

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 26 October 2026

TRIAL CHAMBER VI

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

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

Public

**Decision on additional evidence concerning sentencing and scheduling
the sentencing hearing**

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

☒ **The Office of the Prosecutor**

☒ **Counsel for the Defence**

☒ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

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

☐ **The Office of Public Counsel for the
Defence**

☐ **States' Representatives**

☐ **Amicus Curiae**

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations
Section**

☐ **Other**

TRIAL CHAMBER VI (the ‘Chamber’) of the International Criminal Court (the ‘Court’), in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 64, 67, 69, 76 and 78 of the Rome Statute (the ‘Statute’) and rules 63-64, 68 and 145 of the Rules of Procedure and Evidence (the ‘Rules’), issues the following ‘Decision on additional evidence concerning sentencing and scheduling the sentencing hearing’.

I. PROCEDURAL HISTORY

1. On 23 September 2026, the Chamber delivered its judgment pursuant to article 74 of the Statute and convicted Mr Said of a number of crimes against humanity (the ‘Conviction Decision’).¹
2. On the same day, the Chamber issued a decision setting, *inter alia*, time limits for the parties and participants to file any requests for additional evidence for the purposes of sentencing by 7 October 2026 with responses thereto by 14 October 2026 (the ‘Decision on the Sentencing Procedure’).²
3. The Office of the Prosecutor (the ‘Prosecution’) and the Common Legal Representative of Victims (the ‘CLRV’) did not request submission of any additional evidence for the purposes of sentencing.³
4. On 9 October 2026,⁴ the Defence filed a request to submit additional evidence for sentencing (the ‘Request’), together with a confidential annex containing 165 items.⁵
5. The Request comprises 20 documents relating to the individual circumstances of

¹ Trial Judgment, 23 September 2026, ICC-01/14-01/21-1054-Conf (public redacted version notified the same day and corrected version thereof notified on 30 September 2026, [ICC-01/14-01/21-1054-Red-Corr](#)).

² [Decision on the Sentencing Procedure](#), 23 September 2026, ICC-01/14-01/21-1055.

³ See email from the CLRV to the Chamber, 5 October 2026, at 10:22; [Prosecution’s response on Defence request for extension of time and amendment of the Sentencing procedure \(ICC-01/14-01/21-1056-Conf\)](#), 5 October 2026, ICC-01/14-01/21-1057.

⁴ On 6 October 2026, following a Defence request, the Chamber varied the time limits for the parties and participants to present any additional evidence to 9 October 2026, with responses to be filed by 16 October 2026. See [Decision on the Defence’s Requests concerning the Sentencing Procedure](#), 6 October 2026, ICC-01/14-01/21-1058, para. 32. See also Demande de prorogation des délais et demande d’amendement des étapes du calendrier fixé par la Decision on the Sentencing Procedure du 23 septembre 2026 (ICC-01/14-01/21-1055), 1 October 2026, ICC-01/14-01/21-1056-Conf-Exp (public redacted version notified the same day, [ICC-01/14-01/21-1056-Red](#)), p. 12.

⁵ Requête de la Défense en vue de l’admission d’éléments de preuve supplémentaires en vue de la détermination de la peine, 9 October 2026, ICC-01/14-01/21-1061-Conf (public redacted version notified the same day, [ICC-01/14-01/21-1061-Red](#)) (with confidential annex, ICC-01/14-01/21-1061-Conf-AnxA (‘Annex to the Request’)).

Mr Said, including 19 items related to his health and one item related to his criminal record;⁶ 26 press articles and reports;⁷ and statements originating from 11 Defence witnesses and three Prosecution witnesses, namely P-0234, P-0964 and P-1019, which the Defence seeks to introduce into evidence pursuant to rule 68(2)(b) of the Rules.⁸

6. In respect of the statements from the Defence and Prosecution witnesses, the Defence additionally requests the Chamber to dispense with the procedural requirements of rule 68(2)(b)(iii) of the Rules, whereby accompanying declarations of the truth of the statements must be witnessed by a person authorised to witness such a declaration by the relevant Chamber or in accordance with the law and procedure of a State (the ‘Dispensing Request’).⁹
7. On 16 October 2026, the Prosecution filed its response,¹⁰ deferring to the Chamber’s discretion in relation to the documents concerning the individual circumstances of Mr Said and opposing the submission of all remaining material.¹¹ The Prosecution also opposes the Dispensing Request.¹²

II. DETERMINATION OF THE CHAMBER

A. APPLICABLE LAW

8. Article 76(1) of the Statute mandates the Chamber to ‘take into account the evidence presented and submissions made during the trial that are relevant to the sentence’.
9. In accordance with article 76(2) of the Statute, the Chamber may also consider additional evidence relevant to sentencing. The Chamber recalls its approach to the submission of evidence at trial. In particular, the Chamber did not rule on the admissibility of each item of evidence during the course of the proceedings, other than on the basis of any procedural bars such as those under article 69(7) of the Statute or concerning the procedural requirements for the introduction of prior recorded testimony

⁶ [Request](#), ICC-01/14-01/21-1061-Red, paras 26-28.

⁷ [Request](#), ICC-01/14-01/21-1061-Red, paras 23-25.

⁸ [Request](#), ICC-01/14-01/21-1061-Red, paras 29-42.

⁹ [Request](#), ICC-01/14-01/21-1061-Red, para. 43.

¹⁰ Prosecution response to the Defence request regarding additional evidence for sentencing (ICC-01/14-01/21-1061-Conf), 16 October 2026, ICC-01/14-01/21-1068-Conf.

¹¹ Response, ICC-01/14-01/21-1068-Conf, paras 6, 43.

