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

Date: 26 March 2025

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 Defence Request for Leave to Appeal Decision on the Prosecution's
Request for an Order to Exclude Defence Counsel from the Defence's List of
Witnesses and Evidence**

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 of the International Criminal Court, in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to article 82(1)(d) of the Rome Statute (the ‘Statute’) issues this ‘Decision on Defence Request for Leave to Appeal Decision on the Prosecution’s Request for an Order to Exclude Defence Counsel from the Defence’s List of Witnesses and Evidence’.

I. PROCEDURAL HISTORY

1. On 11 March 2025, the Chamber issued its decision on the Office of the Prosecutor’s (the ‘Prosecution’) request for an order to exclude defence counsel from the Defence’s list of witnesses and evidence (the ‘Impugned Decision’).¹
2. On 17 March 2025, the Defence filed a request for leave to appeal the Impugned Decision and identified four issues for appeal (the ‘Request’).²
3. On 20 March 2025, the Prosecution filed its response to the Request, arguing that it should be rejected because ‘none of the four issues proposed for certification constitutes “appealable issues” nor do they satisfy the cumulative criteria for leave to appeal under article 82(1)(d) of the Rome Statute’ (the ‘Response’).³
4. On 21 March 2025, the Common Legal Representative of Victims (‘CLRv’) filed her response to the Request, arguing that it should be rejected (‘Victims’ Response’).⁴ In particular, the CLRv submits that the Defence fails to demonstrate that any of the four identified issues can be the subject of an interlocutory appeal and notes that the

¹ Decision on the Prosecution’s Request for an Order to Exclude Defence Counsel from the Defence’s List of Witnesses and Evidence, 11 March 2025, [ICC-01/14-01/21-935](#) (‘Impugned Decision’).

² Demande d'autorisation d'interjeter appel de la "Decision on the Prosecution’s Request for an Order to Exclude Defence Counsel from the Defence’s List of Witnesses and Evidence" (ICC-01/14-01/21-935), 17 March 2025, ICC-01/14-01/21-940-Conf (‘Request’). A public redacted version was filed on 18 March 2025 ([ICC-01/14-01/21-940-Red](#)).

³ Prosecution’s response to Defence’s request for leave to appeal the “Decision on the Prosecution’s Request for an Order to Exclude Defence Counsel from the Defence’s List of Witnesses and Evidence” (ICC-01/14-01/21-935, 20 March 2025, ICC-01/14-01/21-943-Conf (‘Response’).

⁴ Victims’ Response to the Defence Request for Leave to Appeal the "Decision on the Prosecution’s Request for an Order to Exclude Defence Counsel from the Defence's List of Witnesses and Evidence" (No. ICC-01/14-01/21-940-Red), 21 March 2025, [ICC-01/14-01/21-945](#) (‘Victims’ Response’).

Defence ‘reiterates its disagreement with, and merely misconstrues, the Impugned Decision’.⁵

II. SUBMISSIONS

A. Request

5. The Defence identifies four grounds for appeal: (i) whether the Chamber erred in fact by ignoring the nature of the hierarchical relationship between the lead counsel and the associate counsel, Mr Dov Jacobs (‘Mr Jacobs’);⁶ (ii) whether the Chamber erred in fact with regard to the substance of Mr Jacobs’ anticipated testimony;⁷ (iii) whether the Chamber erred in law by not finding that the probative value of Mr Jacobs’ testimony should be considered separately from his obligations under the Code of Professional Conduct for Counsel (the ‘Code of Conduct’);⁸ and (iv) whether the Chamber erred in law by precluding the introduction of the reports authored by Defence counsel.⁹

6. In the Request, the Defence submits that it would amount to a double standard to allow members of the Prosecution’s investigative team to testify in these proceedings but prevent a Defence investigator from doing so.¹⁰ The Defence alleges that the Impugned Decision goes even further by prohibiting the introduction of the Defence’s reports, which it claims is based on an incorrect understanding of Defence counsel’s role as an investigator and which it argues impedes counsel from presenting its case in a manner it deems appropriate.¹¹ The Defence argues that the Chamber has no legal basis for prohibiting the introduction of said evidence, but that it is instead free to allow its introduction and attach any weight to it which it considers necessary.¹²

⁵ Victims’ Response, [ICC-01/14-01/21-945](#), para. 2.

