

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 19 October 2026

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's Request for Leave to Appeal the 'Decision on the
Defence's Requests concerning the Sentencing Procedure'**

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’s Request for Leave to Appeal the ‘Decision on the Defence’s Requests concerning the Sentencing Procedure’.

I. PROCEDURAL HISTORY

1. On 26 November 2025, during the closing statements of the case, the Chamber put ‘the parties and participants on notice that’, should there be a conviction, ‘it intends to proceed to sentencing as expeditiously as possible’.¹

2. On 23 September 2026, the Chamber delivered its judgment pursuant to article 74 of the Statute and convicted Mr Said of several crimes against humanity (the ‘Conviction Decision’).² Mr Said received interpretation, in Sango and French, a summary of the Chamber’s verdict and its main findings concerning his role and the underlying reasons for his guilt.

3. On the same day, the Chamber issued a decision setting *inter alia*, time limits for the parties and participants to file requests for additional evidence for the purposes of sentencing, and responses thereto.³ The Chamber also provided for the parties and participants to file written submissions relevant to sentencing and scheduled hearings.⁴

4. On 1 October 2026, the Defence sought (i) a suspension of time limits for filing any requests for submission of additional evidence before the Chamber until Mr Said is notified of the Conviction Decision, or relevant parts thereof, in French; (ii) a variation in schedule to allow the Defence to file its request for additional evidence and written submissions after the Prosecution and the Common Legal Representatives for

¹ Transcript of hearing, ICC-01/14-01/21-T-141, p. 48.

² Trial Judgment, ICC-01/14-01/21-1054-Conf (public redacted version notified the same day, ICC 01/14-01/21-1054-Red, corrigendum of the public redacted version notified on 5 October 2026, [ICC 01/14-01/21-1054-Red-Corr](#)).

³ Decision on the Sentencing Procedure, [ICC-01/14-01/21-1055](#), paras 5-7.

⁴ Decision on the Sentencing Procedure, [ICC-01/14-01/21-1055](#), paras 8-9.

Victims (the ‘CLRv’); and, in the alternative, (iii) a postponement of at least three weeks (collectively, the ‘Request’).⁵

5. On 5 October 2026,⁶ the CLRv indicated that she did not intend to respond to the Request⁷ and the Office of the Prosecutor (the ‘Prosecution’) responded that it did not object to the Request.⁸

6. On 6 October 2026, the Chamber issued a decision on the Request (the ‘Impugned Decision’), *inter alia*, rejecting the request for suspension of time limits, ordering the Registry to provide the Defence with the draft translation of the relevant portions of the Conviction Decision on an urgent and rolling basis, partially granting the request for variation of schedule and the request for postponement, varying the time limits for the parties and participants to file any requests for additional evidence and related responses.⁹

7. On 12 October 2026, the Defence requested leave to appeal the Impugned Decision (the ‘Request for Leave to Appeal’).¹⁰

8. On 15 October 2026,¹¹ the Prosecution responded to the Request for Leave to Appeal (the ‘Prosecution Response’),¹² and the CLRv informed the Chamber that she did not intend to respond.¹³

⁵ Demande de prorogation des délais et demande d’amendement des étapes du calendrier fixé par la Decision on the Sentencing Procedure du 23 septembre 2026 (ICC-01/14-01/21-1055), ICC-01/14-01/21-1056-Conf-Exp (public redacted version notified the same day, [ICC-01/14-01/21-1056-Red](#)), p. 12.

⁶ On 2 October 2026, the Chamber shortened the time limit for the Prosecution and the CLRv to respond to the Request by 5 October 2026. See email to the parties and participants, 2 October 2026, at 14:14.

⁷ Email from the CLRv, 5 October 2026, at 10:22.

⁸ Prosecution’s response on Defence request for extension of time and amendment of the Sentencing procedure (ICC-01/14-01/21-1056-Conf), 5 October 2026, [ICC-01/14-01/21-1057](#), paras 1, 6.

⁹ Decision on the Defence’s Requests concerning the Sentencing Procedure, 6 October 2026, [ICC-01/14-01/21-1058](#), paras 16, 18, 26, 31-32.

¹⁰ Demande d’autorisation d’interjeter appel de la « Decision on the Defence’s Requests concerning the Sentencing Procedure » (ICC-01/14-01/21-1058), 12 October 2026, ICC-01/154-01/21-1063-Conf (public redacted version notified the same day, [ICC-01/15-01/21-1063-Red](#)).

