

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/20
Date: 16 December 2025

THE APPEALS CHAMBER

Before: Judge Erdenebalsuren Damdin, 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

**Application for Further Extension of Time Limit to submit the Defence Appeal
Brief pursuant to Regulation 35(2) 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

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Reparations Section**

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1. On 5 December 2025, the Defence for Mr Ali Muhammad Ali Abd-Al-Rahman (“Mr Abd-Al-Rahman”, “Appellant”, “Defence”) applied for an extension of the time limit to submit its Appeal Brief (“EoT Application”)¹. In its EoT Application, the Defence relied on a variety of cumulative factors to demonstrate good cause to extend the time limit pursuant to regulation 35(2) of the Regulations of the Court (“RoC”). On this basis, the Defence applied for a limited and reasonable, probably over-conservative, extension of the time limit for submission of its Appeal Brief by 85 days only, i.e. to 31st March 2026, instead of 5 January 2026.²
2. The Prosecution had agreed that the Defence had demonstrated good cause for an extension of the time limit until 2 March 2026.³ The Legal Representative of Victims had no objection.⁴
3. On 9 December 2025, Trial Chamber I issued its Sentencing Judgment.⁵ This starts the 30 day-period of time to determine, with the Appellant, whether the Defence should appeal the Sentencing Judgment, pursuant to Rule 150(1) of the Rules of Procedure and Evidence (“RPE”). Should the Appellant elect to appeal the Sentencing Judgment, the Defence will have to draft and submit its Notice of Appeal no later than 8 January 2026 and its Article 81(2) Appeal Brief no later than 9 March 2026. These will run in parallel to the Defence’s drafting and submission of its Article 81(1)(b) Appeal Brief for which the extension of time limit was sought.
4. On 15 December 2025, the Appeals Chamber ruled on the EoT Application by finding that good cause was demonstrated, but extended the time limit for submission of the Defence Appeal Brief by 25 days only, i.e. to 30 January 2026 (“EoT Ruling”).⁶

¹ [ICC-02/05-01/20-1279 A](#).

² [ICC-02/05-01/20-1279 A](#), paras. 22-25.

³ [ICC-02/05-01/20-1283 A](#).

⁴ Email from Legal Representative of Victims to Chambers, 9 December 2015, 13h30.

⁵ ICC-02/05-01/20-1281-Conf (public redacted version [ICC-02/05-01/20-1281-Red](#)).

⁶ ICC-02/05-01/20-1285 A.

5. The Defence will be simply unable, for good cause and for reasons outside its control, to submit its Article 81(1)(b) Appeal Brief by 30 January 2026. The concurring time limit for submission of the potential Defence Notice of Appeal on Sentencing, if any, is yet another factor providing good cause for a further extension of the time limit. This is the first remedy sought below under the first sentence of Regulation 35(2) of the RoC.

6. In addition, or in the alternative, the Defence respectfully submits the EoT Ruling fails to factor in relevant good causes for which the Defence sought extension of time limit and which are outside its control, thus justifying further extension of time limit under the second sentence of Regulation 35(2) of the RoC. Although the second sentence of Regulation 35(2) of the RoC provides that this application should normally be made “after the lapse of a time limit”, the Defence is already capable of asserting that it will not be capable of submitting its Appeal Brief by 30 January 2026 for reasons outside its control and thus sees no reason to delay its application further, which would run the risk of frustrating Mr Abd-Al-Rahman’s right to appeal the Trial Judgment pursuant to Article 81(1)(b), should it be denied. In order to prevent that risk, the Defence submits this second application in advance of the new 30 January 2026 time limit, instead of later. It is respectfully submitted that the granting of the requested further extension now, instead of after the lapse of the new time limit, will be more respectful of the Appellant’s right to appeal the Trial Judgment and have adequate time to prepare for his defence, pursuant to Articles 67(1)(b) and 81(1)(b) of the Statute read together.

The good cause requirement for a further extension of time is fulfilled

7. In earlier rulings, the Appeals Chamber had found that the running of parallel proceedings and the workload bearing on a Party constituted good cause for an

extension of time limit under Regulation 35(2) of the RoC.⁷ The Defence relied, *inter alia*, on this factor in its EoT Application, with respect to the ongoing sentencing proceedings before Trial Chamber I⁸ and the ongoing legal aid litigation with the Registry.⁹ These factors were not taken into account by the Appeals Chamber in its EoT Ruling. The Appeals Chamber finds that good cause exists for an extension of the time limit, but denies these parallel proceedings any weight in the calculation of the granted time limit, without providing reasons for this denial, contrary to its own case law on the need to provide a full and reasoned statement pursuant to Article 74(5) of the Statute.¹⁰ The time limit is extended by 25 days without any beginning of explanation for the choice of that duration, rather than the requested 85 days or even the 56 days of extension found reasonable by the Office of the Prosecutor on the sole basis of the time required to translate the relevant portions of the Trial Judgment in Arabic.

