

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 October 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 the Defence's Request Regarding Referencing in its Closing Brief

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 64(2) of the Rome Statute (the ‘Statute’), issues this ‘Decision on the Defence’s Request Regarding Referencing in its Closing Brief’.

I. PROCEDURAL HISTORY

1. On 5 March 2025, the Chamber filed the Fourth Directions on the Conduct of Proceedings in which it, *inter alia*, ordered the Parties and Participants to refer to both the English and French versions of any transcripts and prior recorded testimony they rely on in their Closing Briefs (the ‘Chamber’s Instruction’).¹
2. On 25 September 2025, the Office of the Prosecutor (the ‘Prosecution’) and the Common Legal Representative of Victims (the ‘CLRV’) filed their respective Closing Briefs.²
3. On 15 October 2025, the Defence filed a request for reconsideration of the Chamber’s Instruction (the ‘Request’).³
4. On 16 October 2025, the Chamber shortened the deadline for responses.⁴
5. On the same day, the Prosecution and CLRV filed responses to the Request (the ‘Response’ and ‘Victims’ Response’ respectively).⁵

¹ Fourth Directions on the Conduct of Proceedings, 5 March 2025, [ICC-01/14-01/21-932](#), para. 26.

² Prosecution’s Closing Brief, 25 September 2025, ICC-01/14-01/21-1027-Conf; Closing brief on behalf of the Victims, 25 September 2025, [ICC-01/14-01/21-1028-Red](#), with one public annex. A confidential version was filed simultaneously (ICC-01/14-01/21-1028-Conf).

³ 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.

⁴ Email from the Chamber to the Parties and Participants, dated 16 October 2025, at 08:06.

⁵ 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)”, 16 October 2025, ICC-01/14-01/21-1033; Victims’ Response to the “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” (No. ICC-01/14-01/21-1030), 16 October 2025, ICC-01/14-01/21-1032.

II. SUBMISSIONS

A. Request

6. In support of the Request, the Defence makes a number of submissions.

7. First, the Defence notes that French, not English, is the predominant language in the present case,⁶ indicating that the Defence is a French-speaking team, working in French and using the French versions of documents, where they exist.⁷ In this regard, the Defence states that all its submissions, its internal preparations and work is based on the French versions of the evidence.⁸ The Defence submits that to refer to the English versions of the evidence at this stage of the proceedings requires a lot of work and takes considerable time, particularly in light of the Defence's resources.⁹

8. The Defence further submits that searching for equivalent references in English is a very time-consuming task and page and line references in French do not correspond to the same page and line references in English.¹⁰ The Defence avers that this therefore requires the Defence to re-read parts of the English versions to find the exact references.¹¹

9. Second, the Defence submits that since the Prosecution's Closing Brief was filed, the Defence has had to adapt its work to take into account the content of the Prosecution's Closing Brief.¹² The Defence submits that the footnotes in its Closing Brief are constantly changing as the Brief is drafted in order to respond to the Prosecution's Closing Brief in a targeted manner.¹³ The Defence avers that having to also look for the English versions of references adds a significant amount of work on top of this process.¹⁴

⁶ Request, ICC-01/14-01/21-1030, para. 4.

⁷ Request, ICC-01/14-01/21-1030, para. 5.

⁸ Request, ICC-01/14-01/21-1030, para. 5.

⁹ Request, ICC-01/14-01/21-1030, para. 6.

¹⁰ Request, ICC-01/14-01/21-1030, paras 7-8.

¹¹ Request, ICC-01/14-01/21-1030, para. 7.

¹² Request, ICC-01/14-01/21-1030, para. 9.

¹³ Request, ICC-01/14-01/21-1030, para. 10.

¹⁴ Request, ICC-01/14-01/21-1030, para. 11.

10. Third, the Defence submits that it has to not only identify corresponding passages in English but also evaluate the passages in English, which are sometimes different from the French.¹⁵ The Defence submits that differences in wording between the languages can change the meaning or the content of the passage in question.¹⁶

11. The Defence submits that in view of these constraints it will not be able to file a well-constructed Closing Brief in the allotted time that responds to the Prosecution's allegations.¹⁷ The Defence notes that it cannot ask team members to work schedules required to implement both the Chamber's Instruction and develop essential lines of defence without affecting the working conditions of the entire team.¹⁸

12. The Defence submits that it has made every effort to fully review all of the work it did throughout the trial, however, with the increased burden of analysing the Prosecution's Closing Brief, the Defence notes that it is not humanly possible for it to provide the English references.¹⁹

13. Last, the Defence avers that if the Request is not granted it will likely be forced to request additional time.²⁰ In this regard, the Defence proposes to add the English references after the date of filing if this would assist the Chamber or the Court's translation services.²¹

B. Response

14. In the Response, the Prosecution submits that the Request should be rejected. The Prosecution submits that the Request is 'untimely', noting that the Chamber's Instruction was given over seven months ago and the 'alleged difficulties faced by the Defence could have largely been anticipated'.²² Furthermore, the Prosecution notes

¹⁵ Request, ICC-01/14-01/21-1030, para. 12.

