

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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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 Document

Victims' response to the "Requête en vertu de la Norme 35 du Règlement de la Cour visant à obtenir la prorogation des délais prévus pour déposer les requêtes portant sur des questions devant être résolues avant le début du procès et pour déposer le mémoire de la Défense"
(ICC-01/14-01/21-390)

Source: Office of Public Counsel for 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 “Legal Representative”),¹ hereby submits her response to the *“Requête en vertu de la Norme 35 du Règlement de la Cour visant à obtenir la prorogation des délais prévus pour déposer les requêtes portant sur des questions devant être résolues avant le début du procès et pour déposer le mémoire de la Défense”* (the “Defence Request”).²

II. PROCEDURAL BACKGROUND

2. On 21 February 2022, Trial Chamber VI (the “Chamber”) established the intermediate procedural steps leading up to the commencement date of the trial, and in particular invited the Defence to file a Defence Trial Brief by 12 August 2022,³ and set the deadline for the filing, by the parties, of all motions which require resolution prior to the commencement of trial motions requiring resolution prior to the commencement of trial to 22 July 2022.⁴

3. On 6 July 2022, the Defence filed the *“Requête en vertu de la Norme 35 du Règlement de la Cour visant à obtenir la prorogation des délais prévus pour déposer les requêtes portant sur des questions devant être résolues avant le début du procès et pour déposer le mémoire de la Défense”*.⁵

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, 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 *“Requête en vertu de la Norme 35 du Règlement de la Cour visant à obtenir la prorogation des délais prévus pour déposer les requêtes portant sur des questions devant être résolues avant le début du procès et pour déposer le mémoire de la Défense”*, [No. ICC-01/14-01/21-390](#), 6 July 2022 (dated 5 July 2022) (the “Defence Request”).

³ See the “Decision Setting the Commencement Date of the Trial and Related Deadlines”, [No. ICC-01/14-01/21-243](#), 21 February 2022, para. 27.

⁴ *Idem*, para. 30.

⁵ See the Defence Request, *supra* note 2.

4. On the same day, the Chamber instructed the Prosecution and the Legal Representative to file any responses to said request by no later than 12 June 2022.⁶

III. SUBMISSIONS

5. The Legal Representative regrettably notes that the Defence Request is the last request for extension of time of an extensive list of similar submitted by the Defence over the last few months.⁷ In this regard, she recalls yet again that she previously put forward that *“consistently seeking extensions for all responses might defeat the purpose of sufficiently spreading [the] workload, since all responses would be due in June and July, with*

⁶ See the email from Trial Chamber VI to the parties and participants entitled “Decision to reduce time limit for responding to Defence request ICC-01/14-01/21-390”, 6 July 2022 at 16:25.

⁷ See the *“Requête en suspension du délai de réponse au mémoire de première instance jusqu’à transmission de la traduction française du mémoire de première instance déposé par l’Accusation le 13 juin 2022 (ICC-01/14-01/21-359-Conf) et demande de report de la date de début du procès qui devra être fixée au moins 3 mois et 13 jours (73 jours ouvrés) après la transmission de la traduction française de ce mémoire de première instance”*, [No. ICC-01/14-01/21-367-Conf](#), 20 June 2022 (dated 17 June 2022); the *“Requête de prorogation en vertu de la Norme 35 du Règlement de la Cour portant sur le délai de réponse aux requêtes de l’Accusation déposées en vertu de la Règle 68 ICC-01/14-01/21-322-Conf, ICC-01/14-01/21-323-Conf, ICC-01/14-01/21-326-Conf et ICC-01/14-01/21-328-Conf, et à la ‘Sixth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)’ (ICC-01/14-01/21-325-Conf) notifiées à la Défense le 23 mai 2022”*, [No. ICC-01/14-01/21-334](#), 30 May 2022; the *“Version confidentielle expurgée de la ‘Requête de prorogation du délai de réponse à la ‘Prosecution’s second request to introduce prior recorded testimony pursuant to rule 68(2)(b)’ (ICC-01/14-01/21-307-Conf) et à la ‘Prosecution’s third request to introduce prior recorded testimony pursuant to rule 68(2)(b)’ (ICC-01/14-01/21-308-Conf) en vertu de la Norme 35 du Règlement de la Cour”*, [No. ICC-01/14-01/21-313-Conf-Red](#) and [No. ICC-01/14-01/21-313-Red2](#), 17 May 2022; the *“Version confidentielle expurgée de la ‘Requête de prorogation du délai de réponse à la ‘Prosecution’s first request to introduce prior recorded testimony pursuant to rule 68(2)(b)’ (ICC-01/14-01/21-289-Conf), à la ‘Prosecution Request under Rule 68(2)(c) to Introduce the Prior Recorded Testimony of Six Witnesses’ (ICC-01/14-01/21-290-Conf) et à la ‘Prosecution’s Request to vary the time limit for applications to introduce the prior recorded testimony of 20 witnesses pursuant to Rule 68’ (ICC-01/14-01/21-291-Conf) en vertu de la Norme 35 du Règlement de la Cour”*, [No. ICC-01/14-01/21-300-Conf-Red](#) and [No. ICC-01/14-01/21-300-Red2](#), 6 May 2022; the email from the Defence to Pre-Trial Chamber II entitled *“Demande de clarification procédure/ICC-01/14-01/21-294-Conf”*, 12 May 2022 at 16:18; the *“Requête de prorogation du délai de réponse à la ‘Prosecution’s third request to introduce prior recorded testimony pursuant to rule 68(3)’ (ICC-01/14-01/21-348-Conf), à la ‘Prosecution’s Request for In-Court Protective Measures’ (ICC-01/14-01/21-356-Conf) et à la ‘Prosecution’s fourth request to introduce prior recorded testimony pursuant to rule 68(3)’ (ICC-01/14-01/21-357-Conf) en vertu de la Norme 35 du Règlement de la Cour”*, [No. ICC-01/14-01/21-363-Conf](#) and [No. ICC-01/14-01/21-363-Red](#), 16 June 2022 ; and the *“Requête en suspension du délai de réponse au mémoire de première instance jusqu’à transmission de la traduction française du mémoire de première instance déposé par l’Accusation le 13 juin 2022 (ICC-01/14-01/21-359-Conf) et demande de report de la date de début du procès qui devra être fixée au moins 3 mois et 13 jours (73 jours ouvrés) après la transmission de la traduction française de ce mémoire de première instance”*, [No. ICC-01/14-01/21-367-Conf](#) and [No. ICC-01/14-01/21-367-Red](#), 20 June 2022.

