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

Date: 2 December 2025

THE APPEALS CHAMBER

Before: Judge Erdenebalsuren Damdin, Presiding
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi 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 document

**Decision on the “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”**

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**

The Appeals Chamber of the International Criminal Court,

In the appeal of the Defence of Mr Ali Muhammad Ali Abd-Al-Rahman against the decision of Trial Chamber I entitled “Trial Judgment” of 6 October 2025 (ICC-02/05-01/20-1240),

Having before it the “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” of 14 November 2025 (ICC-02/05-01/20-1269),

Renders the following

DECISION

The “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” is rejected.

REASONS

I. PROCEDURAL HISTORY

1. On 6 October 2025, Trial Chamber I issued the “Trial Judgment” (hereinafter: “Trial Judgment”).¹
2. On 6 November 2025, the Defence of Mr Ali Muhammad Ali Abd-Al-Rahman (hereinafter: “Defence” and “Mr Abd-Al-Rahman” respectively) submitted its notice of appeal against the Trial Judgment.² In this notice, the Defence indicated that the list of grounds of appeal was “provisional”,³ that it may seek authorisation to complete or amend the grounds of appeal once the Arabic translation of the Trial Judgment and its annex B are received,⁴ and that “an application for extension of the time limit to submit

¹ [ICC-02/05-01/20-1240](#), with public Annexes A ([ICC-02/05-01/20-1240-AnxA](#)), C ([ICC-02/05-01/20-1240-AnxC](#)) and D ([ICC-02/05-01/20-1240-AnxD](#)), and confidential and public redacted Annex B ([ICC-02/05-01/20-1240-AnxB-Red](#)).

² [Defence Notice of Appeal Pursuant to Article 81\(1\)\(b\) of the Rome Statute](#), ICC-02/05-01/20-1261 (hereinafter: “Notice of Appeal”).

³ [Notice of Appeal](#), para. 3.

⁴ [Notice of Appeal](#), para. 4.

the Appeal Brief will be submitted in due course”, in light of the expected time when the Arabic translation of the Trial Judgment may become available.⁵

3. On 14 November 2025, the Defence filed an application under article 67(1)(f) of the Statute, rule 144(2)(b) of the Rules of Procedure and Evidence (hereinafter: “Rules”) and regulation 58(1) of the Regulations of the Court (hereinafter: “Regulations”), requesting that the 90-day time limit for the submission of the appeal brief starts running from the date on which the Arabic translation of relevant parts of the Trial Judgment are received (hereinafter: “Request”).⁶

4. On 21 November 2025, the Deputy Prosecutor (hereinafter: “Prosecutor”) filed her response (hereinafter: “Prosecutor’s Response”), submitting that the Prosecution does not oppose the Appeals Chamber *proprio motu* extending the time limit for the filing of the appeal brief to 2 March 2026.⁷

5. On 27 November 2025, pursuant to an order of the Appeals Chamber,⁸ the Registrar provided information on the expected timelines for the delivery of the translations into Arabic of the requested sections of the Trial Judgment and its annex B.⁹

II. SUMMARY OF THE SUBMISSIONS

A. Defence’s submissions

6. At the outset, the Defence submits that the Request is not a request for extension of the time limit to file an appeal brief under regulation 35 of the Regulations and therefore it makes no submissions with respect to “good cause” under regulation 35(2) of the Regulations.¹⁰ It indicates that “[s]hould [it] come to the conclusion that it needs

⁵ [Notice of Appeal](#), para. 5.

⁶ [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](#), ICC-02/05-01/20-1269, para. 13, p. 5.

⁷ [Prosecution Response to “Defence Application under Article 67\(1\)\(f\) of the Rome Statute, Rule 144\(2\)\(b\) of the Rules of Procedure and Evidence, and Regulation 58\(1\) of the Regulations of the Court”](#), ICC-02/05-01/20-1272, paras 2, 13.

⁸ See [Order in relation to the Defence Request under article 67\(1\)\(f\) of the Statute](#), 24 November 2025, ICC-02/05-01/20-1273, p. 3.

⁹ [Registry’s Submissions concerning translation timelines](#), ICC-02/05-01/20-1275 (hereinafter: “Registry’s Submissions”).