⁶ Request, [ICC-01/14-01/21-940-Red](#), para. 22.

⁷ Request, [ICC-01/14-01/21-940-Red](#), paras 23-25.

⁸ Request, [ICC-01/14-01/21-940-Red](#), paras 26-29.

⁹ Request, [ICC-01/14-01/21-940-Red](#), paras 30-34.

¹⁰ Request, [ICC-01/14-01/21-940-Red](#), para. 19.

¹¹ Request, [ICC-01/14-01/21-940-Red](#), para. 21.

¹² Request, [ICC-01/14-01/21-940-Red](#), para. 21.

1. First Issue

7. The Defence submits that the Chamber erred in fact when considering the position of Mr Jacobs as associate counsel *vis-à-vis* the client (Mr Said) and the lead counsel (the ‘First Issue’).¹³ In this regard, the Defence repeats its previous submission that the lead counsel is the only individual to whom Mr Said has entrusted a mandate, in writing, to represent him.¹⁴ In particular, the Defence highlights that the lead counsel appoints the members of her team, including associate counsel, and that the Registry’s notification of appointment of Mr Jacobs as associate counsel does not, in and of itself, substitute the will of Mr Said who appointed one counsel and one counsel only to represent him.¹⁵

8. The Defence further submits that Mr Said does not give instructions to Mr Jacobs and that he, as associate counsel, is subordinate to the lead counsel just like any other member of the Defence team, drawing a comparison with Chief Prosecutor Karim Khan and the deputy prosecutors who act on his behalf and under his authority.¹⁶ The Defence therefore argues that the Chamber erred by incorrectly evaluating the relationship between the lead counsel and Mr Jacobs, attributing responsibilities to Mr Jacobs which he, in fact, does not have.¹⁷

2. Second Issue

9. The Defence submits that the Chamber erred in fact in stating that Mr Jacobs’ testimony related to the missions the Defence team conducted in Bangui at the *Tribunal de Grande Instance de Bangui* (the ‘TGI’) and the *Office Central de Répression du Banditisme* (the ‘OCRB’), including, *inter alia*, an analysis of the criminal procedure executed by authorities at the time of the charges, discussion of record-keeping practices, and assessments of the layout and structure of the OCRB (the ‘Second Issue’).¹⁸

¹³ Request, [ICC-01/14-01/21-940-Red](#), para. 22.

¹⁴ Request, [ICC-01/14-01/21-940-Red](#), para. 22; see Impugned Decision, [ICC-01/14-01/21-935](#), para. 26.

¹⁵ Request, [ICC-01/14-01/21-940-Red](#), para. 22.

¹⁶ Request, [ICC-01/14-01/21-940-Red](#), para. 22.

¹⁷ Request, [ICC-01/14-01/21-940-Red](#), para. 22.

¹⁸ Request, [ICC-01/14-01/21-940-Red](#), para. 23.

10. Specifically, the Defence argues that it did not indicate that Mr Jacobs would testify on the abovementioned topics, but that his anticipated testimony would in fact relate exclusively to factual findings he made during his visits to the TGI and the OCRB.¹⁹ The Defence advances that such topics are clear factual points which do not relate to the substance of the case, further highlighting that counsel before the Court are accustomed to making such findings as they are at the heart of their work and an essential part of the services they render.²⁰

11. The Defence further argues that the Chamber asked it to provide summaries of its witnesses' anticipated testimony, which the Defence indeed supplied, only to have it now used against it and, as a result, against Mr Said.²¹ The Defence therefore submits that the Chamber's confusion as to the actual content of Mr Jacobs' testimony is an error of fact.²²

3. *Third Issue*

12. The Defence submits that the Chamber erred in law by considering the potential probative value of Mr Jacobs' testimony through the lens of his obligations under the Code of Conduct (the 'Third Issue'). Specifically, the Defence argues that the existence of the Code of Conduct has no bearing on a counsel's testimony, claiming that the two are distinct in nature and operate independently from each other.²³ By way of example, the Defence notes that the Prosecution members are subject to their own code of ethics but that the obligations they have under said framework do not impede or impact their ability to testify in proceedings before this Court.²⁴

13. The Defence submits that there can be no double standard and that, either the probative value of the testimony of those who participated in the investigation must be assessed, or there must be a general prohibition on allowing any individuals involved in investigations to testify in these proceedings.²⁵

¹⁹ Request, [ICC-01/14-01/21-940-Red](#), para. 24.

