

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 22 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 Regarding the Prosecution's Clarification in Respect of Incidents D and K

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 articles 61(9) and 64(2) of the Rome Statute (the ‘Statute’), issues this ‘Decision Regarding the Prosecution’s Clarification in Respect of Incidents D and K’.

I. PROCEDURAL HISTORY

1. On 13 June 2022, the Office of the Prosecutor (the ‘Prosecution’) filed its Trial Brief (the ‘Prosecution’s Trial Brief’).¹ Therein, the Prosecution indicated at footnote 440 that:

[t]he Prosecution will not present evidence in relation to the arrest and detention of P-0645 at the OCRB as P-0645 has refused to sign his witness statement and declined cooperation with the Court. This relates to para. 29(d) of the Charges.²

2. On 25 September 2025, the Prosecution filed its Closing Brief (the ‘Prosecution’s Closing Brief’).³ Therein, the Prosecution stated at footnote 526 that:

[t]he particular incidents are set out in paragraph 29 of the Confirmation Decision (Operative Part). However, the Prosecution has not presented evidence in relation to the arrest and detention of P-0645 at the OCRB as P-0645 has refused to sign his witness statement and declined cooperation with the Court. This relates to para. 29 (d) of the Charges. Further, the Prosecution did not call P-2172 as a witness, see email to Trial Chamber VI of 16 September 2024. This relates to para. 29(k) of the Confirmation Decision (Operative part).⁴

3. On 16 October 2025, the Chamber issued the ‘Order in Respect of Incidents D and K’ (the ‘Order’).⁵ Therein, the Chamber took note of the Prosecution’s aforementioned references in the Prosecution’s Trial and Closing Briefs regarding Incidents D and K.⁶ Specifically, the Chamber, recalling its position in relation to the scope of the charges,⁷ noted that, as the Prosecution has not sought leave of the

¹ Prosecution’s Trial Brief, 28 July 2022, [ICC-01/14-01/21-359-Red](#). A confidential version was filed on 13 June 2022 (ICC-01/14-01/21-359-Conf).

² Prosecution’s Trial Brief, [ICC-01/14-01/21-359-Red](#), footnote 440.

³ Prosecution’s Closing Brief, 25 September 2025, ICC-01/14-01/21-1027-Conf

⁴ Prosecution’s Closing Brief, ICC-01/14-01/21-1027-Conf, footnote 526.

⁵ Order in Respect of Incidents D and K, 16 October 2025, [ICC-01/14-01/21-1031](#).

⁶ Order, [ICC-01/14-01/21-1031](#), paras 1-2.

⁷ Order, [ICC-01/14-01/21-1031](#), para. 3.

Chamber to withdraw any charges in this case, Incidents D and K still form part of the charges.⁸ This notwithstanding, the Chamber considered that the Prosecution's aforementioned references created unnecessary ambiguity in relation to Incidents D and K and ordered the Prosecution to clarify its position.⁹ The Chamber further held that, in the event that the Prosecution does not wish the Chamber to consider these Incidents, then it should seek leave of the Chamber to withdraw them.¹⁰

4. On 20 October 2025, the Prosecution filed the 'Prosecution clarification in respect of Incidents D and K', requesting leave to file an Addendum and related Corrigendum to the Prosecution's Closing Brief (the 'Request').¹¹

5. On the same day, the Defence responded to the Request (the 'Response').¹²

II. SUBMISSIONS

A. Request

6. In the Request, the Prosecution informs the Chamber that it 'maintains Incidents D and K as part of the charges for its consideration for the purposes of its judgment pursuant to article 74 of the Statute.'¹³ The Prosecution submits that it has presented evidence in support of Incidents D and K during the proceedings,¹⁴ referring to testimonial and documentary evidence on the record which, in its view, supports the allegations in relation to these Incidents.¹⁵

7. The Prosecution, accordingly, submits that it 'is ready to clarify its Closing Brief' and seeks the Chamber's leave to 'file an Addendum and a related Corrigendum to its Closing Brief.'¹⁶

⁸ Order, [ICC-01/14-01/21-1031](#), para. 4.

⁹ Order, [ICC-01/14-01/21-1031](#), paras 5-6.

¹⁰ Order, [ICC-01/14-01/21-1031](#), para. 6.

¹¹ Public redacted version of "Prosecution clarification in respect of Incidents D and K", ICC-01/14-01/21-1035-Conf, dated 20 October 2025, 21 October 2025, ICC-01/14-01/21-1035-Red. A confidential version was filed on 20 October 2025 (ICC-01/14-01/21-1035-Conf).

¹² Réponse de la Défense à la « Prosecution clarification in respect of Incidents D and K » déposée le 20 octobre 2025 (ICC-01/14-01/21-1035-Conf), 20 October 2025, ICC-01/14-01/21-1036.

¹³ Request, ICC-01/14-01/21-1035-Red, para. 8.

¹⁴ Request, ICC-01/14-01/21-1035-Red, para. 9.

¹⁵ Request, ICC-01/14-01/21-1035-Red, paras 9-11.

¹⁶ Request, ICC-01/14-01/21-1035-Red, paras 12-13.

