

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/20

Date: 30 October 2025

TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou, Judge
Judge Althea Violet Alexis-Windsor, Judge

SITUATION IN DARFUR, SUDAN

IN THE CASE OF
THE PROSECUTOR v. ALI MUHAMMAD ALI ABD-AL-RAHMAN ("ALI KUSHAYB")

PUBLIC

Public Redacted Version of the Defence's Application for Reconsideration or Leave to Appeal the Decision Denying Extension of Time Limit for Submission of Sentencing Briefs (ICC-02/05-01/20-1254-Conf)

Source: Defence for Mr Ali Muhammad Ali Abd-Al-Rahman

Document 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

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Registrar

Mr Zavala Giler, Osvaldo

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

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Reparations Section**

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Division of Judicial Service Director

1. The Defence for M. Ali Muhammad Ali Abd-Al-Rahman (“the Defence”, M. Abd-Al-Rahman”) hereby seeks reconsideration of or, in the alternative, leave to appeal the decision communicated by email from the Trial Chamber (“the Chamber”) denying extension of time limit for the submission of the Parties’ Sentencing Briefs.¹ Such extension of time limit had been requested by the Defence on 29 October 2025 (“the Request”).² On the same day, the Prosecution³ and the Legal Representative of Victims (“LRV”)⁴ indicated that they were not opposed to the limited extension of time limit by three days requested by the Defence as its preferred option, under the sole condition that this extension would apply to them as well. The Defence had already submitted that, if granted, the requested extension of time limit should apply to all Parties and Participants. Both the Prosecution and the LRV agreed on the reasonableness of the requested extension.
2. Against all reasonable expectations, the Chamber denied the requested extension by email on 30 October 2025. This leaves the Defence with the impossible predicament of having to complete within 5 days – counting week-end in – its Sentencing Brief. Because this is simply not achievable, the Defence has no other option than seeking reconsideration and/or leave to appeal that decision. The present application is limited to the Chamber’s rejection of the first proposed extension, by 3 days, until 6 November 2025. The Chamber’s ruling on the other alternative extension is not challenged.
3. Pursuant to Regulation 23bis(2) of the Regulations of the Court, the present application is filed under the same classification as the Request for Extension of Time.

¹ Email from the Chamber, 30 October 2025, 11h12.

² ICC-02/05-01/20-1252-Conf.

³ Email from the Prosecution, 29 October 2025, 16h47.

⁴ Email from the LRV, 29 October 2025, 17h31.

APPLICABLE LAW

4. Reconsideration of its own decision by a Chamber amounts to an exceptional measure.⁵ [REDACTED] :

*« Il va de soi que la jurisprudence bien établie de la Cour en la matière ne saurait être interprétée comme excluant catégoriquement toute possibilité pour une Chambre de réexaminer une décision qu'elle a rendue. Comme relevé précédemment, cette mesure exceptionnelle pourrait être adoptée si, par exemple, une « erreur manifeste de raisonnement » a été démontrée, **si elle est « nécessaire pour éviter une injustice »** ou, encore, si la décision rendue est « manifestement mal fondée ». La Chambre estime également qu'elle n'a pas seulement le droit mais l'obligation de réexaminer une décision lorsque ses fondements mêmes sont compromis, notamment en raison d'un changement des circonstances entourant ladite décision. Un tel scénario pourrait se concrétiser, notamment, lorsque de nouveaux faits pertinents à une certaine décision interviennent à la suite de sa délivrance » (emphasis added)⁶.*

5. Pursuant to Article 82(1)(d) of the Statute, the Defence seeks leave to appeal the Impugned Decision. The Defence incorporates by reference the applicable law on leave to appeal as set out in the Trial Chamber's "Decision on the Defence's requests for leave to appeal the oral decisions on the inadmissibility of evidence and victims' participation".⁷

REQUEST FOR RECONSIDERATION

6. The Defence first applies for the reconsideration of the Chamber's ruling denying 3 days of extension of time for submission of the Sentencing Briefs on the ground that this reconsideration is necessary to prevent an injustice.
7. As submitted in the Request in paragraphs 8 to 10, the limited extension of 3 days was justified to compensate the working days lost as a result of the Registry's decisions regarding Legal Aid. The Chamber is right, in its ruling, when it considers that the issues "*have almost been resolved*", but this late resolution on 28-

⁵ [ICC-01/05-01/08-596-Red](#), par. 15 ; [ICC-02/05-01/20-163](#), par. 11.

⁶ [ICC-02/05-01/20-163](#), par. 12.

⁷ ICC-02/05-01/20-525, paras 10-14.

29 October 2025, pending the Chamber's final ruling on the Defence application under Regulation 83(4) of the RoC, provides no compensation for the days lost since the issuance of the Article 74 Decision and Decision on the Sentencing Procedure on 6 October 2025 in litigation on this matter, notably on 8, 25-26, 28 and now actually 29 and 30 October, for the Defence, instead of focusing on the drafting of its Sentencing Brief. The harm is done. This makes now a total of 6 days lost by the sole Defence, in compensation of which the Request asked for a minimalist extension of time by 3 days and its application to all Parties and Participants.