²⁰ Request, [ICC-01/14-01/21-940-Red](#), para. 24.

²¹ Request, [ICC-01/14-01/21-940-Red](#), para. 25.

²² Request, [ICC-01/14-01/21-940-Red](#), para. 25.

²³ Request, [ICC-01/14-01/21-940-Red](#), para. 27.

²⁴ Request, [ICC-01/14-01/21-940-Red](#), para. 27.

²⁵ Request, [ICC-01/14-01/21-940-Red](#), para. 29.

4. *Fourth Issue*

14. Last, the Defence submits that the Chamber erred by concluding that the reports prepared by the Defence counsel could not be introduced into evidence (the ‘Fourth Issue’). In this respect, the Defence argues that, even if Mr Jacobs could not formally testify before the Chamber, the Chamber has no legal basis for prohibiting the Defence team from introducing its own reports into evidence, even if such reports are prepared by counsel.²⁶

15. The Defence claims that, inherent in a counsel’s responsibility for case strategy is the ability to carry out investigations and make informed decisions relating thereto.²⁷ As a result, the Defence argues that the Code of Conduct cannot logically be interpreted as prohibiting counsel from submitting their investigative findings and authenticating evidence they have gathered.²⁸ The Defence submits that the Chamber is free to attach any weight to such reports that it considers appropriate based on already available information.²⁹

16. The Defence further submits that the fact that the Court’s Legal Aid Policy allows counsel to engage a professional investigator does not mean that it has an obligation to do so, emphasising that counsel are in the best position to determine how to manage their own budgets and resources.³⁰ The Defence states that it would not be possible to imagine a similar situation with the Prosecution whereby the Prosecution would not be permitted to introduce evidence based on which individual in its office collected the evidence.³¹ The Defence argues that the Code of Conduct states that lead counsel is responsible for any work product created by investigators and that any investigator engaged by counsel would still have to act pursuant to instructions received from counsel.³² The Defence therefore submits that counsel has an obligation to understand the issues that are at stake and to conduct and supervise the investigations just as those

²⁶ Request, [ICC-01/14-01/21-940-Red](#), para. 31.

²⁷ Request, [ICC-01/14-01/21-940-Red](#), para. 32.

²⁸ Request, [ICC-01/14-01/21-940-Red](#), para. 32.

²⁹ Request, [ICC-01/14-01/21-940-Red](#), para. 32.

³⁰ Request, [ICC-01/14-01/21-940-Red](#), para. 33.

³¹ Request, [ICC-01/14-01/21-940-Red](#), para. 33.

³² Request, [ICC-01/14-01/21-940-Red](#), para. 33.

members of the Prosecution who act pursuant to and under the authority of the Chief Prosecutor.³³

17. The Defence submits that the four issues identified for leave to appeal significantly affect the fair and expeditious conduct of the proceedings and outcome of the trial. In support of its position, the Defence avers that the Impugned Decision prohibits a person exercising investigative functions from testifying on the findings resulting from such activity, which violates the equality of arms and undermines the fairness of the proceedings.³⁴ The Defence also argues that the outcome of the trial could be impacted if it is not allowed to make submissions on the topography of the OCRB.³⁵

18. Last, the Defence submits that an immediate resolution by the Appeals Chamber of the issues identified for leave to appeal would materially advance proceedings. In particular, the Defence argues that if the issues are not submitted to the Appeals Chamber, the trial could conclude and a judgment could be issued without it having had the opportunity to present its own investigative findings.³⁶

B. Response

19. In the Response, the Prosecution submits that the Defence fails to identify any appealable issue arising from the Decision but instead ‘reiterates arguments previously presented in support of its request to add Associate Counsel to its List of Witnesses and merely disagrees with the Decision’.³⁷

20. In respect of the First Issue, the Prosecution argues that the Defence simply reiterates its previous submission and merely disagrees with the Impugned Decision.³⁸ In particular, the Prosecution submits that the Impugned Decision is well-reasoned and explicitly identifies the factors that the Chamber took into consideration (with regard to the hierarchical relationship between associate counsel and lead counsel), including, for example the applicable legal framework, considerations about the external

³³ Request, [ICC-01/14-01/21-940-Red](#), para. 33.