¹² Response, ICC-01/14-01/21-1068-Conf, paras 25, 43.

under rule 68 of the Rules.¹³ Instead, it deferred its assessment of the relevance, probative value and potential prejudice of the evidence as part of the holistic assessment of all evidence submitted to its deliberations on the judgment pursuant to article 74 of the Statute.¹⁴

10. The Chamber incorporates by reference the general framework applicable and its previous findings on the introduction of prior recorded testimony pursuant to rule 68(2)(b) and rule 68(3) of the Rules and on the introduction of evidence other than through a witness.¹⁵

11. With respect to testimonial evidence sought to be submitted pursuant to rule 68(2)(b) of the Rules, the Chamber recalls that, under this provision, prior recorded testimony may not be introduced when it goes to the acts and conduct of the accused.¹⁶ The Chamber also recalls that in determining whether to allow the introduction of prior recorded testimony pursuant to rule 68(2)(b) of the Rules, the Chamber shall consider, *inter alia*, whether the prior recorded testimony in question ‘relates to issues that are not materially in dispute’, ‘is of a cumulative or corroborative nature, in that other witnesses will give or have given oral testimony of similar facts’, ‘relates to background information’, ‘is such that the interests of justice are best served by its introduction’, and ‘has sufficient indicia of reliability’.¹⁷

12. The Chamber incorporates the general framework applicable to the requirements of certification pursuant to rule 68(2)(b)(iii) of the Rules by reference.¹⁸ The Chamber recalls the practice of previous trial chambers in dispensing with these requirements for

¹³ [Directions on the Conduct of Proceedings](#), 9 March 2022, ICC-01/14-01/21-251, paras 16-21. *See also* [Conviction Decision](#), ICC-01/14-01/21-1054-Red-Corr, para. 40.

¹⁴ [Directions on the Conduct of Proceedings](#), ICC-01/14-01/21-251, para. 16.

¹⁵ Decision on the Prosecution’s Requests under Rule 68(3) to Introduce the Prior Recorded Testimony of P-3108, P-2400, P-2240, P-2478 and P-0787, 11 October 2022, ICC-01/14-01/21-499-Conf (public redacted version notified on the same day, [ICC-01/14-01/21-499-Red](#)); Decision on the Prosecution’s First, Second and Fourth Requests Pursuant to Rule 68(2)(b) of the Rules, 20 October 2022, ICC-01/14-01/21-507-Conf (public redacted version notified on 21 October 2022, [ICC-01/14-01/21-507-Red](#)) (the ‘First Rule 68(2)(b) Decision’); Decision on the Prosecution’s Request under Rule 68(2)(c) to Introduce the Prior Recorded Testimony of Six Witnesses, 20 October 2022, ICC-01/14-01/21/506-Conf (public redacted version notified on 26 October 2022, [ICC-01/14-01/21/506-Red](#)).

¹⁶ *See also* [First Rule 68\(2\)\(b\) Decision](#), ICC-01/14-01/21-507-Red, paras 11, 17-19.

¹⁷ [First Rule 68\(2\)\(b\) Decision](#), ICC-01/14-01/21-507-Red, paras 12-14.

¹⁸ Decision on the Certification of Accompanying Declarations Made by Witnesses Pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence, 2 August 2024, ICC-01/14-01/21-833-Conf (public redacted version notified on the same day, [ICC-01/14-01/21-833-Red](#)).

the purposes of sentencing proceedings.¹⁹

13. The Chamber also recalls the reasoning given by Trial Chamber VII when dispensing with the certification requirements for sentencing. Noting that article 76(1) of the Statute states that a trial chamber may take into account ‘submissions made during the trial that are relevant to the sentence’, Trial Chamber VII considered that a trial chamber could take into account non-evidentiary submissions for sentencing purposes, and that this meant that the rule 68 procedural pre-requisites were ‘not a procedural bar for sentencing in the same way they are at trial’.²⁰
14. The Chamber further recalls that it established the conditions under which the parties and participants should file their requests to present additional evidence in its Decision on the Sentencing Procedure.²¹ The Chamber recalls that it anticipated any additional evidence, particularly *viva voce* witnesses, to be very limited in light of the abundant evidence already on the record, and that it may intervene where additional evidence sought for submission for sentencing is duplicative.²²
15. As a final point, the Chamber agrees with Trial Chamber V that the submission of evidence for sentencing is not intended to be used as an opportunity to complement gaps in the parties’ evidence presentation during the trial.²³ The Chamber recalls in this

¹⁹ Trial Chamber V, *Yekatom and Ngaïssona* Decision on Additional Evidence for Sentencing, [ICC-01/14-01/18-2733-Red](#), para. 22; Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Defence request to dispense with certain certification requirements under Rule 68(2)(b)(ii) of the Rules, 18 July 2024, [ICC-01/12-01/18-2610](#); Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Preliminary ruling on prior recorded testimony pursuant to Rule 68(2)(b) in relation to sentencing, 23 August 2019, ICC-01/04-02/06-2385-Conf (public redacted version notified the same day, [ICC-01/04-02/06-2385-Red](#)), para. 10; Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Decision on Sentencing Witnesses and Setting an Article 76(2) Hearing, 11 November 2016, [ICC-01/05-01/13-2025](#) (the ‘*Bemba et al.* Decision on Sentencing Witnesses’), paras 6-7.

²⁰ *Bemba et al.* Decision on Sentencing Witnesses, [ICC-01/05-01/13-2025](#), paras 6-7, referring to Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, transcript of hearing, 22 August 2016, [ICC 01/12-01/15-T-4-Red-ENG](#), page 3 line 20 to page 4 line 15; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on requests to present additional evidence and submissions on sentence and scheduling the sentencing hearing, 4 May 2016, [ICC-01/05-01/08-3384](#), para. 15; Trial Chamber II, *The Prosecutor v. Germain Katanga*, Order on the Prosecution and Defence requests for admission of documentary evidence into the record of the sentencing proceedings and on the Legal Representative’s request for reclassification of a Registry report, 10 April 2014, ICC-01/04-01/07-3463-Conf-tENG, para. 8.

²¹ [Decision on the Sentencing Procedure](#), ICC-01/14-01/21-1055, paras 5-6. See also [Decision on the Defence’s Requests concerning the Sentencing Procedure](#), ICC-01/14-01/21-1058, paras 21, 32.

²² See [Decision on the Sentencing Procedure](#), ICC-01/14-01/21-1055, para. 6.

