

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: **ICC-02/05-01/20**
Date: **13 January 2026**

THE APPEALS CHAMBER

Before: Judge Erdenebalsuren Damdin, Presiding Judge
Judge Luz del Carmen Ibañez Carranza, Judge
Judge Solomy Bossa, Judge
Judge Gocha Lordkipanidze, Judge
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 Regulation 37(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:

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☒ 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

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REGISTRY

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Mr Zavala Giler, Osvaldo

☐ Counsel Support Section

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Section

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1. The Defence for Mr Ali Muhammad Ali Abd-Al-Rahman (“Mr Abd-Al-Rahman”, “Appellant”) hereby seeks an extension of the page limit for submission of its Appeal Brief in Appeal A against the Trial Judgment issued on 6 October 2025¹ from the current 100 pages provided under Regulation 58(3) of the Regulations of the Court (“RoC”) to 250 pages. This application is submitted pursuant to Regulation 37(2) of the RoC.
2. The Notice of Appeal filed on 6 November 2025 identifies no less than 79 provisional grounds of appeal.² This is an indication of the extensiveness and complexity of issues raised in this appeal, as well as of the broad range of legal, factual and procedural errors that the Defence intends to develop in its Appeal Brief. This large number of grounds of appeal as of itself fulfils the criterion of exceptional circumstances set under Regulation 37(2) for the granting of an extension of pages. The number, broad range and complexity of issues to be raised in appeal briefs was always considered the key criterion in granting additional pages.³
3. The Appeals Chamber already granted a similar extension to 250 pages for the appeal brief in the *Ongwen* case.⁴ In that case, the Defence identified 90 grounds of appeal in its Notice of Appeal.⁵ This number of 90 grounds of appeal is comparable to the 79 provisional grounds of appeal pre-identified by the Defence in advance of the complete Arabic version of the Trial Judgment and its Annex B.⁶ Translation of the Annex B in Arabic is ongoing at the time of the present submission, which makes that the list of 79 Grounds of Appeal is not final. Unlike the *Ongwen* case, the Appeal in the present case is addressing unprecedented and novel issues in relation to various aspects, such as jurisdiction and the *Nullum crimen sine lege* principle,⁷ issues related to Sudan not being a State Party and the impact of its non-cooperation on the proceedings,⁸ and/or the identification of the Appellant.⁹ Although the determination of the adequate number of pages is made on a case-by-case basis and the Appeal Chamber is not bound by the *Ongwen* or any other precedent, the comparable number and novelty of issues raised in the present case provide good cause for a similar extension by 150 pages to a total of 250 pages.

¹ [ICC-02/05-01/20-1240](#).

² [ICC-02/05-01/20-1261 A](#).

³ *Lubanga*: [ICC-01/04-01/06-177 OA3](#), para. 6; *Katanga*: [ICC-01/04-01/06-3334 OA13](#), para. 7; *Bemba et al.*: [ICC-01/05-01/13-2124 A A2 A3 A4 A5](#), paras. 7-8.

⁴ *Ongwen*: [ICC-02/04-01/15-1850 A](#), para. 15.

⁵ *Ongwen*: [ICC-02/04-01/05-1826 A](#).

⁶ [ICC-02/05-01/20-1261 A](#), para. 4.

⁷ [ICC-02/05-01/20-1261 A](#), Grounds of Appeal 1 to 5.

⁸ [ICC-02/05-01/20-1261 A](#), Grounds of Appeal 6-13, 16-18.

⁹ [ICC-02/05-01/20-1261 A](#), Grounds of Appeal 14, 25-26, 30-39.

4. In cases where a similar extension of pages was sought and denied, the number of grounds of appeal listed in the Defence's notice of appeal was significantly lower: in *Bemba*, the Defence requested an extension by 150 pages and was granted 100 extra-pages, total 200 pages,¹⁰ for only 7 grounds of appeal;¹¹ in *Al Hassan*, the Defence requested an extension by 150 pages and was granted 80 extra-pages, total 180 pages,¹² for only 4 grounds of appeal;¹³ in *Ntaganda*, the Defence also requested an extension by 150 pages and was granted 50 extra-pages, total 150 pages,¹⁴ for only 15 grounds of appeal.¹⁵ In *Yekatom and Ngaïssona*, the Defence teams requested extensions from 100 to 300 pages for their respective Appeal Briefs and the Appeals Chamber authorized an extension to 200 pages¹⁶ for 53¹⁷ and only 6¹⁸ grounds of appeal respectively. Like the *Ongwen* case, the *Yekatom and Ngaïssona* case did not address the specific and novel issues addressed in the present case.¹⁹ The comparison with the number, complexity and novelty of issues in the present case with the precedents in the *Bemba*, *Al Hassan*, *Ntaganda* and *Yekatom and Ngaïssona* cases confirms that good cause exists for the requested extension by 150 pages, total 250 pages in the present case, and no less.