¹⁶ Request, ICC-01/14-01/21-1030, para. 13.

¹⁷ Request, ICC-01/14-01/21-1030, para. 14.

¹⁸ Request, ICC-01/14-01/21-1030, para. 15.

¹⁹ Request, ICC-01/14-01/21-1030, para. 16.

²⁰ Request, ICC-01/14-01/21-1030, para. 18.

²¹ Request, ICC-01/14-01/21-1030, para. 18.

²² Response, ICC-01/14-01/21-1033, para. 3

that when the Parties jointly requested an extension of time and page limit for the Closing Briefs, reconsideration of the Chamber's Instruction was not included.²³

15. The Prosecution posits that the Defence's submissions pertain 'to purely internal organisational matters and does not amount, as seems to be suggested, to the manifestation of an injustice warranting reconsideration'.²⁴

16. Last, the Prosecution submits that there has been no change of circumstances since the issuing of the Chamber's Instruction.²⁵ In this regard, the Prosecution notes that its case closed in November 2024 and at that point the majority of the corrected versions of the English and French transcripts and prior recorded testimony of Prosecution witnesses were available to all Parties and Participants for referencing.²⁶ In addition, the Prosecution submits that '[v]ague contentions about alleged interpretation discrepancies cannot be relied upon to justify referencing issues at this stage of the case.'²⁷

C. Victims' Response

17. In the Victims' Response, the CLRV also submits that the Request should be rejected. The CLRV avers that the Defence has not identified any clear error of reasoning with the Chamber's Instruction, noting that it was 'issued in order to facilitate the work of the parties and participants, since they "are working in different working languages of the Court"'.²⁸ In this regard, the CLRV notes that 'the Prosecution and the Common Legal Representative have diligently complied with the Chamber's instruction by providing references in both working languages in their respective closing briefs', positing that this also benefits the Defence.²⁹

18. The CLRV further submits that 'the instruction ensures parity of treatment and facilitates the Chamber's ability to assess the submissions of all parties and participants on an equal footing, irrespective of the drafting language.'³⁰ In this regard,

²³ Response, ICC-01/14-01/21-1033, para. 3.

²⁴ Response, ICC-01/14-01/21-1033, para. 6.

²⁵ Response, ICC-01/14-01/21-1033, para. 7.

²⁶ Response, ICC-01/14-01/21-1033, para. 7.

²⁷ Response, ICC-01/14-01/21-1033, para. 7.

²⁸ Victims' Response, ICC-01/14-01/21-1032, para. 8.

²⁹ Victims' Response, ICC-01/14-01/21-1032, para. 8.

³⁰ Victims' Response, ICC-01/14-01/21-1032, para. 9.

the CLRV avers that ‘[g]ranting the Request would not prevent an injustice but rather create one, by exempting the Defence from an obligation already fulfilled by the Prosecution and the Common Legal Representative, thereby undermining the fairness and consistency of the proceedings.’³¹

19. Last, the CLRV posits that the circumstances described by the Defence ‘were all known and/or foreseeable at the time the [Chamber’s Instruction] [was] issued’ and the Defence did not seek leave to appeal at the time. The CLRV further submits that the Defence cannot claim that the Chamber’s Instruction was ‘an unforeseen development’ given that the Parties and Participants have been on notice since March 2025 regarding the modalities and timeline for the Closing Briefs.³²

III. APPLICABLE LAW

20. The Chamber recalls the standard applicable to requests for reconsideration and the jurisprudence of previous chambers in considering that:

[i]t has the power to reconsider its decision upon request of the parties or *proprio motu*, particularly in light of Articles 64(2) and 67 of the Statute. Nevertheless, reconsideration is exceptional and should only take place if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent an injustice. New facts and arguments arising since the decision was rendered maybe relevant to this assessment.³³

21. The Chamber recalls that it has followed this jurisprudence in previous decisions,³⁴ and sees no reason to depart from the above standard.

³¹ Victims’ Response, ICC-01/14-01/21-1032, para. 9.

³² Victims’ Response, ICC-01/14-01/21-1032, para. 10.

³³ Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Defence request for reconsideration, or leave to appeal the ‘Fourth decision on matters related to the conduct of proceedings’, 2 March 2021, [ICC-01/12-01/18-1330](#), para. 4; Trial Chamber IX, *The 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; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Decision on the Prosecution’s request for reconsideration or, in the alternative, leave to appeal, 18 March 2015, [ICC-01/04-02/06-519](#), para. 12.