²³ Trial Chamber V, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the Requests to Present Additional Evidence for Potential Sentencing, 11 November 2024, ICC-01/14-01/18-2733-Red (public redacted version notified on 18 July 2025, [ICC-01/14-01/18-2733-Red](#)) (the ‘*Yekatom and Ngaïssona* Decision on Additional Evidence for Sentencing’), para. 29.

respect that the presentation of evidence to be considered for the purposes of a decision under article 74 of the Statute is closed.²⁴ Any evidence granted in the present decision will therefore solely be considered for the purposes of sentencing.

B. PRELIMINARY MATTER

16. The Chamber notes the Prosecution's submission that the Defence gathered the material concerning the 11 Defence witnesses during an investigative mission to Bangui conducted between 24 February and 1 March 2026 and that it disregarded procedural deadlines by not disclosing the material until the filing of the Request.²⁵ The Prosecution argues that this justifies a dismissal *in limine* of the Request.²⁶
17. The Chamber notes that, at the time of filing the Request, the Defence did not disclose, electronically or by way of a formal filing, the material underlying the Request, comprising *inter alia* 33 items concerning the Defence witnesses and 26 media articles and reports.²⁷
18. The Defence explained in an email that its inability to disclose this material electronically to the parties and participants, including by way of a courtesy email, was due to a technical issue,²⁸ which was subsequently resolved on 12 October 2026.²⁹ The Defence reassured the Chamber of its good faith.³⁰ The Defence also formally effected disclosure on 12 October 2026, one working day after the time limit set by the Chamber.³¹
19. The Chamber notes that the material concerning the Defence witnesses dates from February and March 2026, well before the Conviction Decision was issued and the sentencing time limits set by the Chamber. The Chamber also notes that the majority of the Request, in terms of volume, concerns statements and associate material concerning three Prosecution witnesses, all of which were available to the Defence during trial.

²⁴ [Declaration on the Closure of the Presentation of Evidence](#), 9 September 2025, ICC-01/14-01/21-1025.

²⁵ Response, ICC-01/14-01/21-1068-Conf, paras 26-27.

²⁶ Response, ICC-01/14-01/21-1068-Conf, para. 27.

²⁷ Email from the Chamber to the parties and participants, 12 October 2026, at 10:02.

²⁸ Email from the Defence, 9 October 2026, at 18:28.

²⁹ Email from the Defence, 12 October 2026, at 11:53.

³⁰ Email from the Defence, 12 October 2026, at 11:53.

³¹ [Notification de la divulgation de pièces par la Défense de Mahamat Said Abdel Kani le 9 octobre 2026](#), 12 October 2026, ICC-01/14-01/21-1062.

20. The Chamber regrets the lack of diligence employed by the Defence during the disclosure of the relevant material. However, considering the relatively minimal prejudice caused by the delay of the disclosure, the Chamber will consider the Request as well as the underlying material.

21. Accordingly, the Chamber rejects the Prosecution submission that the Request should be dismissed *in limine*.

C. ANALYSIS

22. Having regard to the applicable law, in what follows the Chamber will limit itself to considering whether any procedural bar to the submission of the requested evidence exists. Relevance, probative value and weight of the evidence will be considered as part of the Chamber's holistic assessment of all evidence when rendering a decision pursuant to article 76 of the Statute.³²

1. Items related to Mr Said's health

23. The Defence seeks submission into evidence of 19 items,³³ namely (i) 12 reports on Mr Said's physical health and medical treatment between 2023 and 2024;³⁴ (ii) five photographs of surgical wounds taken in 2023;³⁵ and (iii) two reports of Mr Said's health consultations in 2024.³⁶

24. The Defence submits that these documents are related to the personal circumstances of Mr Said and that they demonstrate the exceptional seriousness of his health issues during his detention pending trial and up to the present day.³⁷ In addition, the Defence submits that the items are reliable, on the basis that they were prepared by the medical

³² [Directions on the Conduct of Proceedings](#), ICC-01/14-01/21-251, para. 16. See also Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, First decision on Defence requests for the introduction of sentencing evidence, 31 July 2024, [ICC-01/12-01/18-2629](#), para. 13. See also Trial Chamber V, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the Requests to Present Additional Evidence for Potential Sentencing, 11 November 2024, ICC-01/14-01/18-2733-Red (public redacted version notified on 18 July 2025, [ICC-01/14-01/18-2733-Red](#)), para. 26.

³³ Annex to the Defence Request, ICC-01/14-01/21-1061-Conf-AnxA.

³⁴ CAR-D33-0014-3860; CAR-D33-0014-3862; CAR-D33-0014-3863; CAR-D33-0014-3864; CAR-D33-0014-3865; CAR-D33-0014-3866; CAR-D33-0014-3868; CAR-D33-0014-3869; CAR-D33-0014-3897; CAR-D33-0014-3899; CAR-D33-0014-3902; CAR-D33-0014-3904.

³⁵ CAR-D33-0014-3909; CAR-D33-0014-3910; CAR-D33-0014-3911; CAR-D33-0014-3915; CAR-D33-0014-3916.

³⁶ CAR-D33-0014-3901; CAR-D33-0014-3906.

³⁷ [Request](#), ICC-01/14-01/21-1061-Red, para. 26.

service of the Detention Centre.³⁸

25. Having reviewed the above-mentioned items, the Chamber cannot discern any procedural bars to their submission into evidence.

26. The Chamber finds that these documents are *prima facie* relevant to the individual circumstances of Mr Said, which is one of the factors that the Chamber shall take into account for the determination of the sentence, pursuant to article 78 of the Statute and rule 145 of the Rules. In addition, given that they were prepared by the medical functionaries of the Detention Centre, the Chamber finds them *prima facie* reliable.

27. The Chamber also considers that their introduction contributes to the expeditiousness of the proceedings and the presentation of the evidence relevant to sentencing.

28. Having regard to these considerations, and noting that the Defence is seeking their introduction into evidence and that the Prosecution does not object,³⁹ the Chamber authorises the introduction into evidence of the 19 documents related to Mr Said's health.

