

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/20
Date: 14 November 2025

THE APPEALS CHAMBER

Before: Judge Erdenebalsuren Dandin, Presiding
Judge Luz del Carmen Ibañez Carranza
Judge Solomy Bossa
Judge Gocha Lordkipanidze
Judge Keebong Paek

SITUATION IN DARFUR, SUDAN

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

PUBLIC

**Defence Application under Article 67(1)(f) of the Statute,
Rule 144(2)(b) of the Rules of Procedure and Evidence
and Regulation 58(1) of the Regulations of the Court**

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

REGISTRY

Registrar

Mr Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other
Division of Judicial Service Director

1. On 6 November 2025, the Defence for Mr Ali Muhammad Ali Abd-Al-Rahman (“Mr Abd-Al-Rahman”, “Appellant”, “Defence”) submitted its Notice of Appeal¹ against the Article 74 Decision issued on 6 October 2025 (“Trial Judgment”)² by Trial Chamber I. The Notice of Appeal started the appeal proceedings (“Appeal Proceedings”) in the Abd-Al-Rahman Case.
2. On 13 November 2025, the *ad hoc* Presidency notified the Parties of the composition of the Appeals Chamber.³
3. Now that the composition of the Appeals Chamber is confirmed, the Defence files the present Application under Article 67(1)(f) of the Rome Statute (“Statute”), Rule 144(2)(b) of the Rules of Procedure and Evidence (“RPE”) and Regulation 58(1) of the Regulations of the Court (“RoC”).

APPLICABLE LAW

4. Article 67(1)(f) of the Statute provides the right of the Appellant to receive “*such translations as are necessary to meet the requirements of fairness if any of the proceedings or documents presented to the Court are not in a language that the accused fully understands and speaks.*” The Appeals Chamber has held that “[article 67(1)(f) of the Statute] does not, *per se*, require that a full translation of the decision under article 74 of the Statute be provided to a convicted person before filing a notice of appeal. In this regard, the Appeals Chamber considers that it must also take into account the circumstances as a whole and the convicted person’s ability to understand the details of his conviction by other means.”⁴
5. Rule 144(2)(b) of the RPE provides that copies of the decision issued by the Trial Chamber concerning the criminal responsibility of the accused “*shall be provided as soon as possible to [...] (b) the accused, in a language he or she fully understands or speaks, if*

¹ [ICC-02/05-01/20-1261](#).

² [ICC-02/05-01/20-1240](#).

³ ICC-02/05-01/20-1268 A.

⁴ [ICC-02/04-01/15-1781 A](#), para. 10.

necessary to meet the requirements of fairness under article 67, paragraph 1(f)". There can be no doubt the Trial Judgment falls within the category of documents to which Rule 144(2)(b) applies.

6. Under Regulation 58(1) of the RoC, *"having filed a notice of appeal in accordance with regulation 57, the appellant shall file an appeal brief within 90 days of notification of the relevant decision."* (emphasis added)

7. The present application is not an application for extension of the time limit to submit the Defence Appeal Brief pursuant to Regulation 35 of the RoC. Should the Defence come to the conclusion that it needs an extension of time to submit its Appeal Brief under Regulation 58 of the RoC, it will then submit a different application, premised on the requirements of "good cause" under Regulation 35(2) of the RoC. Because the legal basis and relief sought under the present Application are different, the Defence makes no submission of good cause under Regulation 35(2) of the RoC here.

SUBMISSIONS

8. The only language that Mr Abd-Al-Rahman fully understands and speaks is Arabic. The Trial Judgment was issued in English and, to date, is available in English only.

9. On 6 October 2025, within hours of the Trial Judgment being issued, the Defence enquired with the Registry Languages Services Section ("LSS") about the expected time for the Arabic version of the Trial Judgment and its Annex B becoming available.⁵ LSS requested that the Defence identify the relevant sections of the Trial Judgment to be translated as a matter of priority. This clarification was submitted on 7 October 2025.⁶ On 23 October 2025, LSS indicated that the requested sections may become available in Arabic on 15 December 2025 (for the Trial Judgment) and 14 February 2026 (for

⁵ Email from the Defence to the LSS, 6 October 2025, 17h01.

⁶ Email from the Defence to the LSS, 7 October 2025, 11h26.

Annex B).⁷ The Defence's further enquiry about ways of shortening the time required for the translation, for instance by adding extra-workforce to LSS on a temporary basis, was unsuccessful.⁸ Subject to any further communication, this is current the time line on which the Defence can rely for the preparation of its Appeal Brief.

10. On 6 November 2025, the Defence submitted its Notice of Appeal. In its paragraphs 3 and 4, the Defence stresses that the grounds of appeal are provisional and that it may seek authorization to complete or amend the grounds once in receipt of the Arabic version of the Trial Judgment and its Annex B and after having received full instructions from Mr Abd-Al-Rahman.⁹

11. On the same day, the Registry Counsel Support Section ("CSS") denied a request from the Defence to use the 50% IT Assistant position provided under the Legal Aid Policy to increase the working allocation of its Language Assistant from 50% to 100%. This was the most judicious way the Defence had found to speed up its work with Mr Abd-Al-Rahman to advise him of the findings in the Trial Judgment and its Annex B, in order to work with him on the identification and selection of grounds of appeal. On 13 November 2025, the Defence applied for a review of CSS's Decision by the Registrar pursuant to Regulation 83(3) of the RoC. This application is pending.