8. In the absence of reasoning for this divergence from the Appeals Chamber's earlier case law on the matter, the Defence relies on it to submit that the running of the time limit to determine whether to submit its Article 81(2) Notice of Appeal and Appeal Brief and their drafting in parallel to the preparation of its Article 81(1)(b) Appeal Brief provides good cause for extension of the time limit to submit the latter by the initial period of 30 days for submission of the Article 81(2) Notice of Appeal – from 9 December 2025 to 8 January 2026 -, plus the additional period of 22 days until the new date of submission of the Article 81(1)(b) Appeal Brief according to the EoT Ruling, for a total of 52 additional days. Because ongoing parallel proceedings were not factored in by the Appeals Chamber in its EoT Ruling, this period of 52 days comes in addition to the extension of time limit by 25 days already granted, for a total of 77 days, i.e. until 23 March 2026.

⁷ *Lubanga*: [ICC-01/04-01/06-190 OA3](#), paras. 4-5; *Katanga*: [ICC-01/04-01/07-653 OA7](#), paras. 2, 6; *DRC*: [ICC-01/04-518 OA6](#), paras. 2, 4.

⁸ [ICC-02/05-01/20-1279 A](#), paras. 7-9.

⁹ [ICC-02/05-01/20-1279 A](#), paras. 19-21.

¹⁰ [ICC-02/05-01/20-236 OA5](#), para. 1.

9. These possible additional appellate proceedings on the sentencing were not included in the initial Defence request since the sentence was only delivered on 9 December 2025. Had Trial Chamber I followed the Defence's submissions on sentencing, the Defence would have had no need to appeal. Therefore, the Defence requests the Appeals Chamber to take into account this new factor and allow additional time for submission of the Article 81(1)(b) Appeal Brief.

10. At the moment, the Defence is reviewing the sentencing judgment, which contains 91 pages, has ongoing discussions with the Appellant on sentencing and Article 81(1)(b) Judgment at the same time, while there is not yet any Arabic translation of the Sentencing Judgement. Arabic is not a working language of the Court; yet, it is the only language that the Appellant fully understands and speaks. Translation and interpretation from and into Arabic is another burden bearing on the Defence, in particular its Language Assistant, in its communication with the Appellant and the preparation and finalization of his Appeal Brief. This additional burden of work, which does not exist for other Defence teams in other cases, has a significant impact of the overall defence resources and its capacity to make progress on both aspects. This shall weigh in the granting of additional time in this case.

Factors relied upon in the EoT Application are beyond the Defence's control

11. The EoT Application relied on a variety of factors which all fall beyond the Defence's control and prevent it from submitting its Appeal Brief by the new time limit of 30 January 2026. These include: (i) the running of parallel sentencing proceedings;¹¹ (ii) the time required by the translation of relevant portions of the Trial Judgment and its Annex B into Arabic;¹² (iii) ongoing legal aid issues;¹³ (iv) ICC public holidays;¹⁴ and (v) the number, novelty and complexity of issues raised in appeal.¹⁵ For each of these

¹¹ [ICC-02/05-01/20-1279 A](#), paras. 7-9.

¹² [ICC-02/05-01/20-1279 A](#), paras. 10-11.

¹³ [ICC-02/05-01/20-1279 A](#), paras. 12-14.

¹⁴ [ICC-02/05-01/20-1279 A](#), paras. 15-17.

¹⁵ [ICC-02/05-01/20-1279 A](#), paras. 18-20.

factors, the Defence relied in its footnotes on precedent rulings from the Appeals Chamber and other Chambers identifying these various factors as good cause for the purpose of extension of time limits. For each of these factors, the Defence submitted that it provided good cause to extend the time limit by a number of days, the total of which equated 252 or 276 days depending on the Appeals Chamber's decision to factor in the end of year judicial recess.¹⁶ On the basis of that calculation, the Defence applied for a limited and reasonable extension of the time limit for submission of its Appeal Brief by 85 days only, i.e. to 31st March 2026, instead of 5 January 2026.¹⁷

12. Factors (i) to (v) have in common that they all fall beyond the control of the Defence. The Defence may reduce the number of its grounds of appeal under factor (v), but this reduction should not be led by time limit constraints, as this would result in denying him the right to have adequate time to prepare for his appeal in breach of Article 67(1)(b) of the Statute and, ultimately, a denial, at least partial, of his right to appeal under Article 81(1)(b) of the Statute.