¹¹ On 13 October 2026, the Chamber shortened the time limits for the Prosecution and the CLRv to respond to the Request for Leave to Appeal by 15 October 2026. See email from the Chamber to the parties and participants, 13 October 2026, at 10:02.

¹² Prosecution response to Defence request for leave to appeal the Decision on its request concerning the sentencing procedure (ICC-01/14-01/21-1058), 15 October 2026, [ICC-01/14-01/21-1065](#).

¹³ Email from the CLRv, 15 October 2026, at 14:57.

II. SUBMISSIONS

9. In the Request for Leave to Appeal, the Defence identifies five issues for appeal (collectively, the ‘Issues’):

(i) whether the Chamber erred in fact in finding that the Defence had been sufficiently informed of the time limits for the sentencing proceedings (the ‘First Issue’);¹⁴

(ii) whether the Chamber erred in law and fact in determining that the summary of the Conviction Decision, interpreted in French and Sango, complied with the accused’s rights (the ‘Second Issue’);¹⁵

(iii) whether the Chamber erred in law by failing to recognise the accused’s right to receive the Conviction Decision in a language he understands before proceeding with sentencing (the ‘Third Issue’);¹⁶

(iv) whether the Chamber erred in law in considering that the change of counsel does not affect the course of the proceedings (the ‘Fourth Issue’);¹⁷ and

(v) whether the Chamber erred in law and fact by failing to give reasons for its decision on the absence of ‘good cause’ as per regulation 35 of the Regulations of the Court (the ‘Fifth Issue’).¹⁸

10. The Defence avers that the Impugned Decision excessively infringes the rights of the defence within the meaning of article 67(1)(b) of the Statute, undermining the fairness of the proceedings, and therefore, only an immediate resolution of the issues by the Appeals Chamber would purge the judicial process of errors.¹⁹

11. The Prosecution submits that none of the issues raised by the Defence amount to appealable issues.²⁰ The Prosecution avers that the Defence’s submissions reiterate

¹⁴ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 18-22.

¹⁵ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 23-26.

¹⁶ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 27-33.

¹⁷ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 34-40.

¹⁸ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 41-46.

¹⁹ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 47-48.

²⁰ Prosecution response, [ICC-01/14-01/21-1065](#), para. 9.

arguments previously submitted, which represents a ‘mere disagreement’ with the Impugned Decision.²¹ The Prosecution submits that the Defence’s application should be rejected on the basis of non-compliance with the cumulative requirements of article 82(1)(d) of the Statute.²²

III. APPLICABLE LAW

12. The Chamber notes that the Defence made a number of submissions on the standard applicable for adjudicating leaves to appeal as well as on the assessment of an alleged breach of procedural fairness for the purposes of article 82(1)(d) of the Statute.²³

13. The Defence argues that, in deciding on leaves to appeal, the Chamber must only determine whether the party has identified a question that could be appealed and that a decision on leave to appeal is not an opportunity for the Chamber to explain why the party may have misunderstood the decision, to specify what the decision meant or to express a disagreement with the points raised by the requesting party.²⁴ It argues that it is intrinsic to the very nature of an appeal to refer to some form of disagreement with an impugned decision and that such a challenge must be decided by the Appeals Chamber.²⁵

14. The Defence does not provide any jurisprudential basis for these arguments except to refer to a decision from Pre-Trial Chamber II, which does not support the

²¹ Prosecution response, [ICC-01/14-01/21-1065](#), para. 9.

²² Prosecution response, [ICC-01/14-01/21-1065](#), para. 9.

²³ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 10-13, referring *inter alia* to Appeals Chamber, *Situation in the Democratic Republic of the Congo*, Judgment on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal, 13 July 2006, [ICC-01/04-168](#) (the ‘Decision Denying Leave to Appeal in the Situation in the DRC’), para. 11; *The Prosecutor v. Bemba et al.*, Decision on the “Requête en appel de la défense de monsieur Aimé Kilolo Musamba contre la décision de la Chambre de première instance VII du 17 novembre 2015.”, 23 December 2015, [ICC-01/05-01/13-1533](#) (the ‘Decision on Aimé Kilolo’s Request’), para. 16. The Defence also refers to the Prosecution arguments in a decision on leave to appeal in the before Pre-Trial Chamber II, which does not constitute case-law. See Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 11, referring to Pre-Trial Chamber II, *Situation in Uganda*, Decision on Prosecutor’s Application for leave to appeal in part Pre-Trial Chamber II’s Decision on the Prosecutor’s applications for warrants of arrest under article 58, 19 August 2005, [ICC-02/04-01/05-20](#) (the ‘Decision on Leave to Appeal in the Uganda Situation’).