2. Mr Said's criminal record

29. The Defence requests submission of a document concerning Mr Said's clean criminal record, which, it argues, is related to his personal circumstances.⁴⁰

30. Having reviewed the item, the Chamber cannot discern any procedural bars to its submission into evidence. The Chamber finds that this document is *prima facie* relevant to the individual circumstances of Mr Said, which is one of the factors that the Chamber shall take into account for the determination of the sentence, pursuant to article 78 of the Statute and rule 145 of the Rules. In this respect, the Chamber recalls, in particular, that, as per rule 145(2)(b)(i) of the Rules, the Chamber can consider, *inter alia*, any 'relevant prior criminal convictions for crimes under the jurisdiction of the Court or of a similar nature' as aggravating circumstances.

³⁸ [Request](#), ICC-01/14-01/21-1061-Red, para. 27.

³⁹ Response, ICC-01/14-01/21-1068-Conf, para. 6.

⁴⁰ [Request](#), ICC-01/14-01/21-1061-Red, para. 28.

31. Accordingly, and noting that the Prosecution does not object,⁴¹ the Chamber authorises the introduction into evidence of this document.

3. Prosecution witnesses

32. The Defence requests submission of the prior recorded testimony of three Prosecution witnesses, namely P-0234, P-0964 and P-1019 and associated material pursuant to rule 68(2)(b) of the Rules, and requests that the certification requirement in respect of these witnesses be dispensed with.⁴² The Defence also submits that it does not consider it necessary for these witnesses to testify *viva voce* given the content of their earlier statements and the circumscribed context of sentencing.⁴³

33. It avers that the prior recorded testimonies of each of the three witnesses fulfill the requirements of rule 68(2)(b) of the Rules, bear sufficient indicia of reliability and are relevant to the sentencing criteria while corroborating other evidence in the record.⁴⁴

34. On the relevance of these prior recorded testimonies for sentencing, the Defence argues that these three individuals provide crucial information about the seriousness of the crimes, the manner in which these crimes were committed, including the organisation of the OCRB at the time of the events and Mr Said's degree of participation.⁴⁵

35. The Defence acknowledges that the Chamber's factual and legal findings are to be considered as adjudicated for the purposes of sentencing.⁴⁶ It nonetheless argues that the fairness of the proceedings requires that the Defence be permitted to develop arguments about the context of the commission of the crimes, including Mr Said's role, for the purposes of sentencing.⁴⁷

36. The Prosecution objects to the introduction of the prior recorded testimonies of all three

⁴¹ Response, ICC-01/14-01/21-1068-Conf, para. 6.

⁴² [Request](#), ICC-01/14-01/21-1061-Red, paras 37-43.

⁴³ [Request](#), ICC-01/14-01/21-1061-Red, para. 31.

⁴⁴ [Request](#), ICC-01/14-01/21-1061-Red, paras 30, 39-41.

⁴⁵ [Request](#), ICC-01/14-01/21-1061-Red, para. 40.

⁴⁶ [Request](#), ICC-01/14-01/21-1061-Red, para. 39.

⁴⁷ [Request](#), ICC-01/14-01/21-1061-Red, para. 39, referring to Trial Chamber I, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')*, 9 December 2025, ICC-02/05-01/20-1281-Conf (public redacted version notified on the same day, [ICC-02/05-01/20-1281-Red](#)), paras 141-142; Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Sentencing Judgment, 20 November 2024, [ICC-01/12-01/18-2662](#), paras 65, 78; Trial Chamber V, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, 24 July 2025, ICC-01/14-01/18-2784-Conf (public redacted version notified the same day, [ICC-01/14-01/18-2784-Red](#)), paras 4493-4498.

witnesses.⁴⁸ It submits that the Defence had access to these statements throughout the trial and made no attempt to introduce them into evidence until now.⁴⁹ It argues that the Defence ‘fundamentally misconstrues the structural boundary between articles 74 and 76 of the Statute’ and that seeking introduction of these statements at this stage ‘represents an impermissible, backdoor attempt to relitigate settled facts’.⁵⁰

37. The Prosecution further submits that the Chamber has already made factual and legal findings on the issues covered by the prior recorded testimonies of all three witnesses in the Conviction Decision, and that this evidence is therefore cumulative of the evidence already on the case record and unnecessary for sentencing.⁵¹ The Prosecution also submits that P-0234’s prior recorded testimony goes to the acts and conduct of Mr Said and consequently cannot be introduced into evidence pursuant to rule 68(2)(b) of the Rules.⁵²

38. For the reasons set out below, the Chamber considers that the introduction of the prior recorded testimonies of all three Prosecution witnesses, as well as the associated material of P-0234 and P-1019, pursuant to rule 68(2)(b) of the Rules for the purposes of sentencing is entirely inappropriate.

39. The Chamber recalls that the Defence did not request these prior recorded testimonies to be introduced during the course of the trial. It did, as the Prosecution points out, read out excerpts thereof during their examination of witnesses.⁵³ The Chamber recalls that it found that the reading out of these excerpts to other witnesses did not mean that these excerpts were introduced as independent, stand-alone evidence in the case.⁵⁴

40. The Chamber notes the Prosecution’s observations regarding the role of each of the three witnesses during the charged period.⁵⁵ The Chamber notes that all three witnesses provide evidence relevant to, *inter alia*, the situation in CAR in 2013 and the functioning and organisation of the OCRB. In respect of P-0234, the Chamber considers

⁴⁸ Response, ICC-01/14-01/21-1068-Conf, para. 43.

⁴⁹ Response, ICC-01/14-01/21-1068-Conf, paras 7, 22.

⁵⁰ Response, ICC-01/14-01/21-1068-Conf, paras 8, 22-24.

⁵¹ Response, ICC-01/14-01/21-1068-Conf, paras 11-21.

⁵² Response, ICC-01/14-01/21-1068-Conf, para. 14.

⁵³ Response, ICC-01/14-01/21-1068-Conf, paras 13, 16, 20.

⁵⁴ [Conviction Decision](#), ICC-01/14-01/21-1054-Red-Corr, para. 43.

