecution has redacted in bulk the footnotes that refer to the evidence. While it would have been preferable for the Prosecution to avoid applying redactions in such a systematic manner, the Single Judge is not persuaded by the Defence's argument that these redactions will prevent it from challenging the Prosecution's evidence publicly at the confirmation hearing. In this regard, the Single Judge observes that the Defence can find ways to refer publicly to parts of the evidence challenged without referring to sensitive information. Should there be a need to discuss sensitive information, the Single Judge requests the parties to inform the Chamber of the need to go into closed session as much as possible in advance.

In relation to the classification of INCRIM, Rule 77 and PEXO items disclosed by the Prosecution, including witness statements, the Single Judge notes that apart from referring to one item of evidence, the Defence's submission is very broad. The Single Judge therefore rejects the Defence's Request in this respect.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 11 October 2021 16:16
To: Macdonald, Eric; [REDACTED]
Cc: [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Subject: Said: Defence's request for leave to appeal the postponement decision (ICC-01/14-01/21-201)

Dear Counsel,

The Single Judge takes note of the “Demande d’autorisation d’interjeter appel de la « Decision on the Defence’s request for postponement of the confirmation hearing » (ICC-01/14-01/21-196)” filed by the Defence on 11 October 2021 (ICC-01/14-01/21-201). This request will be addressed tomorrow at the beginning of the confirmation hearing.

The Prosecution and the OPCV can provide their respective response orally to the Defence’s request tomorrow morning, if they so wish.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 15 October 2021 16:25
To: Macdonald, Eric; Naouri, Jennifer; [REDACTED]
Cc: Court Management-Court Sessions; Court Management-Court Records; [REDACTED]; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Order on the time limit applicable for submitting a verification request for transcript corrections

Dear Counsel,
Dear CMS,

With respect to a verification request for transcript corrections, the Single Judge orders that the time limit applicable for submitting such request is five calendar days from the notification of the edited version of the transcript.

Kind regards,

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 29 November 2021 18:31
To: Macdonald, Eric
Cc: [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Instructions to the Prosecution regarding lesser redacted versions of the DCC and the PCB

Dear Counsel,

The Chamber instructs the Prosecution to file lesser public redacted versions of (i) the Document Containing the Charges, in particular, the incidents at paragraphs 33 and 64 with a view to only redacting information that is strictly necessary in accordance with the redactions regime adopted in this case, by Wednesday, 1 December 2021; and (ii) the Pre-Confirmation Brief by Friday, 3 December 2021.

Kind regards,

[REDACTED], on behalf of Pre-Trial Chamber II

From: Pre-Trial Chamber II communications
Sent: 07 December 2021 16:46
To: Macdonald, Eric; Naouri, Jennifer; [REDACTED]; Office of the Director DJSS
Cc: [REDACTED]; Jacobs, Dov; [REDACTED]; Pre-Trial Chamber II communications
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Order for public redacted versions of filings or requests for reclassification

Dear Counsel,
 Dear Registry,

The Chamber recalls the email order of 12 May 2021, in which the parties were ordered ‘to file, whenever possible, public redacted versions of their respective filings immediately after having filed the confidential version of said filing’.

In the interest of the publicity of the proceedings, the Chamber hereby instructs the parties, the OPCV and the Registry to review their respective filings and to file, whenever feasible, public redacted versions of their respective filings or to request, via email, their reclassification as public, by no later than Friday, 10 December 2021.

In particular, the Chamber instructs the Defence to consider reviewing the classification of filing no. ICC-01/14-01/21-176-Conf, by no later than Wednesday, 8 December 2021.

Should the parties, the OPCV or the Registry consider it impossible to file a public redacted version of a filing or to request its reclassification as public, they are further instructed to inform the Chamber of the reasons thereof via email, by no later than Friday, 10 December 2021 at noon.

Thank you.

Kind regards,

[REDACTED], on behalf of Pre-Trial Chamber II.

From: Pre-Trial Chamber II communications
Sent: 08 December 2021 11:51
To: Macdonald, Eric; [REDACTED]; Court Management-Court Records; [REDACTED]; Victims and Witnesses Section; Naouri, Jennifer; Jacobs, Dov; [REDACTED]
Cc: Pre-Trial Chamber II communications; [REDACTED]
Subject: The Prosecutor v. Mahamat Said Abdel Kani: Email order concerning redactions in filing [REDACTED]

Dear Mr MacDonald,

Dear colleagues,

The Presiding Judge notes that, in the [REDACTED], there are inconsistencies with regard to the applied redactions. Specifically, the Presiding Judge notes that [REDACTED] identifying information [REDACTED] is left unredacted.