12. Whatever the outcome of the Registrar's review on this matter, it is now clear that, in the absence of translation of the selected portions of the Trial Judgment and its Annex B, progress made in explaining the Trial Judgment to Mr Abd-Al-Rahman is going at a very slow pace and constitutes a major impediment in the preparation of the Appeal Brief.

13. The Defence submits that, to be satisfied, the requirements of fairness under Article 67(1)(b) of the Statute and Rule 144(2)(b) of the RPE requires that the time limit of 90 days to submit its Appeal Brief under Regulation 58(1) of the RoC should run from the

⁷ Email from LSS to the Defence, 23 October 2025, 17h50.

⁸ Email from the Defence to the LSS, 24 October 2025, 17h27 and response from LSS, 27 October 10h16.

⁹ *Yekatom and Ngaïssona*, Decision on Requests for Extension of Time Limits, [ICC-01/14-01/18-2794 A](#), para. 4.

reception of the official translation in Arabic of the relevant portions of the Trial Judgment and Annex B, instead of the notification of the Trial Judgment. The notification of the Trial Judgment in English was enough for the Defence to prepare a provisional list of grounds of appeal and submit its Notice of Appeal within the time limit of 30 days provided under Rule 150(1) of the RPE without need for an extension of time. But the confirmation of the pre-identified list of grounds of appeal and the addition of any potential additional grounds of appeal that may appear necessary after full discussion with Mr Abd-Al-Rahman once he is able to understand the relevant portions of the Trial Judgment and Annex B will require receipt of the Arabic translation thereof. The Defence submits that the proposed interpretation of Regulation 58(1) of the RoC is reasonable and can only accommodate that provision with the requirements of fairness under Article 67(1)(f) of the Statute and Rule 144(2)(b) of the RPE. As relevantly found by the Appeals Chamber earlier in the Case, *“the hierarchy of legal texts requires that [the relevant regulation, here Regulation 58(1) of the RoC], be interpreted in light of Article 67(1)(f) of the Statute [and Rule 144(2)(b) of the RPE], rather than the inverse”*.¹⁰

14. Based on LSS’s communication of 23 October 2025, the translation of the relevant portions may take until 15 December 2025 for the Trial Judgment itself and until 14 February 2026. The Defence is concerned by the delay and is of the view that a reasonable middle ground should be explored, more compliant with Mr Abd-Al-Rahman’s right to be tried without undue delay.

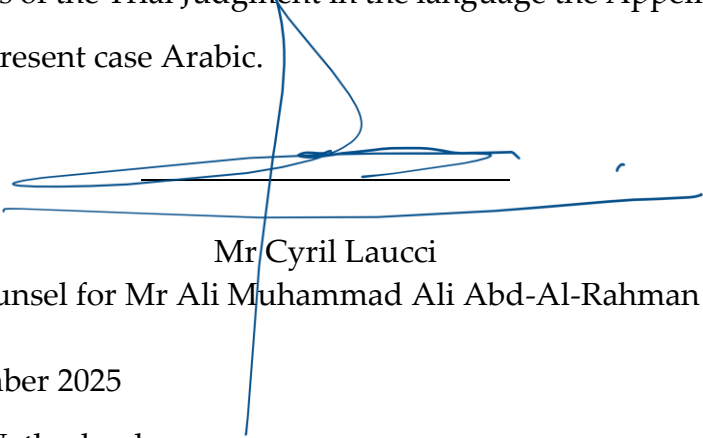
15. Assuming that the Registrar reverses the decision of CSS denying a full time Language Assistant to the Defence, the Defence will do its utmost to assist Mr Abd-Al-Rahman in the comprehension of Annex B of the Trial Judgment. This may run in parallel with LSS’ translation of the relevant portions of the Trial Judgment, which is scheduled to be completed by 15 December 2025. If these two conditions – full-time

¹⁰ [ICC-02/05-01/20-199 OA](#), para. 28.

Language Assistant and translation of the relevant portions of the Trial Judgment – are fulfilled, a reasonable solution reconciling the requirements of fairness under Article 67(1)(f) of the Statute and Rule 144(2)(b) of the RPE and of Mr Abd-Al-Rahman’s right to be tried without undue delay, could be that the 90 days’ time limit to submit the Defence Appeal Brief should start running from the date of reception of the Arabic version of the relevant portions of the Trial Judgment, currently expected by 15 December 2025. The Defence may notify the Appeals Chamber once it receives from the Registry the relevant portions of the Trial Judgment in Arabic, which should be the start of the 90 days time limit under Regulation 58(1) of the RoC, without further waiting for the completion of the translation of the relevant portions of the Annex B. The Defence would also appeal the Registrar’s review decision on Legal Aid, in case it is negative, before the Appeals Chamber pursuant to Regulation 83(4) of the RoC. It will then be time for the Appeals Chamber to measure whether that decision impacts on the preparation of the Defence.

16. The Defence stands ready to carry on its efforts with the Registry to assist in speeding up the process in the meantime.

THE DEFENCE HEREBY PRAYS THE APPEALS CHAMBER TO FIND that the requirements of fairness under Article 67(1)(f) of the Statute and Rule 144(2)(b) of the RPE make that the 90 days’ time limit for submission of the Defence Appeal Brief pursuant to Regulation 58(1) of the RoC starts running from the date of reception of the relevant portions of the Trial Judgment in the language the Appellant understands and speaks, in the present case Arabic.



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

Dated this 14 November 2025

At The Hague, The Netherlands.