¹⁰ [Request](#), para. 7.

an extension of time [...], it will then submit a different application, premised on the requirements of ‘good cause’” under regulation 35(2) of the Regulations.¹¹

7. Instead, the Defence argues that for the requirements of fairness under article 67(1)(f) of the Statute and rule 144(2)(b) of the Rules to be satisfied, the 90-day time limit to submit its appeal brief under regulation 58(1) of the Regulations “should run from the 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”.¹²

8. The Defence indicates that (i) the only language that Mr Abd-Al-Rahman fully understands and speaks is Arabic; (ii) the Trial Judgment is, to date, available in English only;¹³ and (iii) the requested sections of the Trial Judgment may become available in Arabic on 15 December 2025, and of annex B to the Trial Judgment on 14 February 2026.¹⁴

9. The Defence argues that while it was in a position to prepare a provisional list of grounds of appeal for its notice of appeal, it requires receipt of the Arabic translation of the Trial Judgment to fully discuss “the pre-identified list of grounds of appeal” with Mr Abd-Al-Rahman, which may potentially lead to additional grounds of appeal to be included in its appeal brief.¹⁵

10. According to the Defence, explaining the Trial Judgment to Mr Abd-Al-Rahman is proceeding at a slow pace, pending its challenge of a decision by the Registry Counsel Support Section concerning the distribution of resources under the Legal Aid Policy to increase the working allocation of its language assistant to 100%.¹⁶

11. The Defence submits that if the two conditions of having a full time language assistant and receiving the Arabic translation of relevant parts of the Trial Judgment were to be fulfilled, “a reasonable solution reconciling the requirements of fairness under Article 67(1)(f) of the Statute and Rule 144(2)(b) of the [Rules] and of Mr Abd-Al-Rahman’s right to be tried without undue delay” would be for the 90-day time limit

¹¹ [Request](#), para. 7.

¹² [Request](#), para. 13.

¹³ [Request](#), para. 8.

¹⁴ [Request](#), para. 9.

¹⁵ [Request](#), para. 13.

¹⁶ [Request](#), paras 11-12.

to start running when it receives the Arabic translation of relevant parts of the Trial Judgment, currently expected by 15 December 2025.¹⁷

B. Prosecutor's submissions

12. The Prosecutor submits that “there is good cause for an extension of time to file the appeal brief, until 2 March 2026 (8 weeks, or 56 days)”.¹⁸

13. The Prosecutor agrees that Mr Abd-Al-Rahman has a right to such translations of the Trial Judgment as necessary to meet the requirements of fairness, but specifies that this right “does not therefore imply the right to ‘a *full* translation’ of the trial judgment ‘before filing a notice of appeal’”.¹⁹

14. While the Prosecutor avers that nothing in the Appeals Chamber’s “practice” indicates that the Appeals Chamber needs to suspend the notification date of a trial judgment under regulation 31 of the Regulations, or otherwise vary the point at which time starts to run for the filing of an appeal brief,²⁰ she states that “[n]otwithstanding the framing of the Request, [...] the Defence has shown good cause for an extension of time to file the appeal brief”.²¹ According to the Prosecutor, the Appeals Chamber should *proprio motu* grant a “reasonable” extension of time because: (i) the Request shows a reasonable basis to anticipate that some extension of time will likely be needed to ensure that such translations as necessary to meet the requirements of fairness are received; (ii) due recognition is warranted of the Defence’s efforts towards the expeditious conduct of the proceedings as it did not request an extension of time to file its notice of appeal; and (iii) denying a reasonable extension may be counter-productive “insofar as it may increase the likelihood of the Defence seeking to vary or supplement its notice of appeal and/or appeal brief at a future date”.²²

¹⁷ [Request](#), para. 15.

¹⁸ [Prosecutor's Response](#), para. 2.

¹⁹ [Prosecutor's Response](#), paras 3-4.

²⁰ [Prosecutor's Response](#), paras 5-6.

²¹ [Prosecutor's Response](#), para. 8; *see also* para. 12.

²² [Prosecutor's Response](#), paras 8-9.