²⁴ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 11-12, referring to Pre-Trial Chamber II, *Uganda Situation*, Decision on Prosecutor’s Application for Leave to Appeal in part Pre-Trial Chamber II’s Decision on the Prosecutor’s applications for warrants of arrest under article 58, 19 August 2005, [ICC-02/04-01/05-20](#), para. 13.

²⁵ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 11-12.

Defence's submissions,²⁶ and two Appeals Chamber decisions, which confirm the cumulative nature of the criteria pursuant to article 82(1)(d) of the Statute.²⁷ Furthermore, the Chamber notes that the Appeals Chamber is categorical that '[a]n issue is an identifiable subject or topic requiring a decision for its resolution, not merely a question over which there is disagreement or conflicting opinion' and that identification of an issue 'does not automatically qualify it as the subject of an appeal'.²⁸

15. In light of this, the Chamber sees no reason to deviate from the standard it has applied in its previous decisions on requests for leave to appeal. The Chamber recalls its previous decisions,²⁹ as well as prior jurisprudence of the Court, regarding the application of article 82(1)(d) of the Statute.³⁰

²⁶ The Chamber finds that the Decision on Leave to Appeal in the *Uganda* Situation confirms the cumulative nature of the criteria set out in article 82(1)(d) of the Statute and does not support the Defence's proposition in that the Chamber must only determine whether the party has identified a question that could be appealed. This decision cautions that it would be inappropriate for a chamber 'to examine arguments on the merit of the appeal' in the context of an application for leave to appeal, 'unless those arguments are legally relevant and have a bearing on the criteria set out' in article 82(1)(d) of the Statute. See Decision on Leave to Appeal in the *Uganda* Situation, [ICC-02/04-01/05-20](#), paras 15, 20, 23.

²⁷ Decision Denying Leave to Appeal in the Situation in the DRC, [ICC-01/04-168](#), paras 9-19; Decision on Aimé Kilolo's Request, [ICC-01/05-01/13-1533](#), para. 16.

²⁸ Decision Denying Leave to Appeal in the Situation in the DRC, [ICC-01/04-168](#), paras 9, 14.

²⁹ 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; 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, 26 March 2025, [ICC-01/14-01/21-952](#); Decision on Defence Request for Leave to Appeal the Decision on Request for Clarification of the Decision on a Request for Cooperation by the Defence, 2 May 2025, [ICC-01/14-01/21-972](#), para. 13.

³⁰ 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.

IV. ANALYSIS

16. At the outset, the Chamber notes that, in principle, the Defence does not contest a trial chamber's discretion to adopt procedures to ensure that the trial is fair and expeditious pursuant to article 64(2) of the Statute. Rather, it raises Issues that concern *how* the Chamber exercised its discretion in granting, partly granting or not granting the requests made by the Defence in relation to variation of time limits and the procedure adopted for sentencing.

1. First Issue

17. The Defence submits that the Chamber erred in fact in finding that the Defence had been sufficiently informed of the time limits for the sentencing proceedings.³¹ The Defence avers that the expression 'as expeditiously as possible' used by the Chamber during the closing statements of the case was vague and indeterminate and, in turn, did not allow the parties and participants to anticipate concretely and accurately the course of the sentencing proceedings, and even less so its schedule.³² In this regard, the Defence refers to jurisprudence in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (the '*Bemba case*'), in which the Chamber formally notified the parties and participants of the sentencing schedule almost two years before rendering a judgment pursuant to article 74 of the Statute in that case.³³

18. The Prosecution avers that the Chamber explicitly stated the reasons why the Defence had sufficient time and indications to proceed with their investigation and that the Defence's arguments merely amount to a disagreement with the Impugned Decision.³⁴ Furthermore, the Prosecution submits that the Chamber's conclusion that the Defence was on notice and should have prepared for sentencing concurrently with the trial closure is a 'reasonable case-management deduction' and not an appealable issue within the meaning of article 82(1)(d) of the Statute.³⁵

³¹ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 19.

³² Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 19.