⁵⁵ Response, ICC-01/14-01/21-1068-Conf, paras 11, 15, 19.

his evidence concerning the OCRB to be general in nature and, as such, cumulative of the evidence already on the record.⁵⁶ P-1019 additionally provides evidence about, *inter alia*, the organisation of the Seleka and the individuals who were part of the Anti-Balaka.⁵⁷ P-0964 in particular provides information on, *inter alia*, the alleged crimes that took place at the OCRB, Mr Said's role and involvement in the events at the OCRB and the actions of some of Mr Said's co-perpetrators.⁵⁸

41. Having reviewed the statements and associated material, the Chamber considers that these witnesses give evidence about context and facts that were central to the Chamber's determination pursuant to article 74 of the Statute. However, the Chamber finds that the prior recorded testimonies of all three witnesses and the associated material are duplicative of the evidence on the trial record and do not assist the Chamber in assessing any of the sentencing criteria. The Chamber additionally finds that P-0964's prior recorded testimony relates to matters that were materially in dispute between the parties at trial, including the commission of crimes that were the subject of the charges, and on which the Chamber has entered findings beyond a reasonable doubt. Similarly, the Chamber finds that P-1019's prior recorded testimony and associated material concern facts relevant to the contextual elements of the case.

42. The Chamber cannot discern how the statements and associated material of the three witnesses, if introduced, would be relevant for determining Mr Said's sentence, other than reiterating Mr Said's criminal responsibility and the Chamber's conviction. The Defence submits that the degree of participation and intent of the convicted person is relevant to sentencing. However, in the view of the Chamber, an assessment of the degree of participation and intent does not entail revisiting or supplementing the Chamber's findings on the convicted person's participation and intent in relation to the charged crimes.

⁵⁶ See, for example, P-0234: CAR-OTP-2013-0403, at 0407-0408, paras 21, 26.

⁵⁷ See, for example, P-1019: CAR-OTP-2093-0963, at 0982-1013; P-019: CAR-OTP-2093-1024, at 1027-1043, 1050-1061; P-1019: CAR-OTP-2093-1105, at 1113-1119; P-1019: CAR-OTP-2093-1142, at 1146-1161; P-1019: CAR-OTP-2093-1196, at 1197-1201, 1204-1205; P-1019: CAR-OTP-2093-1517, at 1524-1530; P-1019: CAR-OTP-2094-1434, at 1440-1473; P-1019: CAR-OTP-2094-1475, at 1485-1488; P-1019: CAR-OTP-2094-1522, at 1525-1561.

⁵⁸ See, for example, P-0964: CAR-OTP-2092-3559, at 3570-3574; P-0964: CAR-OTP-2092-3276, at 3285-3290; P-0964: CAR-OTP-2092-3594, at 3596-3608, 3613-3620; P-0964: CAR-OTP-2092-3310, at 3311-3323, 3327-3335; P-0964: CAR-OTP-2092-3794, at 3805-3808; P-0964: CAR-OTP-2092-3507, at 3517-3520.

43. Having regard to the above, the Chamber declines to authorise the introduction into evidence of the prior recorded testimonies and associated material concerning P-0234, P-0964 and P-1019 pursuant to rule 68(2)(b) of the Rules for the purposes of sentencing.⁵⁹

44. Given the Chamber's conclusion above, the Chamber sees no need to address the Dispensing Request in respect of the three Prosecution witnesses.⁶⁰

4. Defence witnesses

45. The Defence seeks to submit the statements of 11 Defence witnesses, namely D33-P-0039, D33-P-0040, D33-P-0041, D33-P-0042, D33-P-0044, D33-P-0047, D33-P-0048, D33-P-0049, D33-P-0051, D33-P-0053 and D33-P-0056 pursuant to rule 68(2)(b) of the Rules.

46. The Defence submits that the statements of these witnesses satisfy the requirements of rule 68(2)(b) of the Rules and does not consider it necessary for these witnesses to testify *viva voce* given the content of their earlier statements and the circumscribed context of sentencing.⁶¹

47. The Defence submits that the statements of the Defence witnesses relate to Mr Said's character and his place in the community, and are therefore relevant to the sentencing criteria.⁶² In particular, the Defence asserts that these witnesses describe Mr Said as a generous person to all members of his community, regardless of any political, religious or ethnic considerations, and as an agent for cohesion and peace.⁶³ The Defence also submits that the witnesses portray Mr Said as an indispensable support for his loved ones and family, emphasising the considerable impact of Mr Said's absence on them.⁶⁴

48. The Prosecution argues that these statements are not relevant to sentencing as they do

⁵⁹ The Chamber notes that the following items are part of the associated material of these witnesses' prior recorded testimony and have already been submitted as evidence before the Chamber: CAR-OTP-2005-5424, CAR-OTP-2079-1004.

⁶⁰ [Request](#), ICC-01/14-01/21-1061-Red, para. 43.

⁶¹ [Request](#), ICC-01/14-01/21-1061-Red, paras 30-31.

⁶² [Request](#), ICC-01/14-01/21-1061-Red, para. 33.

⁶³ [Request](#), ICC-01/14-01/21-1061-Red, para. 33.

⁶⁴ [Request](#), ICC-01/14-01/21-1061-Red, para. 33.

not relate to any mitigating circumstances,⁶⁵ because they relate to assistance to persons other than the victims of the charges,⁶⁶ or because Mr Said's purported role in his family and community is 'common to many convicted persons and [is] not exceptional', and therefore, not mitigating.⁶⁷

49. As regards the sufficiency of the indicia of reliability of this material, the Prosecution submits that these statements fall 'drastically short of the strict evidentiary threshold required by the Court', as these statements are 'unsworn, entirely un-vetted by cross-examination, and lack any objective, independent validation'.⁶⁸ The Prosecution submits that the Defence is requesting the Chamber to 'accept signatures on statements as self-authenticating, backed only by identity documents',⁶⁹ which deprives the Prosecution from assessing authenticity.⁷⁰

50. Noting that the Defence requests the introduction of this material pursuant to rule 68(2)(b) of the Rules, the Chamber has first addressed whether the requirements of this provision are met.