8. The denial of the requested extension leaves the Defence with an injustice: it should have been allowed to prepare for its Sentencing Brief "*in full equality*" with the Prosecution and the LRVs pursuant to Article 67(1) of the Rome Statute. Instead, its preparation time was reduced by 6 days, while the rest of the time was impacted, until 28 October 2025, with all uncertainties and anxiety endured by the members of its team because of the Legal Aid issues. In its Request, the Defence did not claim restoration of this perfect equality, because it considered that the requested extension should benefit to all and was not trying to get a procedural advantage by submitting its Sentencing Brief after reception of the Prosecution and LRV's Briefs. But the denial of that limited extension now makes that the missing 6 days out of a total of 28 days granted to prepare the Sentencing Briefs – in parallel to analysis of the Article 74 Decision in view of a possible Notice of Appeal – can no longer be compensated.
9. In its Request, the Defence relied on an order in the *Bemba* case by which a Defence team had been granted 3 weeks of extension as a result of the same Legal Aid issues and litigation with the Registry.⁸ These Legal Aid issues and their impact on the work of the Defence team were considered good cause. The Chamber's finding that the Defence did not demonstrate good cause in its limited request for extension by

⁸ *Bemba*, Order Granting the Defence's Application for Extension of Time, [ICC-01/05-01/08-604](#), 11 November 2009, para. 5.

3 days is thus erring in Law: the Defence has demonstrated good cause in light of the Order in the *Bemba* Case. The Chamber's denial of the limited extension of 3 days, instead of 3 weeks, is thus not reasonable and is exposing the Defence to an injustice.

10. The denial of the 3 days extension is also not reasonable because, as acknowledged by the LRV, this extension had no impact on the timing of the sentencing hearing, scheduled on 17 to 21 November 2025. The Defence had specifically referred to its wish to keep those dates at paragraph 13 of the Request. [REDACTED] the consequences of this information can be drawn at a later stage, without need for delaying the 17-21 November hearing session. So the denial of the 3 days extension thus cannot find a justification in the legitimate wish to avoid a postponement of the 17-21 November hearing.

11. This leaves the Chamber's denial with no possible justification. It is causing an injustice. It thus must be reconsidered by granting the requested extension until 6 November 2025 for the filing of the Parties' and Participants' Sentencing Briefs.

LEAVE TO APPEAL

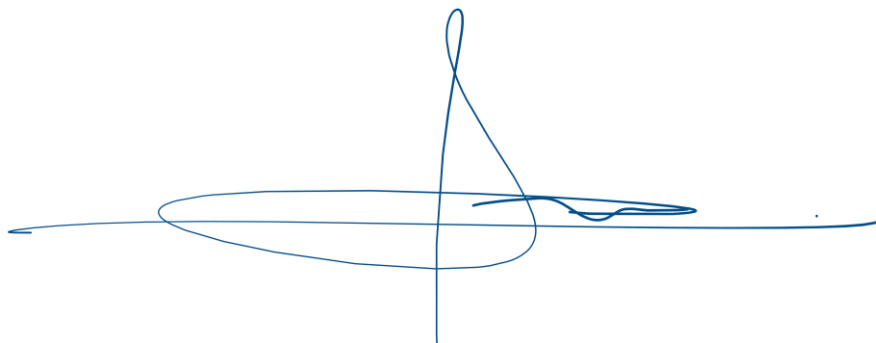
12. The Defence is aware that the time frame is making its alternative request for leave to appeal impossible to resolve - except by way of a stay of proceedings which is not requested -, but still submits it for the record in case the Defence would have to appeal the Sentencing Decision to come.

13. The Defence is seeking leave to appeal the decision denying extension of time limit on the following issue: the Chamber erred in law by finding that the Defence had failed to demonstrate good cause for the requested extension.

14. Good cause, as defined in the *Bemba* Order,⁹ had been demonstrated by the Defence. Because of the delays taken by the Registry in issuing the required decision on Legal Aid in a timely fashion and because of the initial denial of several positions within the Defence team, including the Associate Counsel position, the Defence was deprived of significant time for the preparation of its Sentencing Brief. In *Bemba*, the same good cause had led to the granting of a three weeks extension. In the present case, the Defence was only asking for three days. This demand was totally reasonable, had no impact on the timing of the sentencing procedure, was creating no procedural advantage for the Defence as long as it was similarly granted to the Prosecution and the LRV. It thus fully met the standard of good cause under Regulation 35(2) of the RoC and the relevant case law of the Court.
15. The denial significantly affects the fair and expeditious conduct of the sentencing proceedings as it deprives the sole Defence of 6 out of a total of 28 days for the preparation of its Sentencing Brief. Its immediate resolution is required in order to restore fairness.

⁹ *Bemba*, Order Granting the Defence's Application for Extension of Time, [ICC-01/05-01/08-604](#), 11 November 2009, para. 5.

FOR THE FOREGOING REASONS, the Defence hereby prays the Trial Chamber to **RECONSIDER** its decision denying the request extension of time for the submission of the Sentencing Briefs by all Parties and Participants and grant until **6 November 2025** for their submissions; **OR IN THE ALTERNATIVE GRANT LEAVE TO APPEAL** that decision with respect to the issue identified at paragraph 13 above.



Mr Cyril Laucci
Counsel for Mr Ali Muhammad Ali Abd-Al-Rahman

Dated this 30 October 2025

At The Hague, The Netherlands.