³³ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 20. *See also* Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on the timetable and on the sentencing procedure, 26 May 2014, [ICC-01/05-01/08-3071](#).

³⁴ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 10.

³⁵ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 10.

19. The Chamber notes that part of the Defence's argument concerns the Chamber putting the parties on notice that it would proceed with sentencing as expeditiously as possible, in the event of a conviction. In respect of this argument, the Chamber finds that this issue does not arise from the Impugned Decision.

20. As regards the remaining arguments, the Chamber recalls that the Impugned Decision specified and reasoned how the Chamber interpreted its statutory obligations in light of the competing concerns raised by the Defence in the Request. The Chamber considers that the Defence is attempting to relitigate the outcome of the Impugned Decision by making arguments similar to ones made as part of the Request,³⁶ as well as by presenting further arguments as to why the Request should have been granted in full.³⁷

21. In essence, the Defence merely disagrees with how the Trial Chamber exercised its discretion in the Impugned Decision in granting parts of the Request, and not others, when balancing its obligations to carry out fair and expeditious proceeding with full respect for the rights of the accused. Accordingly, the Chamber finds that the First Issue does not constitute an appealable issue.

2. *Second and Third Issues*

22. The Chamber notes that the Second Issue and the Third Issue concern the alleged impact of the Conviction Decision being unavailable to Mr Said in French and has therefore addressed them together below.

23. In respect of the Second Issue, the Defence submits that the Chamber erred both in fact and in law by considering that the summary of the Conviction Decision delivered in the courtroom was sufficient to enable the Defence to advise Mr Said on the additional evidence to be filed for the purposes of sentencing proceedings.³⁸ In respect of the Third Issue, the Defence adds that, aside from relying on previous case law, the Impugned Decision neither explained why Mr Said could not fully exercise his

³⁶ For example, in respect of the reliance on the procedure set out in the *Bemba* case, the Defence merely reiterates the arguments that it had made in the Request. See Request, [ICC-01/14-01/21-1056-Red](#), para. 18; Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 20.

³⁷ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 19.

³⁸ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 23.

fundamental rights, nor did it justify the interpretation of the Statute with no regard to ‘internationally recognized human rights’, as required by article 21(3) of the Statute.³⁹ The Defence also alleges that the Chamber erred in law in its interpretation of the Appeals Chamber judgment in the case of *The Prosecution v. Dominic Ongwen* (the ‘Ongwen case’) as regards the provision of translations to the convicted persons for the purposes of sentencing.⁴⁰

24. The Prosecution responds that the Second Issue illustrates a mere disagreement with the Impugned decision, as the same argument had already been raised in the Request and addressed by the Chamber in holding *inter alia* that ‘[e]ven if the summary did not mention the Chamber’s position on each of the incidents individually, it set out its summary of the factual and legal findings on Mr Said’s participation and intent as well as the harm suffered by the victims’.⁴¹

25. In respect of the Third issue, the Prosecution submits that the Chamber properly applied the clear precedent established by the Appeals Chamber in the *Ongwen* case, which explicitly holds that an accused’s right to receive a translation of a conviction decision is not absolute for the purposes of sentencing, provided that the convicted person, assisted by counsel, can sufficiently understand the decision for those purposes.⁴² Furthermore, the Prosecution avers that the Chamber made a fact-specific assessment that the oral and transcribed summary delivered in Sango and French, together with the excerpts of the draft translations to be provided by the Registry on a rolling basis adequately safeguard Mr Said’s fundamental rights.⁴³ Lastly, the Prosecution submits that the Defence’s insistence that a full translation is required at this stage is inconsistent with the clear legal standard set by the Appeals Chamber and its application by the Chamber in the present case.⁴⁴

³⁹ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 28.

⁴⁰ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 29-30, referring to Appeals Chamber, *The Prosecutor v. Dominic Ongwen*, Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled “Sentence”, 15 December 2022, [ICC-02/04-01/15-2023](#).

⁴¹ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 11.

⁴² Prosecution Response, [ICC-01/14-01/21-1065](#), para. 12.

⁴³ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 13.

⁴⁴ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 13.