51. Having reviewed the above-mentioned items, the Chamber finds that all statements, save one,⁷¹ are *prima facie* relevant to the individual circumstances of Mr Said, namely his social and economic condition generally as well as his conduct after the events forming part of the charges, which are some of the factors that the Chamber may take into account for the determination of the sentence pursuant to article 78 of the Statute and rule 145 of the Rules. The Chamber also considers that the Defence does not seek to introduce this material as evidence of any other sentencing criteria mentioned in rule 145 of the Rules, including Mr Said's degree of participation and intent in relation

⁶⁵ Response, ICC-01/14-01/21-1068-Conf, paras 36-37.

⁶⁶ Response, ICC-01/14-01/21-1068-Conf, para. 36.

⁶⁷ Response, ICC-01/14-01/21-1068-Conf, para. 37.

⁶⁸ Response, ICC-01/14-01/21-1068-Conf, para. 25.

⁶⁹ Response, ICC-01/14-01/21-1068-Conf, para. 34.

⁷⁰ Response, ICC-01/14-01/21-1068-Conf, para. 34.

⁷¹ The Defence witness P-0041 interpreted statements given by D33-P-0042, D33-P-0044, D33-P-0048, D33-P-0053 and D33-P-0056 between Sango and French. *See* D33-P-0041: CAR-D33-0014-3832 and associated documents, CAR-D33-0014-4447, CAR-D33-0014-3844. Defence witness P-0040 similarly provided interpretation for Defence witness P-0039 between Sango and French. *See* D33-P-0039: CAR-D33-0014-3827 (with declaration of interpretation by D33-P-0040) and associated documents, CAR-D33-0014-4443, CAR-D33-0014-3854, CAR-D33-0014-3855. These two witnesses do not provide any information relevant to Mr Said or any of the sentencing factors, nor are they certified interpreters. D33-P-0041's attestation is contained in a separate statement, which the Chamber considers to be entirely irrelevant to any sentencing criteria.

to the crimes of which he is convicted.

52. The Chamber notes that none of the aforementioned statements and the associated material are accompanied by a declaration that the contents of the statement are true and correct to the best of the witness's knowledge and belief.⁷² All of them, bar the attestations of faithful interpretation provided by D33-P-0041 and D33-P-0040, contain a declaration that the witness provided these statements voluntarily, with knowledge that their statement may be used in legal proceedings before the Court and that providing a false statement could result in criminal penalties.⁷³ The Chamber further notes the Defence's submission that all of these statements were collected by a member of the Defence team.⁷⁴

53. The Chamber finds that these statements merely contain a record of the witnesses' exchanges with a member of the Defence team, without the assistance of a qualified investigator and/or interpreter. While each witness appends their signature to the respective statement, there is no indication as to whether these handwritten statements were read back to the witness before signing. Further, as noted above, while the statements contain a declaration as to their voluntary nature, there is no express attestation that the witnesses provided information that they believe to be true to the best of their knowledge and belief. For these reasons, the Chamber finds that these statements do not bear sufficient indicia of reliability required pursuant to rule 68(2)(b) of the Rules.

54. Accordingly, and noting the nature and extent of the Prosecution's objection, the Chamber declines to authorise the introduction into evidence of the prior recorded testimonies and associated material of the 11 Defence witnesses pursuant to rule 68(2)(b) of the Rules.

⁷² D33-P-0039: CAR-D33-0014-3827, at 3827, 3830; D33-P-0041: CAR-D33-0014-3832; D33-P-0042: CAR-D33-0014-3814, at 3817-3818; D33-P-0044: CAR-D33-0014-3807, at 3811; D33-P-0047: CAR-D33-0014-4448, at 4452; D33-P-0048: CAR-D33-0014-3790, at 3795; D33-P-0049: CAR-D33-0014-4436, at 4442; D33-P-0051: CAR-D33-0014-3767, at 3770; D33-P-0053: CAR-D33-0014-3774, at 3779-3780; D33-P-0056: CAR-D33-0014-3820, at 3824. *See contra* [Request](#), ICC-01/14-01/21-1061-Red, para. 43.

⁷³ D33-P-0039: CAR-D33-0014-3827, at 3830; D33-P-0042: CAR-D33-0014-3814, at 3817-3818; D33-P-0044: CAR-D33-0014-3807, at 3811; D33-P-0047: CAR-D33-0014-4448, at 4452; D33-P-0048: CAR-D33-0014-3790, at 3795; D33-P-0049: CAR-D33-0014-4436, at 4442; D33-P-0051: CAR-D33-0014-3767, at 3770; D33-P-0053: CAR-D33-0014-3774, at 3779-3780; D33-P-0056: CAR-D33-0014-3820, at 3824.

⁷⁴ [Request](#), ICC-01/14-01/21-1061-Red, para. 34.

55. The Chamber recalls that, for the purposes of sentencing, it may consider non-evidentiary submissions in its determination. The Defence may therefore refer to these statements in its sentencing submissions.

56. Given the Chamber's conclusion above, the Chamber sees no need to address the Dispensing Request in respect of the 11 Defence witnesses.⁷⁵

5. Press articles and reports

57. As regards the submission of 26 press articles and reports, the Defence argues that they touch on the general functioning of the OCRB before and after the charges, provide crucial contextual elements for assessing the seriousness of the crimes and the harm to the victims during the period of the charges and put the degree of Mr Said's participation into perspective.⁷⁶

58. The Prosecution submits that all of this material should be rejected since it will be cumulative and not relevant for sentencing.⁷⁷ The Prosecution also makes submissions generally on the reliability and probative value of this material.⁷⁸

59. Having reviewed these items, the Chamber cannot discern any procedural bars to the submission into evidence of three reports relating to human rights violations in CAR, including at the OCRB, *before* the period of the charges, ranging from 2008 to 2012.⁷⁹ The Chamber finds that these documents are *prima facie* relevant to showing the conditions of detention generally in CAR as well as at the OCRB before Mr Said was stationed there.

60. The Chamber notes that one of these items is an open source NGO report, which assesses 'the global over-reliance on pretrial detention and examines the challenges of reducing and reforming its use'.⁸⁰ The other two items, also open source, are country reports on human rights practices, prepared by the United States Department of State, Bureau of Democracy, Human Rights and Labor.⁸¹ Having regard to their authorship

⁷⁵ [Request](#), ICC-01/14-01/21-1061-Red, para. 43.