³⁴ Request, [ICC-01/14-01/21-940-Red](#), para. 35.

³⁵ Request, [ICC-01/14-01/21-940-Red](#), para. 35.

³⁶ Request, [ICC-01/14-01/21-940-Red](#), para. 36.

³⁷ Response, ICC-01/14-01/21-943-Conf, para. 6.

³⁸ Response, ICC-01/14-01/21-943-Conf, para. 7.

professional role of Mr Jacobs, and his activities and representational functions during the trial, and therefore is not an appealable issue.³⁹

21. In respect of the Second Issue, the Prosecution submits that the Defence's argument with regard to the actual content of Mr Jacobs' anticipated testimony is 'unfounded and misleading as the subject-matter of Mr. Jacobs' testimony as identified by the Chamber in its Decision mirrors the contents of the aforementioned summary of Mr. Jacobs as provided by the Defence'.⁴⁰ The Prosecution argues that the Defence's position consists of a mere disagreement with the Impugned Decision and is therefore not an appealable.⁴¹

22. In respect of the Third Issue, the Prosecution submits that the Impugned Decision correctly addressed a counsel's obligation under the Code of Conduct to put his client's interest before his own and that allowing Mr Jacobs to testify could lead to tension in the discharge of his duty to the Court and to his client.⁴² In this regard, the Prosecution advances that the Chamber was 'not required to determine whether the probative value of Mr Jacobs' proposed testimony is independent from the obligations under the Code of Conduct to render its decision on the issue' and that the issue was inaccurately interpreted by the Defence and is therefore not subject to appeal.⁴³

23. In respect of the Fourth Issue, the Prosecution submits that the Chamber provided, in paragraph 55 of the Impugned Decision, the 'possibility to the Defence to make a request for a limited amount of additional time to propose alternative means to authenticate relevant items/information collected at the TGI and/or the OCRB currently contained in the reports prepared by counsel'.⁴⁴ Consequently, the Prosecution submits that the appealable issue identified by the Defence is premised on an incorrect interpretation of the Impugned Decision, and is not appealable.

24. With regard to the requirements of article 82(1)(d) of the Statute, the Prosecution submits that, even if the Chamber were to consider the four issues identified by the

³⁹ Response, ICC-01/14-01/21-943-Conf, para. 7.

⁴⁰ Response, ICC-01/14-01/21-943-Conf, para. 8.

⁴¹ Response, ICC-01/14-01/21-943-Conf, para. 8.

⁴² Response, ICC-01/14-01/21-943-Conf, para. 9.

⁴³ Response, ICC-01/14-01/21-943-Conf, paras 9-10.

⁴⁴ Response, ICC-01/14-01/21-943-Conf, para. 12.

Defence as appealable, the Defence fails to substantiate how any of the issues impacts the fair and expeditious conduct of the proceedings or the outcome of the trial.⁴⁵ Additionally, the Prosecution submits that the immediate resolution of any of the four issues by the Appeals Chamber would not materially advance the proceedings.⁴⁶ In this regard, the Prosecution argues that the Impugned Decision ‘gives due consideration to the fairness of the proceedings and notifies the Defence that it can propose an alternative means to present the findings of its investigations’.⁴⁷

C. Victims’ Response

25. The CLRV submits that the Request does not satisfy the requirements of article 82(1)(d) of the Statute and must be rejected.⁴⁸

26. In respect of the First Issue, the CLRV submits that the Chamber indeed specifically considered the activities of Mr Jacobs in the present case, such as leading the cross-examination of witnesses and standing in for lead counsel during her absence, before correctly concluding that Mr Jacobs occupies the role of associate counsel and is thus bound by the Code of Conduct.⁴⁹ The CLRV further notes that the Defence draws a comparison between Mr Jacobs’ role as co-counsel and members of the Prosecution team, but ‘fails to mention that the members of the Prosecution team who perform the same activities as Co-Counsel have also not testified in the present case, nor would they be allowed to do so for obvious reasons’.⁵⁰

27. In respect of the Second Issue, the CLRV advances that the ‘Chamber not only took into account the summary of Co-Counsel’s anticipated testimony, but also the specific contents of the Defence’s investigation reports, in reaching its conclusion that said testimony would go to matters that are contested in the present case’.⁵¹ Consequently, the CLRV submits that the Chamber did not misinterpret the content of Mr Jacobs’ anticipated testimony.⁵²

⁴⁵ Response, ICC-01/14-01/21-943-Conf, para. 13.

