

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-02/05-01/20**
Date: **6 February 2026**

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

Prosecution request for an extension of time to respond to the Defence Appeal Brief

Source: Office of the Prosecutor

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INTRODUCTION

1. The Prosecution respectfully requests an extension of time to respond to Mr Abd-Al-Rahman's Appeal Brief¹ against the Judgment issued by Trial Chamber I on 6 October 2025.² Good cause exists pursuant to regulation 35(2),³ justifying the requested extension: the Appeal Brief is lengthy and complex and the Prosecution is currently under an exceptionally heavy workload on appeal. Because of these factors and noting that Mr Abd-Al-Rahman received a 24 day extension to file his Appeal Brief,⁴ granting the Prosecution a corresponding extension of time of 24 days, until 1 May 2026, is justified.

SUBMISSIONS

2. Under regulation 59(1), the Prosecution may file a response to an appeal brief within 60 days of *notification* of that brief. While Mr Abd-Al-Rahman filed his Appeal Brief on time on 30 January 2026, the Prosecution was only notified of the Brief three days later, on 2 February 2026,⁵ making its response due on 7 April 2026. The Prosecution respectfully requests an extension of time of 24 days until 1 May 2026 and submits that the following factors constitute good cause within the meaning of regulation 35(2).

3. First, the length, complexity, and novelty of the issues raised in the Appeal Brief justify the requested extension. The 60-day standard time limit to respond to an appeal brief is calibrated to address a brief of ordinary length (100 pages).⁶ It is insufficient in the circumstances of this case, in responding to an appeal brief of 178 pages (encompassing 60 grounds).⁷ Further, many of the grounds relate to and overlap with other grounds in the Appeal Brief, requiring the Prosecution to ensure that its individual responses are coordinated and consistent throughout the Response Brief. Furthermore, the Appeal Brief encompasses a wide range of complex and sometimes novel legal issues, including jurisdiction and legality; assessment of evidence; multiple fair trial matters canvassing numerous procedural issues and

¹ ICC-02/05-01/20-1303-Red (“[Appeal Brief](#)”).

² ICC-02/05-01/20-1240 (“[Judgment](#)”).

³ All references to regulations in this request are references to the Regulations of the Court, unless otherwise specified.

⁴ ICC-02/05-01/20-1285 (“[Abd-Al-Rahman Time Extension Decision](#)”).

⁵ See Automated Message JWP, ICC-02/05-01/20-1303, dated 2 February 2026 at 17:39 (stating that, until that point, Prosecution access and notification to ICC-02/05-01/20-1303-Conf and its annex had been “inadvertently omitted”).

⁶ Regulation 59(3).

⁷ [Appeal Brief](#).

trial decisions;⁸ persecution; and Sudanese law.⁹ It also raises factually complex matters involving witness credibility, issues specific to Mr Abd-Al-Rahman's nickname, role and authority; and factual issues regarding the three crimes sites (Kodoom and Bindisi, Mukjar and Deleig).¹⁰ This will require review of the extensive evidentiary record, including transcripts for more than 150 'trial days', and involving 101 witnesses and 1871 exhibits.

4. Second, the current exceptionally high workload of the Prosecution with respect to appellate proceedings further justifies the requested extension. In addition to preparing the response to the Appeal Brief, the Prosecution is simultaneously preparing its appeal brief against the Sentencing Judgment, due on 10 March.¹¹ When the Appellant's Sentence Appeal Brief is received on 10 March, the Prosecution will thereafter proceed to prepare its response to Mr Abd-Al-Rahman's appeal against the Sentencing Judgment.¹² The Appeals Chamber has acknowledged that the burden to simultaneously address both the conviction and the sentencing is a relevant factor when it granted a time extension for Mr Abd-Al-Rahman.¹³ Similar considerations should be applied to the Prosecution. In addition, the Prosecution is also presently, and simultaneously, preparing responses to three appeal briefs in other cases: Mr Yekatom's and Mr Ngaissona's appeals against their convictions and sentences,¹⁴ and Mr Duterte's appeal against the decision on the review of his detention.¹⁵

5. The Appeals Chamber has previously found that "complex issues on appeal,"¹⁶ and an objectively high workload,¹⁷ may constitute "good cause" justifying extensions of a time limit. These factors apply in these appellate proceedings and significantly impact the Prosecution's ability to file a response brief by 7 April 2026.