5. The requested page limit of 250 pages is extremely conservative. Divided by the 79 provisional grounds of appeal, what is requested is no more than an average of 3 pages to expose and substantiate each ground of appeal. Any lower limit would simply compel the Defence to give up some of the grounds of appeal it has identified. The Defence has already been compelled to give up important submissions in its Final Brief as a result of an excessively limited, arbitrary number of pages authorized by the Trial Chamber despite all submissions to get more. The impact of this arbitrary limitation on the fairness of the trial forms the substantive matter of Ground of Appeal 21.²⁰ Imposing a lower page limit than the 250 pages requested would not only aggravate the prejudice already caused at trial to the Defence by the arbitrary limitation of

¹⁰ *Bemba*: [ICC-01/05-01/08-3405 A](#), para. 13.

¹¹ *Bemba*: [ICC-01/05-01/08-3434-Red A](#).

¹² *Al Hassan*: [ICC-01/12-01/18-2656 A](#), para. 14.

¹³ *Al Hassan*: [ICC-01/12-01/18-2648 A](#), para. 2.

¹⁴ *Ntaganda*: [ICC-01/04-02/06-2415 A](#), paras. 18-20.

¹⁵ *Ntaganda*: [ICC-01/04-02/06-2396 A](#).

¹⁶ *Yekatom and Ngaïssona*: [ICC-01/14-01/18-2836 A A2 A3](#), para. 21.

¹⁷ *Yekatom and Ngaïssona*: [ICC-01/14-01/18-2816 A A2](#): Yekatom's grounds of appeal are regrouped as follows: 5 Grounds under Part A, 2 under Part B, 5 under Part C, 8 under Part D, 9 under Part E, 6 under Part F, 12 under Part G and 6 under Part H, making a total of 53 Grounds of appeal.

¹⁸ *Yekatom and Ngaïssona*: [ICC-01/14-01/18-2815 A A2](#), para. 2.

¹⁹ [ICC-02/05-01/20-1261 A](#), Grounds of Appeal 1-14, 16-18, 25-26, 30-39.

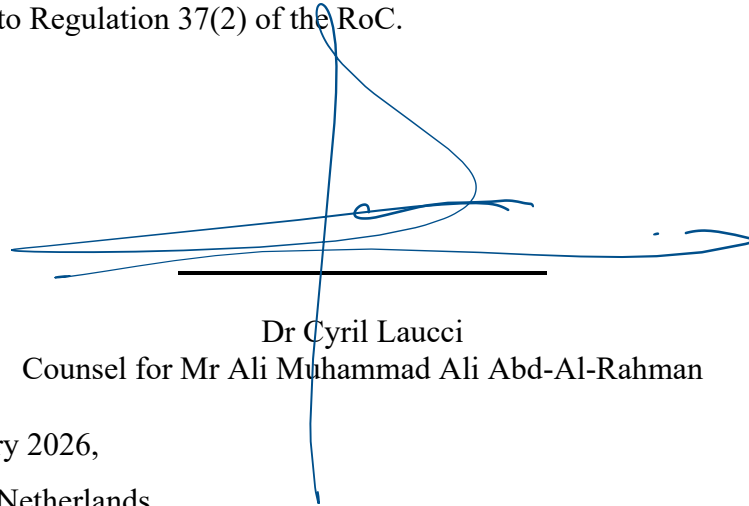
²⁰ [ICC-02/05-01/20-1261 A](#), Ground of Appeal 21.

the number of pages for its Final Brief. It would also pre-determine on the merits of Ground of Appeal 21, prior to giving a chance to the Defence to make its submissions thereon.

6. For all these reasons, the Defence submits that exceptional circumstances exist to grant the requested extension of the page limit for its Appeal Brief by 150 pages, total 250 pages.

7. The Defence will support the granting of a similar extension of pages to the Prosecution.²¹ The Prosecution will have to address the same number of complex and novel issues in its Response. The same extension is thus justified.

THE DEFENCE HEREBY PRAYS THE APPEALS CHAMBER TO EXTEND the page limit for its Appeal Brief against the Trial Judgment by 150 pages, for **A TOTAL OF 250 PAGES**, pursuant to Regulation 37(2) of the RoC.



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

Dated this 13 January 2026,
At The Hague, The Netherlands.

²¹ *Ongwen*: [ICC-02/04-01/15-1850 A](#), para. 16; *Bemba*: [ICC-01/05-01/08-3405 A](#), para. 14; *Al Hassan*: [ICC-01/12-01/18-2656 A](#), para. 15; *Ntaganda*: [ICC-01/04-02/06-2415 A](#), para. 21.