Cour
Pénale
Internationale

International
Criminal
Court

Original: English

No. **ICC-01/04-01/12**
Date: **12 November 2026**

PRE-TRIAL CHAMBER I

Before: **Judge Iulia Antoanella Motoc, Presiding**
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN

THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF *THE PROSECUTOR v. SYLVESTRE MUDACUMURA*

Public

Public redacted version of 'Decision terminating the proceedings against Mr Sylvestre Mudacumura' 27 October 2026, ICC-01/04-01/12-23-US-Exp

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**

PRE-TRIAL CHAMBER I (the 'Chamber') of the International Criminal Court (the 'Court') issues this 'Decision terminating the proceedings against Mr Sylvestre Mudacumura'.

I. PROCEDURAL HISTORY

1. On 13 July 2012, Pre-Trial Chamber II, issued a warrant of arrest for Mr Sylvestre Mudacumura (the 'Warrant of Arrest' and 'Mr Mudacumura', respectively).[1]

2. On [REDACTED], the Registry transmitted a request for the arrest and surrender of Mr Mudacumura to the authorities of the Democratic Republic of Congo (the 'DRC').[2]

3. On 21 August 2015, the Situation in the Democratic Republic of Congo was re-assigned to the Chamber.[3]

4. [REDACTED].[4]

5. On 11 May 2026, the Registry submitted the 'Registry report on the reported death of Sylvestre Mudacumura' (the 'Registry's Report').[5]

6. On 3 July 2026, following an order of the Chamber,[6] the Prosecution submitted the 'Prosecution's observations on "Registry report on the reported death of Sylvestre Mudacumura" and request to withdraw the Warrant of Arrest and terminate the proceedings' (the 'Prosecution's Observations and Request').[7]

II. SUBMISSIONS

A. Registry's Report

7. In the Report, the Registry first submits that, '[a]ccording to reports from media and other sources on various dates, Mr Mudacumura was allegedly killed between the 17 and 18 of September 2019'.[8]

---

[1] Decision on the Prosecutor's Application under Article 58, ICC-01/04-01/12-1-Conf-Exp, confidential, *ex parte*, only available to the Prosecution (public redacted version filed on the same date, ICC-01/04-01/12-1-Red).
[2] [REDACTED].
[3] Presidency, Decision Re-assigning the Situation in the Democratic Republic of the Congo, ICC-01/04-01/12-15.
[4] [REDACTED].
[5] ICC-01/04-01/12-21-US-Exp, under seal, *ex parte*, only available to the Registry and the Prosecution, with annexes I and II, under seal, *ex parte* (the 'Registry's Report').
[6] Email from the Chamber to the Prosecution, [ICC-01/04-01/12 – Under seal and ex parte] Order to submit observations on the Registry report ICC-01/04-01/12-21-US-Exp, 10 June 2026, at 15:02.
[7] ICC-01/04-01/12-22-US-Exp, under seal, *ex parte*, only available to the Registry and Prosecution (the 'Prosecution's Observations and Request').
[8] Registry's Report, para. 11.

8. Second, the Registry indicates [REDACTED].[9] [REDACTED].[10] The Registry shared the summary [REDACTED] with the Prosecution, who responded that '[REDACTED]'.[11]

9. Third, the Registry states that there exist 'an open source video of a memorial service for Mr Mudacumura held in Brussels, Belgium, on 16 November 2019' allegedly in presence of his relatives.[12]

10. Finally, the Registry argues that 'in light of the persisting volatile situation in the DRC, particularly in the area where the alleged killing took place and Mr Mudacuruma's [*sic*] body was reportedly buried, it remains highly unlikely that the DRC authorities will be able to conduct investigations in the said area, or for the Court to receive any official confirmation of the reported death of Mr Mudacuruma [sic]'.[13]

B. Prosecution's Request

11. The Prosecution submits that 'there is sufficient and reliable information establishing that [Mr Mudacumura] is dead and that there is therefore no longer a basis to maintain the arrest warrant and the proceedings against him'.[14] The Prosecution argues that all available information indicates that Mr Mudacumura was killed in an operation of the *Forces Armées de la République Démocratique du Congo* (the 'FARDC') against the FLDR (of which Mr Mudacumura was a member), in mid-September 2019, including: (i) public statements by the FARDC's spokesperson and the FDLR's President as well as its spokesperson indicating that Mr Mudacumura had been killed; (ii) [REDACTED]; (iii) [REDACTED]; and (iv) [REDACTED].[15] The Prosecution, moreover, indicates that since the first reports of Mr Mudacumura's death, the Prosecution 'has not received any information […] to suggest that [Mr Mudacumura] is still alive'.[16]

12. The Prosecution, however, avers that '[t]here is a minor divergence in the reported date of the killing, namely whether it occurred on the night of 16-17 September or on 18 September 2019' and that the sources also diverge as to the participants in the attack that led to his alleged

[9] [REDACTED].
[10] [REDACTED].
[11] [REDACTED].
[12] Registry's Report, para. 22.
[13] Registry's Report, para. 23.
[14] Prosecution's Observations and Request, para. 27.
[15] [REDACTED].
[16] Prosecution's Observations and Request, para. 23.

death, [REDACTED].[17] The Prosecution asserts that '[REDACTED]'.[18] The Prosecution states that [REDACTED].[19]

13. The Prosecution clarifies that the 'ongoing conflict makes it unlikely that forensic proof of [Mr Mudacumura]'s death can be obtained' and that there are 'very few remaining investigative avenues available for clarifying the circumstances surrounding [Mr Mudacumura]'s death', which the Prosecution assessed in any case 'as being incapable of providing the necessary clarifications directly'.[20]