⁷⁶ [Request](#), ICC-01/14-01/21-1061-Red, paras 23-25.

⁷⁷ Response, ICC-01/14-01/21-1068-Conf, paras 40-42.

⁷⁸ Response, ICC-01/14-01/21-1068-Conf, para. 41.

⁷⁹ Reports, CAR-D33-0014-4130, CAR-D33-0014-4363, CAR-D33-0014-4323.

⁸⁰ Report, CAR-D33-0014-4130, at 4130.

⁸¹ Reports, CAR-D33-0014-4363, CAR-D33-0014-4323.

and origins, the Chamber considers that these reports are *prima facie* reliable.

61. Accordingly, the Chamber allows the introduction into evidence of these three items.⁸²

62. The Chamber recalls that the present decision is limited to considering whether the requested material is subject to any procedural bars. The Chamber notes the Prosecution's arguments concerning the reliability and probative value of this material⁸³ and will consider them when assessing this material for the purposes of sentencing.

63. The Chamber considers that the remaining 23 items do not satisfy the requirement of *prima facie* relevance set out above.⁸⁴ The Chamber notes that this material generally comprises reporting about the criminal justice system in CAR, including references to the events at the OCRB in the period after the charges. None of these items concern Mr Said or the crimes he was convicted of. They also do not relate to any of the victims of the charged crimes.

64. This reasoning applies to media reporting on the conditions of detention and mistreatment at the OCRB in the years 2016,⁸⁵ 2019,⁸⁶ 2023⁸⁷ and 2025.⁸⁸ It also applies to a press article about an opposition leader being detained at the OCRB in 2024⁸⁹ and the OCRB being under the control of the Wagner Group in 2024,⁹⁰ as well as the corruption in the criminal justice system in CAR in the years 2017⁹¹ and 2024.⁹² Similarly, the Chamber could not discern any relevance to sentencing of the press articles concerning businessmen disappearing and being victims of extortion in the

⁸² Reports, CAR-D33-0014-4130, CAR-D33-0014-4363, CAR-D33-0014-4323.

⁸³ Response, ICC-01/14-01/21-1068-Conf, para. 41.

⁸⁴ Reports, CAR-D33-0014-4314, CAR-D33-0014-3988, CAR-D33-0014-3917, CAR-D33-0014-3928, CAR-D33-0014-3958; CAR-D33-0014-4056; media articles, CAR-D33-0014-4126, CAR-D33-0014-4321, CAR-D33-0014-4402, CAR-D33-0014-4042, CAR-D33-0014-4024, CAR-D33-0014-4020, CAR-D33-0014-4045, CAR-D33-0014-4053, CAR-D33-0014-4015, CAR-D33-0014-4123, CAR-D33-0014-4036, CAR-D33-0014-4039, CAR-D33-0014-4051, CAR-D33-0014-4029, CAR-D33-0014-4317, CAR-D33-0014-4032, CAR-D33-0014-4048.

⁸⁵ CAR-D33-0014-4126.

⁸⁶ CAR-D33-0014-4321, CAR-D33-0014-4402.

⁸⁷ CAR-D33-0014-4042, CAR-D33-0014-4024.

⁸⁸ CAR-D33-0014-4020, CAR-D33-0014-4045, CAR-D33-0014-4053, CAR-D33-0014-4015.

⁸⁹ CAR-D33-0014-4123.

⁹⁰ CAR-D33-0014-4036.

⁹¹ CAR-D33-0014-4056.

⁹² CAR-D33-0014-4039, CAR-D33-0014-4051.

years 2022, 2023, 2026⁹³ and the involvement of a minister in a racketeering scandal in 2023.⁹⁴ This was also the case for reports on human rights violations in CAR, including at the OCRB in the years 2014⁹⁵ and 2015,⁹⁶ as well as MINUSCA reports which relate to human rights violations at the OCRB in the years 2015,⁹⁷ 2016,⁹⁸ and 2018.⁹⁹

65. In the view of the Chamber, the Defence's broad arguments about the relevance of this material do not assist the Chamber in ascertaining how this material could relate to any of the criteria for sentencing pursuant to article 78 of the Statute and rule 145 of the Rules. In this regard, the Chamber was not convinced by the Defence's arguments that these items could in any way assist the Chamber in contextualising the seriousness of the crimes and the harm to the victims or in putting Mr Said's participation into perspective. The Chamber is equally unpersuaded that these items, in which reported criminal conduct is attributed to third parties, could shed light on the gravity of the crimes of which Mr Said is convicted.

66. Accordingly, the Chamber rejects the submission of 18 press articles and 5 reports for the purposes of sentencing.

D. SENTENCING HEARING

67. The Chamber allows the Prosecution 60 minutes in the first session on 10 November 2026 to make oral submissions on sentencing as well as to respond to any specific points raised by the Defence in their written sentencing submissions. The CLRV will then have 30 minutes for her submissions in the second session on the same day. After this, the Chamber will adjourn and the following day, the Defence will be given 60 minutes in the first session on 11 November 2026 to make submissions on sentencing and to respond to any specific points raised by the Prosecution and the CLRV. This will be followed by 30 minutes in the second session on the same day for the parties and participants to present any replies, if authorised by the Chamber.

⁹³ CAR-D33-0014-4029, CAR-D33-0014-4317, CAR-D33-0014-4032.

⁹⁴ CAR-D33-0014-4048.

⁹⁵ CAR-D33-0014-3928.

⁹⁶ CAR-D33-0014-3958.

⁹⁷ CAR-D33-0014-4314.

⁹⁸ CAR-D33-0014-3988.

⁹⁹ CAR-D33-0014-3917.