26. In respect of the Second and Third Issues, the Chamber notes that the Defence merely reiterates previous submissions made in the Request which the Chamber had considered in the Impugned Decision.⁴⁵ These concern arguments relating to the right of the convicted person to receive the Conviction Decision in a language that they understand,⁴⁶ including by reliance on the Appeals Chamber judgment in the *Ongwen* case,⁴⁷ and the arguments concerning the purported insufficiency of the summary delivered in the courtroom.⁴⁸ In addition, the Chamber considers that the Defence's interpretation of the Appeals Chamber judgment in the *Ongwen* case,⁴⁹ shows that it merely disagrees with how the Chamber applied the case law to the specific circumstances of the present case.

27. Furthermore, the Chamber notes that the Defence points to the Impugned Decision directing the Registry to provide a draft translation of selected portions to Mr Said during the course of the sentencing proceedings.⁵⁰ The Defence argues that once the Chamber recognised that a translation would benefit Mr Said, it should have also granted him sufficient time to discuss the translated portions with the Defence and participate in the sentencing proceedings.⁵¹ The Defence submits that the Chamber ordered that the portions of the Conviction Decision be communicated to Mr Said only two days before the deadline for filing of the written submissions, which are crucial since they form the basis of all the Defence's arguments before the hearings.⁵² The Chamber notes that the Defence's submission is premised on the translations of the relevant portions only being provided to Mr Said on 27 October 2026. Whereas, the Impugned Decision instructs the Registry that the translated portions should be provided on an urgent and rolling basis to Mr Said and latest by 27 October 2026.⁵³ In that respect, the Chamber considers that the Defence misrepresents the Impugned

⁴⁵ Impugned Decision, [ICC-01/14-01/21-1058](#), paras 6-18, referring to the Request, [ICC-01/14-01/21-1056-Red](#), paras 10-20.

⁴⁶ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 24, 27; Request, [ICC-01/14-01/21-1056-Red](#), paras 10, 18.

⁴⁷ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 29-30; Request, [ICC-01/14-01/21-1056-Red](#), para. 12.

⁴⁸ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 24-25, referring to transcript of hearing, ICC-01/14-01/21-T-142-ENG; Request, [ICC-01/14-01/21-1056-Red](#), paras 19-20.

⁴⁹ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 31-32.

⁵⁰ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 32.

⁵¹ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 32.

⁵² Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 32.

⁵³ Impugned Decision, [ICC-01/14-01/21-1058](#), paras 17-18, p. 10.

Decision as well as the amount of time Mr Said would have to review the translated portions. As regards whether and how much additional time was necessary in the circumstances, the Defence merely disagrees with how the Chamber exercised its discretion in granting the variation of time limits which the Chamber considers sufficient enough for sentencing proceedings or for the Defence to discuss the same with Mr. Said.

28. Accordingly, the Chamber finds that the Second and Third Issues do not constitute appealable issues.

3. *Fourth Issue*

29. The Defence submits that the Chamber erred in law in considering that the change of counsel does not affect the course of the proceedings,⁵⁴ reiterating its arguments that the change of lead counsel necessarily implied a ‘five-year catch-up’ on matters of defence strategy and that the mere presence of a co-counsel from the beginning of the case does not make the latter privy to discussions with the accused on all ongoing issues.⁵⁵ It also avers that the Impugned Decision is not well reasoned on this matter, as the Chamber merely noted the Prosecution’s argument that Mr Said’s current counsel has represented him since the start of the proceedings in 2021 without drawing any specific conclusion.⁵⁶

30. The Prosecution responds that the Fourth Issue is *res judicata* and has already been thoroughly litigated and adjudicated in earlier decision by the Chamber.⁵⁷ The Prosecution submits that, in its previous decision on this matter, the Chamber explicitly determined that Mr Jacobs was not a mere member of the Defence team, having been

⁵⁴ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 40.

⁵⁵ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 36-38; Request, [ICC-01/14-01/21-1056-Red](#), paras 28.

⁵⁶ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 34-35.

⁵⁷ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 15, referring to 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, 26 March 2025, [ICC-01/14-01/21-952](#); 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](#); Decision Regarding Ms Naouri’s Temporary Suspension of her Right to Practise before the Court following a decision of the Disciplinary Appeals Board, 1 May 2026, [ICC-01/14-01/21-1048-Red](#).

appointed as Associate Counsel for Mr Said in April 2021 and having carried out several activities in furtherance of his mandate.⁵⁸

31. The Chamber recalls that the Impugned Decision considered the change of counsel and the challenges faced by the Defence as factors when assessing whether the Defence had sufficient time and indications to proceed with their investigations relevant to considerations pursuant to rule 145 of the Rules and in considering that the requested variation of time limits was excessive.⁵⁹

32. The Chamber considers that the Defence merely disagrees with the Chamber's conclusion that the change of counsel and the challenges faced by the Defence did not warrant the grant of the Request in full.⁶⁰ The Chamber notes that the Defence also attempts to resurface the arguments concerning the role of lead and associate counsel.⁶¹ The Chamber considers that this issue does not arise from the Impugned Decision.

