

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/21
Date: 28 September 2022

TRIAL CHAMBER VI

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Public

**Public Redacted Version of "Request of the Common Legal Representative of
Victims to question Witness P-0547"**

No. ICC-01/14-01/21-484-Conf, dated 23 September 2022

Source: Common Legal Representative of Victims

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

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I. INTRODUCTION

1. Counsel representing the collective interests of future applicants as well as of applicants in the proceedings and participating victims (the “Common Legal Representative”)¹ respectfully seeks Trial Chamber VI’s (the “Chamber”) leave to question Prosecution Witness P-0547 during the course of his upcoming testimony.

2. As explained *infra*, it is submitted that the questioning by the Common Legal Representative is appropriate and will enable the Chamber to benefit from a more complete presentation of the facts, while also guaranteeing the effective participation of victims in the proceedings.

II. PROCEDURAL BACKGROUND

3. On 9 March 2022, the Chamber issued the “Directions on the Conduct of Proceedings” (the “Directions”)² wherein it, *inter alia*, indicated that the Common Legal Representative is not required to provide an advance written notice of the specific questions she intends to ask, but instead must provide a general advance notification that she intends to pose questions to a witness.³ The Chamber further directed that the Common Legal Representative’s questioning is limited to matters relevant to the personal interests of victims, such as, “*questions about harms which the witness personally suffered or harms of other victims which the witness observed*” and questions relating to “*any future reparations proceedings which may occur*”.⁴

¹ See the transcript of the hearing held on 28 January 2022, [No. ICC-01/14-01/21-T-007-CONF-ENG CT](#) and [No. ICC-01/14-01/21-T-007-Red-ENT CT WT](#), p. 47, lines 12-24; the “Decision on matters relating to the participation of victims during the trial”, [No. ICC-01/14-01/21-278](#), 13 April 2022 (the “Decision”), para. 29; and the “Decision authorising 20 victims to participate in the proceedings”, [No. ICC-01/14-01/21-331](#), 27 May 2022.

² See the “Directions on the Conduct of Proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-251](#), 9 March 2022 (the “Directions”).

³ *Idem*, para. 26.

⁴ *Idem*, para. 27.

4. On 13 April 2022, the Chamber issued the “Decision on matters relating to the participation of victims during the trial” (the “Decision”)⁵ wherein it, *inter alia*, further specified that the Common Legal Representative is to provide her general advance notification “as soon as practicable and, in any event, no later than 3 days before the witness testifies”,⁶ and that the notification “should contain an estimation of the amount of time which she foresees the questioning taking”.⁷

III. CLASSIFICATION

5. Pursuant to regulation 23bis(2) of the Regulations of the Court, the present filing is classified as “confidential”, since it contains information not known to the public at this stage. A public redacted version will be filed in due course.

IV. SUBMISSIONS

6. Witness P-0547 is a crime-base, dual status witness who was arrested by elements of the Seleka [REDACTED]. He was brought to the *Office Central de Répression du Banditisme* (the “OCRB”), where he spent one day in a cell in the courtyard before being detained in the underground cell. During his detention, he was violently mistreated and tortured, as he was beaten with rifle butts and tied up according to the technique of *arbatachar*.⁸

7. As P-0547 is also a participating victim,⁹ the Common Legal Representative submits she is best placed (*vis-à-vis* the Prosecution) to question the witness in relation to issues that engage the witness’s personal interests, and specifically questions concerning the harm he suffered as a result of the events falling within the scope of the witness’s expected testimony. In addition to issues pertaining directly to the harm suffered by P-0547, the Common Legal Representative respectfully seeks the

⁵ See the Decision, *supra* note 1.

⁶ *Idem*, para. 56.

⁷ *Idem*, para. 55.

⁸ See “Annex C to the Prosecution’s List of Witnesses, Proposed Order of Appearance, and Summaries of Anticipated Testimony”, [No. ICC-01/14-01/21-354-Conf-AnxC](#), 10 June 2022, pp. 66-70.

⁹ See the “Decision authorising 20 victims to participate in the proceedings”, *supra* note 1 [REDACTED].

Chamber's leave to ask questions pertaining to the following areas – arising out of his anticipated testimony, unless sufficiently covered during the Prosecution's examination-in-chief:

- a. The conditions of the witness' arbitrary arrest by the Seleka; and
- b. The conditions of detention at the OCRB, including the mistreatment and/or torture of detainees.

8. These areas of questioning are illustrative of the harm sustained by the victims whom the Common Legal Representative represents. Indeed, all direct victims have suffered harm as a consequence of their arbitrary detention at the OCRB. Accordingly, allowing their Common Legal Representative to question the witness in relation to the areas identified *supra* will guarantee the effective participation of victims in the present proceedings and will assist the Chamber in its assessment of the impact that the crimes had on P-0547 and on the victims in general.

9. Further, in conformity with the Directions and with the Decision,¹⁰ the Common Legal Representative informs the Chamber that she also intends to cover aspects related to reparations under article 75 of the Rome Statute during her questioning.

10. Authorising the questioning by the Common Legal Representative will allow the Chamber to have a more complete presentation of the facts which, in turn, will enhance the truth-finding function of trial proceedings. In conducting her questioning, the Common Legal Representative will abide by the guidelines set out in the various decisions of the Chamber, and undertakes to ask focused and non-repetitive questions. Lastly, the questions put will not cause any prejudice to the Defence, as the Defence will have the opportunity to subsequently cross-examine the witness on all matters covered during his testimony.

11. As a final matter and in conformity with the Chamber's instructions,¹¹ the Common Legal Representative foresees her questioning to take a maximum amount

¹⁰ See the Directions, *supra* note 2, para. 27; and the Decision, *supra* note 1, paras. 57-58.

¹¹ See the Decision, *supra* note 1, para. 55.

of time of twenty (20) minutes. The length of the questioning is subject to, on the one hand, the areas that will already have been covered during the questioning by the Prosecution and, on the other hand, the length of the responses of the witness. In conformity with the Directions and with the Decision,¹² the Common Legal Representative will endeavour to keep her questioning specific and to complete it within a shorter period of time.

FOR THE FOREGOING REASONS the Common Legal Representative respectfully requests to be granted leave to question Witness P-0547, on the areas identified in paragraph 7 and 9 *supra*, and subject to paragraph 11.



Sarah Pellet
Common Legal Representative of Victims

Dated this 28th day of September 2022

At The Hague, The Netherlands

¹² See the Directions, *supra* note 2, para. 27; and the Decision, *supra* note 1, para. 55.