14. Despite the minor discrepancies, the Prosecution stresses that '[s]ince the first reports of [Mr Mudacumura's] death in September 2019, the Prosecution has not received any information in the nearly seven years that have elapsed since to suggest that [Mr Mudacumura] is still alive'[21] and that the information on the suspect's death originates 'from parties with divergent interests, including the DRC authorities, FARDC, and the FDLR'.[22]

15. Considering the above, the Prosecution requests the Chamber to withdraw the Warrant of Arrest and terminate the proceedings against Mr Mudacumura pursuant to article 58(4) of the Rome Statute (the 'Statute').[23]

III. DETERMINATION

16. At the outset, the Chamber notes that, pursuant to article 25(1) of the Statute, the Court has jurisdiction only over 'natural' persons. As the purpose of the Court's criminal proceedings is to determine individual criminal responsibility, the Court cannot exercise its jurisdiction over a deceased person. Therefore, proceedings against a person who is deceased must be terminated and all relevant documents rendered without effect.[24] In addition, pursuant to article 58(4) of the Statute, a 'warrant of arrest shall remain in effect until otherwise ordered by the Court'.

---

[17] [REDACTED].
[18] [REDACTED].
[19] [REDACTED].
[20] Prosecution's Observations and Request, paras 24 and 26.
[21] Prosecution's Observations and Request, para. 23.
[22] Prosecution's Observations and Request, para. 27.
[23] Prosecution's Observations and Request, para. 1.
[24] *See* Pre-Trial Chamber I, *Situation in the State of Palestine*, Decision terminating proceedings against Mr Mohammed Diab Ibrahim Al Masri (Deif), 26 February 2025, ICC-01/18-417 ('*Al Masri* Decision Terminating Proceedings') para. 4; Pre-Trial Chamber I, *The Prosecutor v. Saif Al-Islam Gaddafi*, Decision to Terminate the Case Against Muammar Mohammed Abu Minyar Gaddafi, 22 November 2011, ICC-01/11-01/11-28, p. 4 and references cited therein; Trial Chamber IV, *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, Public redacted Decision terminating the proceedings against Mr Jerbo, 4 October 2013 (public and confidential versions notified on the same day), ICC-02/05-03/09-512-Red ('*Jerbo* Decision Terminating Proceedings'), para. 17 and references cited therein.

17. The Chamber also notes that, in light of the current circumstances in the DRC, the Court is unlikely to obtain forensic evidence or an official confirmation of Mr Mudacumura's death, or gather any additional evidence further clarifying the circumstances of his death.[25] The Chamber, however, recalls that the production of a death certificate is not a pre-requisite for terminating criminal proceedings, but it may serve to prove that the suspect is in fact deceased.[26]

18. The Chamber has considered the information provided by the Registry and the Prosecution as to the reported death of Mr Mudacumura during an operation of the FARDC in DRC on or around 17 September 2019, including open-source reports, public statements and [REDACTED]. Despite minor divergences in the accounts regarding the exact circumstances in which Mr Mudacumura died and based on the information available, the Chamber finds that there is no indication that Mr Mudacumura is still alive.

19. Furthermore and notably, the Prosecution submits that in light of the reliable information establishing that Mr Mudacumura is dead there is 'no longer a basis to maintain the arrest warrant and the proceedings against him'.[27] The Prosecution specifically requests 'to withdraw the warrant of arrest against [Mr Mudacumura] and terminate the proceedings against him pursuant to article 58(4) of the Statute'.[28]

20. In light of the above, and considering that the Prosecution no longer intends to prosecute Mr Mudacumura and being satisfied of his decease, the Chamber grants the Prosecution's request to withdraw the Warrant of Arrest and decides to terminate the proceedings against Mr Mudacumura. Accordingly, any outstanding requests for cooperation related to these proceedings are no longer in effect.

[25] *See* Registry's Report, para. 23; Prosecution's Request, paras 24-26.
[26] *See* *Al Masri* Decision Terminating Proceedings, para. 4; Pre-Trial Chamber I, *The Prosecutor v. Mahmoud Mustafa Busayf Al-Werfalli*, Decision terminating proceedings against Mr Mahmoud Mustafa Busayf Al-Werfalli, 15 June 2022, ICC-01/11-01/17-24, para. 4. *See also* *Jerbo* Decision Terminating Proceedings, para. 18.
[27] Prosecution's Observations and Request, para. 27.
[28] Prosecution's Observations and Request, para. 1.

FOR THESE REASONS, THE CHAMBER HEREBY

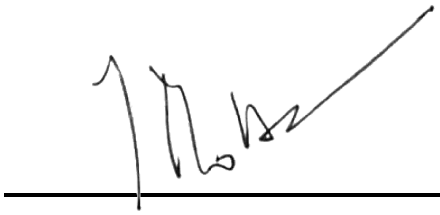
GRANTS the Prosecution's request to withdraw the Warrant of Arrest;

TERMINATES the proceedings against Mr Sylvestre Mudacumura;

ORDERS the Registry to inform the termination of these proceedings to all States which were sent cooperation requests in relation to the same; and

ORDERS the Registry and the Prosecution to file public redacted version of ICC-01/04-01/12-21-US-Exp, and ICC-01/04-01/12-22-US-Exp, respectively, by no later than Tuesday, 10 November 2026.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Iulia Antoanella Motoc, Presiding



Judge Reine Adélaïde Sophie Alapini-Gansou



Judge María del Socorro Flores Liera

Dated this Thursday, 12 November 2026

At The Hague, The Netherlands