³⁴ See Decision on the Defence’s Request for Reconsideration of the ‘Second Order Pursuant to Rule 135 of the Rules of Procedure and Evidence’ and Order Appointing a Medical Expert, 4 June 2024, [ICC-01/14-01/21-780-Red](#). A confidential version was filed simultaneously (ICC-01/14-01/21-780-Conf); Decision on the Defence Request for Reconsideration of ‘Order pursuant to rule 135 of the Rules of Procedure and Evidence’, 15 December 2023, [ICC-01/14-01/21-618-Red](#). A SECRET *ex parte* and SECRET Redacted version were filed on 16 June 2023 respectively (ICC-01/14-01/21-618-SECRET-

IV. ANALYSIS

22. For the reasons that follow the Chamber finds that the Request must be rejected.

23. The Chamber considers that the Request demonstrates a lack of proper planning on the part of the Defence. The Chamber recalls that the Parties and Participants have been on notice of the Chamber's Instruction since March 2025,³⁵ and both the Prosecution and CLRV complied with the Chamber's Instruction and filed their Briefs on time. The Chamber finds it inappropriate for the Defence to make the Request mere weeks before its Closing Brief is due to be filed given that it has been on notice of the Chamber's Instruction for over seven months.

24. The Chamber further considers that the Defence should have, and indeed was in a position to, anticipate any issues regarding the alleged time consuming nature of identifying corresponding line references in English. The Chamber notes that, since the outset of the proceedings, both the English and French versions of transcripts have been used and referred to. In this regard, the Chamber considers that the fact that line references in English and French transcripts are distinct is not a new fact which the Defence only became aware of during the preparation of its Closing Brief.

25. The Chamber also rejects the Defence's submission that French is the predominant language in the present case. The Chamber notes that all of the transcripts of the proceedings are in both English and French and the vast majority of the prior recorded testimony is in both languages. Furthermore, the fact that the Defence has chosen to work in French was already taken into consideration when the Chamber's Instruction was given,³⁶ and indeed the Chamber's Instruction was partly for the Defence's benefit given that the Prosecution and CLRV predominantly file in English.

26. Last, the Chamber finds the Defence's submissions regarding the situation becoming more difficult since the filing of the Prosecution's Closing Brief

Exp; ICC-01/14-01/21-618- SECRET-Red); Decision on Defence Request for Reconsideration or Leave to Appeal the 'Directions on the Conduct of Proceedings'(ICC-01/14-01/21-251), 8 April 2022, [ICC-01/14-01/21-275](#).

³⁵ See also Further Directions in Relation to the Closing Briefs, 19 September 2025, [ICC-01/14-01/21-1026](#), para. 8.

³⁶ See Fourth Directions on the Conduct of Proceedings, 5 March 2025, [ICC-01/14-01/21-932](#), para. 26.

misleading. The Chamber notes that the Defence's ability to carry out the Chamber's Instruction is not dependent on receiving the Prosecution's Closing Brief. In this regard, the Defence has, no doubt, been working on its Closing Brief well in advance of receiving the Prosecution's Closing Brief and the Chamber is not convinced that the Defence now has to update its references to such an extent following the Prosecution's Closing Brief which renders it incapable of complying with the Chamber's Instruction. Furthermore, the Defence has been on notice for a significant period of time that the briefing schedule in this case would be staggered³⁷ and should have planned its work accordingly.

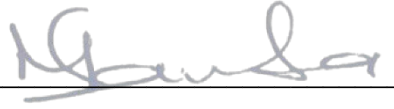
27. In light of the foregoing, the Chamber considers that none of the arguments made by the Defence reach the standard required to warrant reconsideration of the Chamber's Instruction. Specifically, the Chamber notes that the Defence has not properly engaged with the requirements for reconsideration and it has not demonstrated any error in the Chamber's reasoning or that an injustice will occur, and therefore the Chamber rejects the Request. The Chamber expects the Defence to conduct and organise its work accordingly and file its Closing Brief on time. As stated in the 'Further Directions in Relation to the Closing Briefs', the Chamber will not entertain any request for an extension of time for the filing of the Defence's Closing Brief.³⁸

³⁷ See Fourth Directions on the Conduct of Proceedings, 5 March 2025, [ICC-01/14-01/21-932](#), paras 21-22. See also Further Directions in Relation to the Closing Briefs, 19 September 2025, [ICC-01/14-01/21-1026](#), para. 8.

³⁸ See Further Directions in Relation to the Closing Briefs, 19 September 2025, [ICC-01/14-01/21-1026](#), para. 13.

FOR THESE REASONS, THE CHAMBER HEREBY

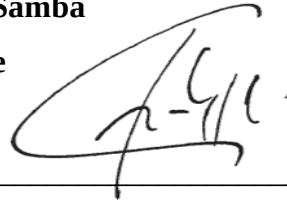
REJECTS the Request.



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 17 October 2025

At The Hague, The Netherlands