⁴⁶ Response, ICC-01/14-01/21-943-Conf, para. 16.

⁴⁷ Response, ICC-01/14-01/21-943-Conf, para. 16.

⁴⁸ Victims’ Response, [ICC-01/14-01/21-945](#), para. 1.

⁴⁹ Victims’ Response, [ICC-01/14-01/21-945](#), para. 18.

⁵⁰ Victims’ Response, [ICC-01/14-01/21-945](#), para. 18.

⁵¹ Victims’ Response, [ICC-01/14-01/21-945](#), para. 19.

⁵² Victims’ Response, [ICC-01/14-01/21-945](#), para. 19.

28. In respect of the Third Issue, the CLRV submits that there is a clear distinction between investigators of the Court and Defence counsel appearing before the Court.⁵³ In particular, the CLRV highlights that the investigators' code of conduct does not contain a prohibition on appearing as a witness whereas the Code of Conduct, by which Mr Jacobs is bound as counsel, does impede counsel from testifying.⁵⁴

29. In respect of the Fourth Issue, the CLRV submits that the Impugned Decision clearly stated that the Defence reports in question could not be introduced to the extent that they contain testimonial evidence on the part of the authors of the report (i.e., counsel) and offered the Defence an alternative avenue to submit the relevant information.⁵⁵ As a result, the CLRV argues that a mere disagreement with the alternative avenue proposed by the Chamber does not constitute an appealable issue.⁵⁶

30. Last, the CLRV posits that the Request merely reiterates its disagreement with the Impugned Decision, and if the Chamber were to find that appealable issues do arise, the 'Defence fails to demonstrate how those would significantly affect the fair and expeditious conduct of the proceedings and how their immediate resolution would materially advance the proceedings'.⁵⁷

⁵³ Victims' Response, [ICC-01/14-01/21-945](#), para. 20.

⁵⁴ Victims' Response, [ICC-01/14-01/21-945](#), para. 20.

⁵⁵ Victims' Response, [ICC-01/14-01/21-945](#), para. 21.

⁵⁶ Victims' Response, [ICC-01/14-01/21-945](#), para. 21.

⁵⁷ Victims' Response, [ICC-01/14-01/21-945](#), para. 2.

III. APPLICABLE LAW

31. The Chamber recalls its previous decisions,⁵⁸ as well as prior jurisprudence of the Court, regarding the application of article 82(1)(d) of the Statute.⁵⁹ For the purposes of the present decision, the Chamber adopts its findings as set out in its previous decisions on requests for leave to appeal.

IV. ANALYSIS

32. For the reasons that follow the Chamber finds that the issues identified in the Request do not satisfy the requirements of article 82(1)(d) of the Statute.

33. Regarding the First Issue, the Chamber considers that the Request expresses a mere disagreement with the Impugned Decision. In this respect, the Chamber notes that the Defence reiterates the same arguments it made previously,⁶⁰ and does not explain the reason for which the Chamber's factual finding would be erroneous nor does the Defence point to information that the Chamber would have misinterpreted.

⁵⁸ See, *inter alia*, Decision on the Defence's Request for Leave to Appeal the 'Decision on the Prosecution's Third Request for In-Court Protective Measures', 19 March 2024, [ICC-01/14-01/21-725](#), para. 19; Decision on the Defence's Request for Reconsideration of or Leave to Appeal the Decision on the Prosecution's Fifth Request under Rule 68(2)(b), 16 December 2022, [ICC-01/14-01/21-575](#), paras 20-23; Decision on the Defence's Request for Leave to Appeal the 'Decision on the Prosecution's First, Second and Fourth Requests Pursuant to Rule 68(2)(b) of the Rules' (ICC-01/14-01/21-507-Conf), 28 November 2022, [ICC-01/14-01/21-562](#), paras 16-18; Decision on Defence Request for Leave to Appeal (ICC-01/14-01/21-440) and Reasons for Decision Rejecting Leave to Appeal (ICC-01/14-01/21-425), 6 September 2022, [ICC-01/14-01/21-473](#), paras 11-13; Decision on Defence Request for Reconsideration or Leave to Appeal the 'Directions on the Conduct of Proceedings' (ICC-01/14-01/21-251), [ICC-01/14-01/21-275](#), paras 9-11; Decision on Defence Request for Leave to Appeal the 'Decision Setting the Commencement Date of the Trial and Related Deadlines' (ICC-01/14-01/21-243), 15 March 2022, [ICC-01/14-01/21-258](#), paras 11-15.