the commencement of the trial gradually approaching".⁸ Indeed, while the Defence keeps referring to its important workload,⁹ it continues to fail to clarify that said deadlines are a result of its earlier requests for extension of time,¹⁰ and the Chamber's subsequent decisions.¹¹

6. The Legal Representative notes that the Defence has been on notice of the deadlines for which it now requests an extension since 21 February 2022.¹² Moreover, since its own requests to vary time limits are at the origin of its current workload, the Legal Representative posits that the Defence does not show good cause pursuant to Regulation 35 of the Regulations of the Court.

7. Furthermore, the Legal Representative also notes that the deadline requested by the Defence to present its Trial Brief carries over to the month of September, less than a month before the start of the trial.¹³ Therefore, the Legal Representative posits that if the Defence's request were to be granted, any subsequent deadline should remain unaffected, in particular, the one set for the commencement of the trial. In this regard, she reiterates that postponing the commencement date of the trial will

⁸ See the "Victims' response to the 'Requête de prorogation en vertu de la Norme 35 du Règlement de la Cour portant sur le délai de réponse aux requêtes de l'Accusation déposées en vertu de la Règle 68 ICC-01/14-01/21-322-Conf, ICC-01/14-01/21-323-Conf, ICC-01/14-01/21-326-Conf et ICC-01/14-01/21-328-Conf, et à la 'Sixth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9)' (ICC-01/14-01/21-325-Conf) notifiées à la Défense le 23 mai 2022' (ICC-01/14-01/21-334-Conf)", [No. ICC-01/14-01/21-339](#), 1 June 2022, para. 6. See also the "Victims' response to the 'Requête de prorogation du délai de réponse à la 'Prosecution's third request to introduce prior recorded testimony pursuant to rule 68(3)' (ICC-01/14-01/21-348-Conf), à la 'Prosecution's Request for In-Court Protective Measures' (ICC-01/14-01/21-356-Conf) et à la 'Prosecution's fourth request to introduce prior recorded testimony pursuant to rule 68(3)' (ICC-01/14-01/21-357-Conf) en vertu de la Norme 35 du Règlement de la Cour' (ICC-01/14-01/21-363-Conf)", [No. ICC-01/14-01/21-370](#), 21 June 2022, para. 13.

⁹ See the Defence Request, *supra* note 2, *inter alia* paras. 6, 11, 16, 17, 18, 19, 25, and 27.

¹⁰ See *supra* note 7.

¹¹ See the "Decision on Defence Request for Extension of Time for Responses to Rule 68 Applications and Bar Table Motion (ICC-01/14-01/21-333-Conf)", (Trial Chamber VI), [No. ICC-01/14-01/21-341](#), 1 June 2022; and the "Decision on Defence Request for Extension of Time for Responses to Rule 68(2)(b) Applications (ICC-01/14-01/21-313-Conf-Exp)" (Trial Chamber VI), [No. ICC-01/14-01/21-314](#), 19 May 2022; and the "Decision on the Defence Request for an Extension of Time" (Trial Chamber VI), [No. ICC-01/14-01/21-379](#), 28 June 2022.

¹² See the "Decision Setting the Commencement Date of the Trial and Related Deadlines", *supra* note 3.

¹³ See the Defence Request, *supra* note 2, p. 14.

inevitably have adverse consequences for the victims participating in the proceedings.¹⁴

FOR THESE REASONS, the Legal Representative opposes the Defence Request in its entirety.



Sarah Pellet

Dated this 12th day of July 2022

At The Hague, The Netherlands

¹⁴ See, *inter alia*, the “Victims’ response to the Defence’s request for leave to appeal the Decision on the Commencement Date of the Trial (ICC-01/14-01/21-246)”, [No. ICC-01/14-01/21-248](#), 4 March 2022, para. 30; and the “Victims’ observations the Defence’s requests to vary the time limit and to postpone the commencement date of the trial (No. ICC-01/14-01/21-367-Red)”, [No. ICC-01/14-01/21-383](#), 30 June 2022, paras. 17-18.