B. Response

8. In the Response, the Defence opposes the Request.

9. The Defence submits that, in relation to Incident D, the Prosecution has known since before the commencement of the trial that P-0645 refuses to testify and it did not address the substance of this Incident in the Prosecution's Trial or Closing Briefs and did not include this Incident in the list of incidents developed in the Prosecution's Closing Brief.¹⁷

10. The Defence submits that it is therefore clear that the Prosecution abandoned Incident D before the start of the trial and it cannot try to reinstate it now following a request for clarification by the Chamber.¹⁸

11. In respect of Incident K, the Defence submits that the Prosecution has known since September 2024 that P-2172 refused to testify and reiterated this in the Prosecution's Closing Brief.¹⁹ The Defence notes, as with Incident D, that the Prosecution did not include Incident K in the list of incidents developed in the Prosecution's Closing Brief.²⁰ The Defence further avers that, according to the Prosecution, this Incident is based on the prior recorded testimony of the witness himself and it is therefore clear that the Prosecution has abandoned this Incident given P-2172's refusal to testify.²¹

12. The Defence submits that, in these circumstances, it would be unfair to allow the Prosecution to amend the Prosecution's Closing Brief, several weeks after the deadline for its filing, given that the Prosecution consciously chose not to develop arguments in relation to these Incidents.²² The Defence avers that the Prosecution has had ample time to clarify its position and the result is unambiguous – the two Incidents are not in the Prosecution's Closing Brief.²³

¹⁷ Response, ICC-01/14-01/21-1036, paras 5-6.

¹⁸ Response, ICC-01/14-01/21-1036, para. 7.

¹⁹ Response, ICC-01/14-01/21-1036, para. 8.

²⁰ Response, ICC-01/14-01/21-1036, para. 8.

²¹ Response, ICC-01/14-01/21-1036, paras 9-10.

²² Response, ICC-01/14-01/21-1036, para. 11.

²³ Response, ICC-01/14-01/21-1036, para. 12.

13. Last, the Defence submits that, if the Request is granted, then the Defence will be obliged to request additional time for its Closing Brief.²⁴

III. ANALYSIS

14. The Chamber has taken note of the Prosecution's position in the Request and that it does not seek withdrawal of the charges in respect of Incidents D and K.

15. In line with its earlier position, the Chamber notes that, absent a withdrawal, Incidents D and K still form part of the charges and the Chamber will consider them as part of its judgment pursuant to article 74 of the Statute.²⁵

16. In respect of the Request itself, the Chamber finds that an Addendum and a related Corrigendum to the Prosecution's Closing Brief are unnecessary. Specifically, the Chamber finds that the Prosecution has now clarified its position, making submissions on the evidence in relation to Incidents D and K in the Request itself.²⁶ Therefore, the Chamber rejects the Prosecution's request to file an Addendum and a related Corrigendum in respect of Incidents D and K.

17. The above notwithstanding, the Chamber considers that, in light of the Prosecution's clarification and submissions in the Request, the Defence should be given an opportunity to properly develop its position and respond to the Prosecution's approach and submissions in relation to Incidents D and K.

18. As previously indicated, the Chamber notes that the Defence's Closing Brief is due in the next few weeks and considers that there must be no delays to the filing of the Brief.²⁷ Accordingly, the Chamber will allow the Defence to file any submissions it wishes to make in relation to Incidents D and K in an additional filing no later than

²⁴ Response, ICC-01/14-01/21-1036, para. 13.

²⁵ See Order, [ICC-01/14-01/21-1031](#), paras 3-4 referring to article 61(9) of the Statute. See also Decision on the Scope of the Charges, 6 September 2022, [ICC-01/14-01/21-472](#), para. 25; Decision on Prosecution Notification regarding the Charges (ICC-01/14-01/21-262-Red), 20 April 2022, [ICC-01/14-01/21-282](#), para. 17.

²⁶ See Request, ICC-01/14-01/21-1035-Red, paras 9-11.

²⁷ See Decision on the Defence's Request Regarding Referencing in its Closing Brief, 17 October 2025, [ICC-01/14-01/21-1034](#), para. 27; Further Directions in Relation to the Closing Briefs, 19 September 2025, [ICC-01/14-01/21-1026](#), para. 13.

five days after the filing of its Closing Brief. For the avoidance of doubt, the scheduling of the Closing Statements remains unaffected by the present decision.²⁸

FOR THESE REASONS, THE CHAMBER HEREBY

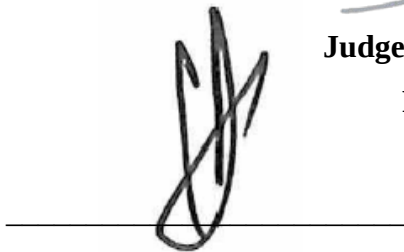
REJECTS the Request; and

ALLOWS the Defence to file any submissions in respect of Incidents D and K no later than five days after the filing of its Closing Brief.

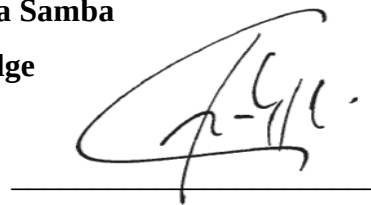


Judge Miatta Maria Samba

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 22 October 2025

At The Hague, The Netherlands

²⁸ See Scheduling Order for the Closing Statements, 7 October 2025, [ICC-01/14-01/21-1029](#).