68. Accordingly, the sentencing hearings are scheduled as follows, divided into four sessions:

10 November 2026 from 9:30 to 11:00 (Prosecution);

10 November 2026 from 11:30 to 12:00 (CLRV);

11 November 2026 from 9:30 to 11:00 (Defence);

11 November 2026 from 11:30 to 12:00 (replies, if any, as authorised).

69. The parties and participants shall communicate to the Chamber by email the list of material they intend to use for their submissions, latest by 9 November 2026 at 12:00. The parties and participants may object to the items on the list of material for the sentencing hearing by email, latest by 9 November 2026 at 16:00. The list of material must contain, as applicable, full citations for each authority and references and excerpts of transcripts and any formally submitted evidence.

70. Finally, the Chamber expects the parties and participants to ensure that their submissions can be made in open session. Noting that the Defence may wish to raise matters that concern Mr Said's individual and family circumstances, for which private session may be warranted, the Chamber directs that any resort to private session must be at the end of the Defence's submissions so as to limit the impact for the public.

FOR THESE REASONS, THE CHAMBER HEREBY

PARTLY GRANTS the Request;

ALLOWS the introduction of the following documents into evidence for the purposes of sentencing:

CAR-D33-0014-3833, CAR-D33-0014-3860, CAR-D33-0014-3862, CAR-D33-0014-3863, CAR-D33-0014-3864, CAR-D33-0014-3865, CAR-D33-0014-3866, CAR-D33-0014-3868, CAR-D33-0014-3869, CAR-D33-0014-3897, CAR-D33-0014-3899, CAR-D33-0014-3901, CAR-D33-0014-3902, CAR-D33-0014-3904, CAR-D33-0014-3906, CAR-D33-0014-3909,

CAR-D33-0014-3910, CAR-D33-0014-3911, CAR-D33-0014-3915, CAR-D33-0014-3916, CAR-D33-0014-4130, CAR-D33-0014-4323, CAR-D33-0014-4363;

REJECTS the introduction of the following documents into evidence for the purposes of sentencing:

CAR-D33-0014-4314, CAR-D33-0014-3917, CAR-D33-0014-3928, CAR-D33-0014-3958, CAR-D33-0014-3988, CAR-D33-0014-4015, CAR-D33-0014-4020, CAR-D33-0014-4024, CAR-D33-0014-4029, CAR-D33-0014-4032, CAR-D33-0014-4036, CAR-D33-0014-4039, CAR-D33-0014-4042, CAR-D33-0014-4045, CAR-D33-0014-4048, CAR-D33-0014-4051, CAR-D33-0014-4053, CAR-D33-0014-4056, CAR-D33-0014-4123, CAR-D33-0014-4126, CAR-D33-0014-4317, CAR-D33-0014-4321, CAR-D33-0014-4402;

REJECTS the introduction of the prior recorded testimonies and associated material into evidence for the purposes of sentencing:

CAR-D33-0014-3767, CAR-D33-0014-3774, CAR-D33-0014-3783, CAR-D33-0014-3790, CAR-D33-0014-3798, CAR-D33-0014-3807, CAR-D33-0014-3814, CAR-D33-0014-3820, CAR-D33-0014-3827, CAR-D33-0014-3832, CAR-D33-0014-3842, CAR-D33-0014-3844, CAR-D33-0014-3846, CAR-D33-0014-3848, CAR-D33-0014-3850, CAR-D33-0014-3852, CAR-D33-0014-3854, CAR-D33-0014-3855, CAR-D33-0014-3856, CAR-D33-0014-3857, CAR-D33-0014-3858, CAR-D33-0014-4405, CAR-D33-0014-4410, CAR-D33-0014-4417, CAR-D33-0014-4422, CAR-D33-0014-4427, CAR-D33-0014-4431, CAR-D33-0014-4436, CAR-D33-0014-4443, CAR-D33-0014-4447, CAR-D33-0014-4448, CAR-OTP-2005-5407, CAR-OTP-2005-5422, CAR-OTP-2005-5426, CAR-OTP-2013-0403, CAR-OTP-2079-0988, CAR-OTP-2079-0990, CAR-OTP-2079-0992, CAR-OTP-2079-0993, CAR-OTP-2079-0994, CAR-OTP-2079-0999, CAR-OTP-2079-1016, CAR-OTP-2079-1018, CAR-OTP-2079-1020, CAR-OTP-2079-1023, CAR-OTP-2079-1082, CAR-OTP-2079-1085, CAR-OTP-2092-3276, CAR-OTP-2092-3310, CAR-OTP-2092-3347, CAR-OTP-2092-3381, CAR-OTP-2092-3423, CAR-OTP-2092-3464, CAR-OTP-2092-3507, CAR-OTP-2092-3559, CAR-OTP-2092-3594, CAR-OTP-2092-3632, CAR-OTP-2092-3667, CAR-OTP-2092-3709, CAR-OTP-2092-3751, CAR-OTP-2092-3794, CAR-OTP-2093-0963, CAR-OTP-2093-1024, CAR-OTP-2093-1105, CAR-OTP-2093-1142, CAR-OTP-2093-1196, CAR-OTP-2093-1247, CAR-OTP-2093-1279, CAR-OTP-2093-1313, CAR-OTP-2093-1342, CAR-OTP-2093-1397, CAR-OTP-2093-1464, CAR-OTP-2093-1517, CAR-OTP-2093-1545, CAR-OTP-2094-1395, CAR-OTP-2094-1434,

CAR-OTP-2094-1475, CAR-OTP-2094-1522, CAR-OTP-2094-1567, CAR-OTP-2094-1608, CAR-OTP-2094-1648, CAR-OTP-2094-1687, CAR-OTP-2135-3094, CAR-OTP-2135-3128;

ORDERS the Registry to reflect the material introduced into evidence for the purposes of sentencing in the eCourt metadata and distinguish it from the evidence admitted before the closure of evidence;

DECIDES to hold an oral hearing in accordance with paragraphs 67-70 above; and

DIRECTS the Prosecution to file a public redacted version of its Response, ICC-01/14-01/21-1068-Conf, within one week of the notification of this decision.



Judge Miatta Maria Samba
Presiding Judge



Judge María del Socorro Flores Liera



Judge Sergio Gerardo Ugalde Godínez

Done in both English and French, the English version being authoritative.

Dated 26 October 2026

At The Hague, The Netherlands