

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/21
Date: 16 October 2025

TRIAL CHAMBER VI

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI

Public

Prosecution response to “*Demande de reconsidération de l’instruction donnée par la Chambre dans la décision ICC-01/14-01/21-932 de procéder au double référencement du mémoire de la Défense dans les deux langues de travail de la Cour (ICC-01/14-01/21-1030)*”

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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☒ 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

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I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) opposes the Defence request for reconsideration¹ (“Request”) of Trial Chamber VI’s instruction of 5 March 2025² (hereinafter, the “Trial Chamber” and “Fourth Directions”) to refer to both the English and the French versions of transcripts and prior recorded testimonies in the Closing Briefs. The Request fails to meet the conditions for reconsideration.

II. SUBMISSIONS

2. Reconsideration is an exceptional remedy which, as per constant jurisprudence of the Court, can only be granted if a clear error of reasoning has been demonstrated or if it is necessary to prevent an injustice. New fact or argument can be taken into consideration in this assessment.³
3. At the outset, the Prosecution notes that the Request is untimely. The Trial Chamber issued the Fourth Directions on 5 March 2025, over seven months ago. The alleged difficulties faced by the Defence could have largely been anticipated when the Parties were put on notice of the instruction⁴ and raised immediately after the issuance of the Fourth Directions. Further, while the Parties jointly seized the

¹ “*Demande de reconsidération de l’instruction donnée par la Chambre dans la décision ICC-01/14-01/21-932 de procéder au double référencement du mémoire de la Défense dans les deux langues de travail de la Cour*”, 15 October 2025, ICC-01/14-01/21-1030, p. 7.

² Fourth Directions on the Conduct of Proceedings, 5 March 2025, ICC-01/14-01/21-932, para. 26.

³ *Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Defence request for reconsideration of Decision on requests related to the submission into evidence of Mr Al Hassan’s statements, 23 November 2022, ICC-01/12-01/18-2414, para. 7; *Prosecutor v. Ali Muhammad Ali Abd-al-Rahman* (‘*Ali Kushayb*’), Decision on Defence request for reconsideration of “Decision on Defence submissions on cooperation with Sudan”, 29 March 2022, ICC-02/05-01/20-650-Red, para. 10; *Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Defence request for reconsideration and, in the alternative, leave to appeal the ‘Decision on witness preparation and familiarisation’, 9 April 2020, ICC-01/12-01/18-734, para. 11; *Prosecutor v. Bosco Ntaganda*, Decision on Defence request seeking partial reconsideration of the ‘Decision on Defence request for admission of evidence from the bar table’, 22 February 2018, ICC-01/04-02/06-2241, para. 4; *Prosecutor v. Dominic Ongwen*, Decision on Request for Reconsideration of the Order to Disclose Requests for Assistance, 15 June 2016, ICC-02/04-01/15-468, para. 4; *Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Decision on Defence Request for Reconsideration of or Leave to Appeal ‘Decision on “Defence Request for Disclosure and Judicial Assistance”’, 24 September 2015, ICC-01/05-01/13-1282, para. 8; *Prosecutor v. William Samoei Ruto & Joshua Arap Sang*, Decision on the Sang Defence’s Request for Reconsideration of Page and Time Limits, 10 February 2015, ICC-01/09-01/11-1813, para. 19; *Prosecutor v. Thomas Lubanga Dyilo*, Decision on the defence request to reconsider the “Order on numbering of evidence” of 12 May 2010, 30 March 2011, ICC-01/04-01/06-2705, para. 18.

⁴ With regard to the timeliness of requests related to directions on the conduct of proceedings, see Further Directions in Relation to the Closing Briefs, 19 September 2025, ICC-01/14-01/21-1026, para. 8.

Trial Chamber with a request for extension of time and page limit of the Closing Briefs on 17 September 2025,⁵ a reconsideration of the instruction related to the referencing of both language versions of transcripts and prior recorded testimonies was not included in the request.

4. The Prosecution submits that the issues raised by the Defence do not meet the necessary conditions for reconsideration.
5. The Defence does not allege any clear error of reasoning in the Fourth Directions. Instead, the Defence appears to suggest that compliance with the above instruction is an energy-consuming task, qualified as “*surhumain*”,⁶ which negatively impacts the drafting of its Closing Brief—affecting the team’s ability to focus on the substance of the filing, and as a result affecting its ability to present an effective and efficient defence.⁷
6. The threshold for reconsideration is high and is not met in the Request. The Defence contention pertains to purely internal organisational matters and does not amount, as seems to be suggested, to the manifestation of an injustice warranting reconsideration of the referencing instruction in the Fourth Directions.
7. Lastly, there has been no change of circumstances since the issuance of the Fourth Directions. In an attempt to substantiate their Request, the Defence contends that the analysis of the references contained in the Prosecution Closing Brief constitutes a “tipping point”, creating additional workload in terms of referencing in both languages.⁸ Relatedly, the Defence further argues that differences of interpretation identified in transcripts in the course of the preparation of their Closing Brief impact their referencing work.⁹ These contentions are misplaced. The Prosecution concluded the presentation of its evidence on 15 November 2024.¹⁰ By then, the

⁵ Joint email from the Defence and the Prosecution to the Trial Chamber, 17 September 2025 at 14h02.

⁶ Request, para. 16.

⁷ Request, paras. 4-18.

⁸ Request, paras. 9, 16-18.

⁹ Request, paras. 12-13.

¹⁰ Notice of the Conclusion of the Prosecution’s Presentation of Evidence, 15 November 2024, ICC-01/14-01/21-895.

majority of the corrected English and the French versions of transcripts and prior recorded testimonies of Prosecution witnesses were available to the Parties and Participants for referencing purposes. With regard to alleged interpretation issues, this contention is untimely. The Trial Chamber's instructions regarding corrections to the transcript were issued on 22 September 2022, setting out the modalities for requests for corrections in court or after the hearing and no later than 21 days from the notification of the edited version of the transcripts.¹¹ Alleged errors of interpretation at this stage of the proceedings should be clearly substantiated and conveyed through the appropriate channel. Vague contentions about alleged interpretation discrepancies cannot be relied upon to justify referencing issues at this stage of the case. Both contentions fail to identify changes of circumstances warranting reconsideration of the Fourth Directions.

III. RELIEF SOUGHT

8. For the aforementioned reasons, the Prosecution respectfully requests that the Chamber reject the Request.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 16th day of October 2025
At The Hague, The Netherlands

¹¹ Further Directions pursuant to Rule 140 of the Rules (Email decision), 22 September 2022 at 18h34.