33. Accordingly, the Chamber finds that the Fourth Issue does not constitute an appealable issue.

4. *Fifth Issue*

34. The Defence submits that the Chamber erred in law by failing to give reasons for the absence of 'good cause' as per regulation 35 of the Regulations of the Court, and in fact by not specifically assessing the impact of the specific difficulties faced by the Defence in the current circumstances.⁶² The Defence claims that the Chamber did not comply with its obligation to reason its conclusion in the Impugned Decision, as the Chamber's lack of persuasion alone cannot be considered adequate to demonstrate the lack of good cause.⁶³

35. The Prosecution responds that the Fifth Issue is not appealable as the Defence's assertion is contradicted by a plain reading of paragraphs 13 and 15 of the Decision.⁶⁴ The Prosecution submits that the Chamber properly evaluated the Defence's arguments

⁵⁸ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 15.

⁵⁹ Impugned Decision, [ICC-01/14-01/21-1058](#), paras 10-15, 28.

⁶⁰ See also para. 36 below.

⁶¹ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 37-38.

⁶² Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 46.

⁶³ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), paras 41-42.

⁶⁴ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 18.

regarding the problems they faced, finding that these generalised difficulties apply to all staff, contractors, and most defence teams transitioning to post-judgment phases.⁶⁵ In this regard, the Prosecution avers that the Defence merely disagrees with the Chamber's exercise of discretion and case management.⁶⁶

36. By arguing that the Chamber should have assessed the specific circumstances of the Defence and their impact on Defence investigations for sentencing,⁶⁷ it is apparent that the Defence merely disagrees with the Chamber's appreciation of the difficulties faced by the Defence, whether such difficulties had an adverse effect on the fairness of the process in the present case, and the amount of extension that was warranted in the circumstances.⁶⁸ The remaining arguments underlying this issue are mere reiterations of the Defence's earlier arguments, contained in the Request, concerning the difficulties contacting potential witnesses,⁶⁹ which have been addressed in the Impugned Decision.⁷⁰

37. Accordingly, the Chamber finds that the Fifth Issue does not constitute an appealable issue.

5. *Other requirements*

38. As regards the Defence's argument that only an intervention by the Appeals Chamber can purge the judicial process of procedural errors affecting the fairness of the trial, the Chamber considers that these arguments are based on a disagreement with the outcome of a discretionary decision by the Trial Chamber and a misinterpretation of the legal framework of the Court concerning the rights of the convicted person during sentencing proceedings. In the view of the Chamber, immediate resolution by the Appeals Chamber of any of the Issues would not significantly affect the fair and expeditious conduct of the proceedings.

⁶⁵ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 18.

⁶⁶ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 19.

⁶⁷ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 44.

⁶⁸ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 44.

⁶⁹ Request for Leave to Appeal, [ICC-01/15-01/21-1063-Red](#), para. 45.

⁷⁰ Impugned Decision, [ICC-01/14-01/21-1058](#), para. 13.

39. The Chamber also agrees with the Prosecution that ‘suspending the proceedings at this stage to seek an interlocutory appeal on localized case-management deadlines would severely disrupt, rather than advance, the expeditious conclusion of this trial’.⁷¹

40. Based on the foregoing, the Chamber finds that the cumulative requirements of article 82(1)(d) of the Statute have not been satisfied for any of the Issues.

FOR THESE REASONS, THE CHAMBER HEREBY

REJECTS the Request for Leave to Appeal.

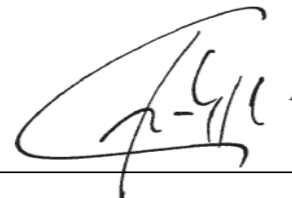
Done in both English and French, the English version being authoritative.



Judge Miatta Maria Samba
Presiding Judge



Judge María del Socorro Flores Liera



Judge Sergio Gerardo Ugalde Godínez

Dated 19 October 2026

At The Hague, The Netherlands

⁷¹ Prosecution Response, [ICC-01/14-01/21-1065](#), para. 23.