13. As submitted in the EoT Application, the Defence continues to do its utmost to mitigate the impact of the timing at which translations became available on the preparation of its Appeal Brief. On 15 December 2025, the Defence Language Assistant completed the unofficial translation of the relevant portions of Annex B into Arabic. The translated portions will be delivered to the Appellant during the Defence's visit at the Detention Centre on 16 December 2025. This development, however, does not resolve the difficulties arising from the limited time remaining for the preparation of the Appeal Brief. Unlike situations involving translations between the Court's official languages, this process cannot be equated with the ordinary internal work of a Defence team. The Defence Language Assistant must assist the Appellant in understanding complex appellate material, support team members who do not speak Arabic, and ensure accuracy and consistency across translated materials. In addition, the Appellant

¹⁶ [ICC-02/05-01/20-1279 A](#), para. 21.

¹⁷ [ICC-02/05-01/20-1279 A](#), paras. 22-25.

will require adequate time to review and discuss these translations with Counsel in order to assess their relevance to, and impact on, his grounds of appeal, with, again, the support of the Language Assistant.

14. Despite these efforts, which the Appeals Chamber acknowledged without consequence at paragraph 12 of its EoT Ruling,¹⁸ there is no chance that the Defence can complete its Appeal Brief in good conditions fulfilling the Appellant's right to appeal the Trial Judgment by 30 January 2026. Factors (i) to (v) are beyond the Defence's control:

- Factor (i) is ongoing, with the pending decision as to whether the Sentencing Judgment should be appealed and, if so, the drafting of the Article 81(2) Notice of Appeal and Appeal Brief in parallel to the preparation of the Article 81(1)(b) Appeal Brief;
- Factor (ii) is ongoing, despite the Defence team's translation efforts. The fact that the Appellant only understands and speaks Arabic, which is not a working language of the court, is also beyond the Defence's control and is an additional difficulty faced by the Defence in this Case, unlike other Cases, thus justifying a longer extension of time than what was granted in other Cases;
- Factor (iii) is ongoing, with the Registry's persistent denial of full time salary for the Defence's Language Assistant;¹⁹
- Factor (iv) is beyond the Defence's control. The Defence simply notes that, contrary to its settled case law in other situations and cases,²⁰ the Appeals Chamber did not factor in the judicial recess in its calculation of the extended time limit. Had it done so, the granted extension of time limit on the basis of other factors (i), (ii), (iii) and (v) would be limited to ten extra-days only, where

¹⁸ ICC-02/05-01/20-1285, para. 12.

¹⁹ ICC-02/05-01/20-1284-Conf-Exp, para. 17.

²⁰ *Katanga*: [ICC-01/04-01/07-115 OA](#), paras. 6-7; *Katanga*: [ICC-01/04-01/07-121 OA2](#), para. 5; *Banda*: [ICC-02/05-03/09-624 OA5](#), para. 6; *Palestine*: [ICC-01/18-403 OA2](#), para. 7; *Venezuela*: [ICC-02/18-52](#), para. 8.

these may have justified an extension by 162 days (total 185 days minus 23 days under factor (iv)) and 85 days were requested; and

- Factor (v) is essentially led by the number of errors of fact and law found in the Trial Judgment and the novelty and complexity of the related issues. With the current extension of time limit to 30 January 2026, the Defence is left with no more than $(90+25=115 \text{ days}) / 79 \text{ current grounds of appeal} = 1.45 \text{ day for each ground}$, including weekends, court holidays and judicial recess. The Defence cannot seriously and reasonably pretend to draft its Appeal Brief within such a time limit and will thus be left with no choice other than giving up on a number of grounds of appeal because of lack of time. As mentioned before, compelling the Defence to reduce the number of grounds of appeal in order to cope with the new time limit would not be compatible with the Appellant's right to appeal. The requested extension of time limit of a total of 175 days, until 31st March 2026, would bring the ratio of number of days per count to the more reasonable, yet ambitious, average of $175 / 79 = 2.21 \text{ days per ground of appeal}$, still factoring in weekends, court holidays and judicial recess. This can hardly be described as anything else but extremely reasonable and conservative, in light of all factors justifying good cause.