⁸ E.g., [Appeal Brief](#), paras. 46, 60, 77, 93, 113, 120, 133, 447 (challenging numerous decisions which the Prosecution might need to review to respond to Mr Abd-Al-Rahman's submissions).

⁹ [Appeal Brief](#), Sections A, B, C, H, K. Some of the issues raised are novel, adding to the overall complexity of the appeal (e.g., gender-based persecution, and the intersecting nature of multiple forms of discrimination).

¹⁰ [Appeal Brief](#), Sections D, E, C, I, J, and K.

¹¹ ICC-02/05-01/20-1281-Red ("Sentencing Judgment").

¹² See ICC-02/05-01/20-1290 ("[Abd-Al-Rahman NoA against Sentencing Judgment](#)"). Mr Abd-Al-Rahman's appeal brief is also due on 10 March and the Prosecution will need to respond to it by 11 May 2026.

¹³ [Abd-Al-Rahman Time Extension Decision](#), para. 10.

¹⁴ ICC-01/14-01/18-2847-Corr-Red ("[Ngaissona Appeal](#)"); ICC-01/14-01/18-2848-Corr-Red ("[Yekatom Appeal](#)"). The Prosecution Response to these briefs is due on 27 February 2026 ([ICC-01/14-01/18-2858](#)).

¹⁵ ICC-01/21-01/25-366 ("[Duterte Detention Appeal](#)"). The Prosecution response to this brief is due on 12 February 2026 ([ICC-01/21-01/25-362](#)). The Prosecution anticipates that during the period from February to May it is likely to also be involved in further appellate matters in other cases and/or situations.

¹⁶ E.g., [ICC-01/14-01/18-2858](#), para. 13; [ICC-01/12-01/18-2647](#), paras. 16-17; [ICC-01/04-02/06-2415](#), para. 12; [ICC-02/04-01/15-1861](#), para. 17; [ICC-01/18-403](#), para. 7; [ICC-01/04-02/06-2364](#), paras. 3, 5; [ICC-01/12-01/18-2606](#) A, para. 12; [ICC-01/09-01/11-1346](#), para. 9.

¹⁷ E.g., [ICC-01/12-01/18-2628](#), para. 12; [ICC-01/12-01/18-2647](#), paras. 16-17. See [ICC-02/11-01/11-458-Red](#), para. 6; [ICC-02/11-01/11-189](#), para. 4.

6. The Appeals Chamber should ensure both the expeditiousness and fairness of the proceedings,¹⁸ and granting the Prosecution sufficient time to file its response to the Appeal Brief safeguards both objectives.¹⁹ As noted, the present request is equivalent to the extension of time granted to the appellant to file his appeal. The relative brevity of the extension sought militates in its favour.²⁰ It is likely to facilitate the expeditious conduct of the proceedings overall, allowing the Prosecution to present clear and comprehensive arguments in response, which will facilitate the Appeals Chamber's adjudication of the appeal.

CONCLUSION

7. For the reasons set out above, the Prosecution respectfully requests, pursuant to regulation 35(2), a 24 day extension of the time limit to file its response to the Appeal Brief, by 1 May 2026.



Nazhat Shameem Khan, Deputy Prosecutor

Dated this 6th day of February 2026

At The Hague, the Netherlands

¹⁸ See Rule 101(1) of the Rules of Procedure and Evidence.

¹⁹ See also ICTY, *Prosecutor v. Šainović et al.*, IT-05-87-A, [Decision on Joint Request Extension of Time for Respondent's Brief](#), 27 July 2009, p. 4; IRCMT, *Prosecutor v. Karadžić*, MICT-13-55-A, [Decision on Motion for Extension of Time to File Notice of Appeal](#), 21 April 2016, p. 2; ICTY, *Prosecutor v. Milutinović et al.*, IT-05-87-A, [Decision on Motions for Extension of Time to File Notices of Appeal](#), 23 March 2009, p. 4.

²⁰ See also [ICC-01/04-01/06-562](#) OA5, para. 5; [ICC-01/04-01/06-190](#) OA3, paras. 2-5.