Accordingly, the Presiding Judge

- (i) orders the Registry to remove the filing from the website as a precautionary measure;
- (ii) orders the OTP to liaise on an urgent basis with the VWU on this matter;
- (iii) orders the Prosecution to carefully review this filing with a view to ensuring that no confidential and identifying information is left unredacted.

Thank you and kind regards,

[REDACTED], on behalf of the Presiding Judge

From: Pre-Trial Chamber II communications
Sent: 16 December 2021 17:06
To: Macdonald, Eric; [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED]; Office of the Director DJSS; [REDACTED]; Court Management-Court Records [REDACTED]; Pre-Trial Chamber II communications
Cc:
Subject: Decision on requests submitted pursuant to the Chamber's order dated 7 December 2021 and order for reclassification of documents on the record

Dear Counsel,
 Dear colleagues,

The Single Judge has noted the requests concerning the classification of specific filings submitted by email on 10 and 13 December 2021 by the parties and the Registry pursuant to the Chamber's order dated 7 December 2021.

Prosecution's requests

The Prosecution (i) requests the reclassification as public of filings ICC-01/14-01/21-30-Conf, [REDACTED], ICC-01/14-01/21-54-Conf and ICC-01/14-01/21-149-Conf; and (ii) 'leaves to the discretion of the Chamber upon consultation with the Defence if deemed necessary' the reclassification as public of filings [REDACTED] and ICC-01/14-01/21-170-Conf.

The Single Judge (i) grants the Prosecution's request to reclassify as public filings ICC-01/14-01/21-54-Conf, ICC-01/14-01/21-149-Conf and ICC-01/14-01/21-170-Conf, clarifying that their annexes shall maintain their current classification; (ii) noting that filing ICC-01/14-01/21-30-Conf contains information on [REDACTED], instructs the Prosecution to file a public redacted version of this filing with the relevant passage redacted; and (iii) considers that the current classification of filings [REDACTED] shall be maintained.

Defence's requests

The Defence for Mr Said requests the Chamber's authorisation to file public redacted versions of its filings related to (i) the [REDACTED]; and (ii) the [REDACTED] in the present case, specifically by quoting in the public redacted version of its filing ICC-01/14-01/21-193-Conf excerpts of a decision issued by the Chamber as confidential.

The Single Judge clarifies that public redacted versions of the parties and participants' filings should not mention or quote decisions or submissions which are not yet public, at least in redacted form. Accordingly, the current classification of the Defence's filings relating to [REDACTED] shall be maintained, and the Defence's request not to redact confidential information quoted in filing ICC-01/14-01/21-193-Conf is rejected.

Registry's request

The Registry requests the reclassification as public of filings ICC-01/14-01/21-152-Conf-Anx and ICC-01/14-01/21-184-Conf-Anx1.

The Single Judge grants the Registry's request.

Accordingly, the Single Judge orders the Registry to reclassify as public the following documents:

- ICC-01/14-01/21-54-Conf (excluding its annex);
- ICC-01/14-01/21-149-Conf (excluding its annex);
- ICC-01/14-01/21-152-Conf-Anx;
- ICC-01/14-01/21-170-Conf (excluding its annex); and
- ICC-01/14-01/21-184-Conf-Anx1.

Thank you and kind regards.

[REDACTED], on behalf of the Single Judge

From: Pre-Trial Chamber II communications
Sent: 16 December 2021 17:15
To: Macdonald, Eric; [REDACTED]; Naouri, Jennifer; Jacobs, Dov; [REDACTED];
 Court Management-Court Records; [REDACTED]
Cc: [REDACTED]; Pre-Trial Chamber II communications
Subject: Clarification as to the 'Prosecution's request for authorization to access and
 disclose a document in the case Prosecutor v. Alfred Yekatom and Patrice-
 Edouard Ngaïssona' (filing no. 215) and related requests
Attachments: Request for Notification of Yekatom Defence Team ; RE: Request for
 Notification of Yekatom Defence Team

Dear Counsel,

The Chamber has noted the 'Prosecution's request for authorization to access and disclose a document in the case Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona' (filing no. 215) filed on 26 November 2021, as well as the Defence response (filing no. 217), filed on 3 December 2021, and the Prosecution and Defence's emails dated 7 December 2021.

The charges in the case having been confirmed, and the record of the case transmitted to the Presidency and thereafter to the Trial Chamber pursuant to article 61(11) of the Statute, this Chamber no longer retains general competence in the case, with the exception of the adjudication of requests for leave to appeal and without prejudice to the procedures envisaged in article 61(8) and (9) of the Statute. Outside these limited exceptions, the Chamber is not competent to issue further decisions in the case, including decisions on the above-mentioned requests: the competence to deal with all such procedural matters requiring resolution is now vested in the Trial Chamber.

Thank you and kind regards.

[REDACTED], on behalf of Pre-Trial Chamber II