12. The extension of time limit proposed in the EoT Application was already extremely conservative. The Defence had grounds to request much more, up to 276 days of extension. Instead, it limited its request to 85 days only, for a total of 175 days from the date of issuance of the Trial Judgment. Neither the Office of the Prosecutor, nor the Legal Representatives of Victims challenged the proposed request, which is a clear indication that they found it reasonable and justified by good cause under Regulation 35(2) of the RoC.

13. In its EoT Ruling, the Appeals Chamber confirms that the Defence demonstrated good cause under Regulation 35(2) of the RoC.²¹ It takes note of the parallel sentencing proceedings, of public holidays²² and of the time necessary for translation into Arabic,²³ but does not factor in Factors (ii), (iii) and (v). The resulting extension of time limit does not allow adequate time for the Appellant to prepare for his Appeal Brief, as he should have pursuant to Article 87(1)(b) and Article 81(1)(b) of the Statute read together. This is ground for seeking a further extension of the time limit for good cause based on factors beyond the Defence's control pursuant to the second sentence of Regulation 35(2) of the RoC. For the reasons provided in paragraph 6 above, the Defence applies for such further extension in advance of the lapse of the current time limit of 30 January 2026.

14. Denying the present request for further extension would leave the Defence with no possibility of submitting its full Appeal Brief within the required time, other than drastically reducing the number of grounds of appeal on the sole motive of missing time to address them all. This would frustrate the Appellant's right to appeal the Trial Judgement, protected by Article 81(1)(b) of the Statute. The Defence respectfully submits that the time limit provided under Rule 150 of the RPE cannot be used to prevent an Appellant from appealing a Trial Judgment under Article 81(1)(b) of the Statute, not even to limit him in the exercise of this fundamental right.

15. This certainly cannot lead to the granting of unreasonable extensions of time for submitting appeal submissions. In the present case, the requested extension by 85 days was reasonable. The absence of objection from the Office of the Prosecutor and the Legal Representatives of Victims abundantly confirms so. The Appeals Chamber can thus be reassured that granting the requested extension up to 85 extra days for the filing of its Appeal Brief is a fair and balanced exercise of its discretion reconciling the Appellant's right to have adequate time to prepare his appeal pursuant to Article

²¹ ICC-02/05-01/20-1285, para. 9.

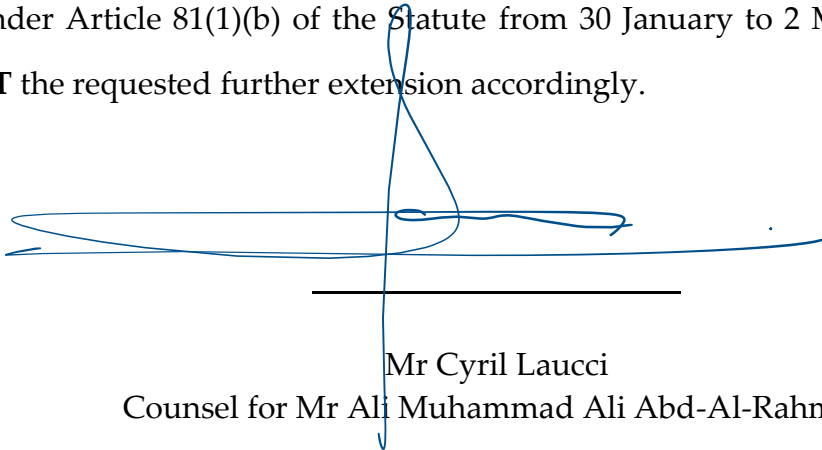
²² ICC-02/05-01/20-1285, para. 10.

²³ ICC-02/05-01/20-1285, para. 11.

67(1)(b) of the Statute, his right to appeal all relevant aspects of the Trial Judgment pursuant to Article 81(1)(b) of the Statute and his right to have his appeal determined without undue delay.

16, This being said, taking into account all factors, including the judicial calendar of Judges forming the bench, and after verification of the Defence team's capacity to run the extra-effort of reducing the time needed to draft the Article 81(1)(b) Appeal Brief without compromising on its content by, *inter alia*, working full time over the judicial recess and, where needed, weekends, the Defence reduces its request for additional time from 85 days, until 31 March 2026, to 56 days, until 2 March 2026, as found reasonable by the Office of the Prosecutor on the basis of Factor (ii) only.

THE DEFENCE HEREBY PRAYS THE APPEALS CHAMBER TO FIND that there is good cause to grant a further extension of the time limit for submission of the Appeal Brief under Article 81(1)(b) of the Statute from 30 January to 2 March 2026 and **TO GRANT** the requested further extension accordingly.



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

Dated this 16 December 2025

At The Hague, The Netherlands.