15. The Prosecutor submits that the Request appears to be made conditional on certain independent circumstances, which is “inappropriate, and unnecessary”²³ and that an extension of 56 days would be reasonable in the circumstances.²⁴

III. MERITS

16. The Appeals Chamber notes that the Defence requests that the 90-day time limit for the filing of an appeal brief starts running from a different point in time than that provided for in the statutory framework, pursuant to article 67(1)(f) of the Statute and rule 144(2)(b) of the Rules, *i.e.*, from the receipt of the official translation into Arabic of the relevant portions of the Trial Judgment and Annex B, instead of the notification of the Trial Judgment.²⁵

17. Article 67(1)(f) of the Statute provides for the right of the accused “[t]o have [...] 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 which the accused fully understands and speaks”.

18. Pursuant to rule 144(2)(b) of the Rules, a copy of the decision of the Trial Chamber on the criminal responsibility of the accused shall be provided, as soon as possible, to “[t]he accused, in a language he or she fully understands or speaks, if necessary to meet the requirements of fairness under article 67, paragraph 1 (f)”.

19. In this regard, the Appeals Chamber recalls that the language of article 67(1)(f) of the Statute requires a chamber to determine what is “necessary to meet the requirements of fairness” and that it

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.²⁶

²³ [Prosecutor’s Response](#), para. 12.

²⁴ [Prosecutor’s Response](#), paras 10-11.

²⁵ [Request](#), para. 13.

²⁶ See *The Prosecutor v. Dominic Ongwen*, [Decision on Mr Ongwen’s request for time extension for the notice of appeal and on translation](#), 24 February 2021, ICC-02/04-01/15-1781 (A), para. 10. See also *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, [Decision on requests for extension of time limits for notices of appeal and appeal briefs against the decision of Trial Chamber V entitled](#)

20. The Appeals Chamber observes that the above jurisprudence equally applies in the context of the preparation and filing of appeal briefs.²⁷

21. Taking into account the present circumstances as a whole, including the information provided by the Registrar,²⁸ the Appeals Chamber considers that the requirements of fairness under article 67(1)(f) of the Statute and rule 144(2)(b) of the Rules do not require that the 90-day time limit for the Defence to submit its appeal brief under regulation 58(1) of the Regulations should run from the receipt of the translation into Arabic of the requested sections of the Trial Judgment and its annex B, instead of the notification of the Trial Judgment.

22. The Appeals Chamber considers that by requesting the above relief, the Defence is in essence seeking an extension of time to file its appeal brief.

23. The Appeals Chamber notes that while regulation 35 of the Regulations contains an express provision for the extension of time limits where “good cause is shown”, the Defence clearly indicates that the Request “is not an application for extension of the time limit” to submit its appeal brief pursuant to regulation 35 of the Regulations and it “ma[de] no submission of good cause” under regulation 35(2) of the Regulations in the Request. It also stated that should it conclude that it needs an extension of time, it will then submit a different application, premised on the requirements of “good cause” under regulation 35(2) of the Regulations.²⁹

24. In light of the above submissions from the Defence, the Appeals Chamber will not determine the Request according to the requirements of regulation 35(2) of the Regulations.

[“Judgment”](#), 1 August 2025, ICC-01/14-01/18-2794 (A) (hereinafter: “*Yekatom and Ngaïssona* 1 August Decision”), para. 11.

²⁷ See *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, [Decision on Yekatom Defence request for extension of time to file the appeal brief](#), 20 October 2025, ICC-01/14-01/18-2828-Conf (a public redacted version was registered on the same day, ICC-01/14-01/18-2828-Red), paras 20-21; *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, [Decision on the Ngaïssona Defence’s request for an extension of time to file the appeal brief](#), 14 November 2025, ICC-01/14-01/18-2842, para. 17. This document was originally filed confidentially but was reclassified as public pursuant to the ‘Order on reclassification of documents’, 20 November 2025, ICC-01/14-01/18-2845 (A3).

²⁸ See [Registry’s Submissions](#), paras 3-5.

²⁹ [Request](#), para. 7. The Appeals Chamber further notes its jurisprudence recalling that the appellant may seek leave to vary its grounds of appeal pursuant to regulation 61 of the Regulations (*see for example Yekatom and Ngaïssona* 1 August Decision, para. 12).

25. Accordingly, the Request is without merit, and is therefore rejected.

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



Judge Erdenebalsuren Damdin
Presiding

Dated this 2nd day of December 2025

At The Hague, The Netherlands