

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 10 May 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 *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Confidential

Prosecution's response to Defence extension request (ICC-01/14-01/21-300-Conf-Red)

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Prosecution does not object to the Defence's request for an extension of the deadline for their response to the Prosecution's application pursuant to rule 68(2)(c).¹ However, the Prosecution does object to the requested extension to 9 June sought by the Defence to file their response to the Prosecution's first application pursuant to rule 68(2)(b).²

II. CLASSIFICATION

2. Pursuant to regulation 23*bis* (2) of the Regulations of the Court, this response is classified as confidential as it refers to submissions that are currently confidential. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

3. The Prosecution intends to file rule 68(2)(b) applications for an additional 25-30 witnesses in the next two weeks, grouped in four to five separate applications.³ The Chamber's determination in relation to these rule 68(2)(b) applications have important implications on the Prosecution's and Registry's logistical arrangements and trial preparation. In particular, they impact on time and resource-sensitive matters, such as and not limited to, travel preparations and ultimately the presentation of the Prosecution's case.

4. The Prosecution submits that it would be important that the Defence file its responses to the Prosecution's applications under rule 68(2)(b) on a rolling basis, in accordance with the normal timelines or with only minimal time extensions, in order to enable the Chamber to decide on the applications expeditiously and in advance of the trial.

5. The Prosecution acknowledges that the Defence must assess a number of applications in a relatively short period of time. Yet, the statements of all eleven

¹ ICC-01/14-01/21-300-Conf-Red, hereinafter ("Request").

² Request, p. 13.

³ ICC-01/14-01/21-291-Conf.

witnesses discussed in the Prosecution's first rule 68(2)(b) application, were disclosed in advance of the confirmation hearing and cited in the Application for an Arrest Warrant and/or the Prosecution's Pre-Confirmation Brief. Furthermore, the vast majority of the other prior recorded testimony that the Prosecution will seek to introduce *via* rule 68(2) have been disclosed prior to the confirmation of charges hearing and were relied upon in the Prosecution's Pre-Confirmation Brief.

6. As to the specific deadline proposed for this particular response, the Prosecution notes that the Chamber has set a deadline of 23 May 2022 for the Prosecution to file its applications under rule 68. While the Prosecution has requested an extension of this deadline for a small number of witnesses,⁴ regardless of the Chamber's decision on that extension, the Prosecution will be filing rule 68(2) applications for a substantial number of witnesses, as noted above. The Prosecution submits that it would be in the interests of justice and fairness that it has the opportunity to respond to any general arguments the Defence may raise in relation to rule 68(2) applications *before* that 23 May 2022 deadline. Indeed, while the Prosecution has attempted in its first rule 68(2)(b) application to anticipate the legal arguments the Defence may present, it may assist the Chamber if the Prosecution has the opportunity to make its submissions in relation to any unanticipated legal arguments. The Defence will continue to have the last word as they will be filing many responses to the Prosecution's rule 68 applications in the weeks following the 23 May 2022 deadline.

7. As a general observation, the Prosecution submits that, in the circumstances, time extension requests may be more appropriate and less disruptive in relation to other types of submissions, such as responses to bar table motions.

⁴ ICC-01/14-01/21-291-Conf.

IV. RELIEF SOUGHT

8. For the reasons set out above, the Prosecution:

- (a) does not object to the Defence's request for a limited extension of time in relation to the Prosecution's first rule 68(2)(c) application (ICC-01/14-01/21-290-Conf);
- (b) requests the Chamber to deny the Defence's proposed extension of time to respond to the Prosecution's first rule 68(2)(b) application (ICC-01/14-01/21-289-Conf) or, alternatively, to grant only a limited extension of time until 18 May 2022 at the latest.



Karim A. A. Khan QC
Prosecutor

Dated this 10th day of May 2022
At The Hague, The Netherlands