⁵⁹ See Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Decision on the Demande d'autorisation d'interjeter appel de la 'Decision on the request for suspension of the time limit to respond to the Prosecutor's Trial Brief submitted by the Defence for Mr Gbagbo' (ICC-02-11-01/15-1141), 13 April 2018, [ICC-02/11-01/15-1150](#), para. 8; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on the Defence request for leave to appeal the decision appointing experts on reparations, 29 June 2017, [ICC-01/05-01/08-3536](#), paras 4-7; Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on the Defence Request for Leave to Appeal the Decision on Prosecution Request to Introduce Evidence of Defence Witnesses via Rule 68(2)(b), 5 September 2018, [ICC-02/04-01/15-1331](#), para. 8.

⁶⁰ Version publique expurgée des « Observations de la Défense sur le cadre du témoignage du Conseil Associé permettant d'assurer l'égalité des armes entre Accusation et Défense et le principe du contradictoire, garantis du procès équitable et réponse à la demande de l'Accusation ICC-01/14-01/21-928. », 7 March 2025, [ICC-01/14-01/21-930-Red](#). A confidential version was filed on 28 February 2025 (ICC-01/14-01/21-930-Conf).

Consequently, the Chamber finds that the First Issue does not constitute an appealable issue.

34. Regarding the Second Issue, the Chamber considers that the Request misrepresents the Impugned Decision in arguing that the Chamber erred in fact with regard to the content of Mr Jacobs' anticipated testimony. The Chamber highlights that it arrived at its conclusion regarding the matters on which Mr Jacobs would testify based on the very submissions and descriptions provided by the Defence.⁶¹ The Chamber therefore finds that the Second Issue does not constitute an appealable issue.

35. Regarding the Third Issue, the Chamber finds that the Request misrepresents the reasoning given by the Chamber in the Impugned Decision. The Chamber did not assess the potential probative value of Mr Jacobs' testimony but rather stated that allowing him to testify could give rise to a conflict of interest on his part, due to his obligations under the Code of Conduct. Therefore, the Chamber finds that the Third Issue does not arise from the Impugned Decision.

36. Last, regarding the Fourth Issue, the Chamber considers that the Defence misrepresents the Impugned Decision. It is true that it prohibited associate counsel from testifying and declared that forensic reports drafted by counsel would be inadmissible. However, in the Impugned Decision, the Chamber explicitly left open the possibility for the Defence to propose alternative methods of introducing the same information into the record in a procedurally appropriate manner, even going so far as to outline options for the Defence to do so (be it orally or in writing).⁶² The Chamber notes that it is incumbent on the Defence to decide how, and whether, it seeks to avail itself of such an option. In sum, the Chamber finds that none of the issues articulated by the Defence qualify as appealable issues.

37. Moreover, the Chamber is of the view that none of the issues would significantly affect the fair and expeditious conduct of the proceedings or outcome of the trial. There is therefore no need for an immediate resolution by the Appeals Chamber.

⁶¹ Impugned Decision, [ICC-01/14-01/21-935](#), para. 44.

⁶² See Impugned Decision, [ICC-01/14-01/21-935](#), paras 48, 55.

38. Accordingly, the Chamber finds that Request fails to satisfy the cumulative requirements of article 82(1)(d) of the Statute, and must be rejected.

FOR THESE REASONS, THE CHAMBER HEREBY

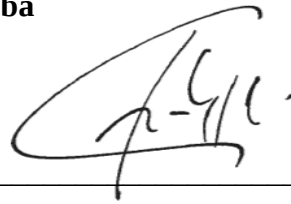
REJECTS the Request.



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 March 2025

At The Hague, The Netherlands