

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: **ICC-02/05-01/20**
Date: **09 February 2026**

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

Defence Response to Application ICC-02/05-01/20-1304

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

1. The Defence for Mr Ali Muhammad Ali Abd-Al-Rahman (“Mr Abd-Al-Rahman”, “Appellant”, “Defence”) hereby responds to the application filed on 7 February 2026 (“Application”) by the Office of the Prosecutor (“OTP”) seeking an extension of time limit (“EoT Application”)¹ to respond to the Defence Appeal Brief² in Appeal A on conviction. In essence, the Defence does not oppose the OTP’s Application.
2. OTP’s application relies on the number, novelty and complexity of issues raised in the Defence Appeal Brief and its current workload as constituting good cause for the requested extension under regulation 35 of the Regulations of the Court (“RoC”). The number, novelty and complexity of issues and competing workload formed part, with others, of the grounds based on which the Defence had itself sought and partially obtained an extension of time limit for the submission of its Appeal Brief. These definitely constitute good cause. The Defence is not privy to the details of the workload that the OTP is facing, but this also may provide good cause. The Defence also remembers that the OTP never opposed its applications for extension of the time limit to submit its Appeal Brief.³
3. OTP’s request for a 24-day extension mirrors the equivalent extension granted to the Defence for the filing of its Appeal Brief.⁴ Although this request appears to be grounded primarily in considerations of fairness and equality of arms, the Defence notes that these principles do not necessarily require the granting of identical extensions to both Parties and are not determinative in the assessment of “good cause” under regulation 35 of the RoC. While the number, novelty, and complexity of the issues are the same for the Appeal Brief and the Response, the OTP’s competing workload and/or available staffing may justify an extension of a different duration. The Defence further recalls that the Appeals Chamber has previously exercised its discretion and did not consider itself bound by the length of the extension sought in

¹ [ICC-02/05-01/20-1304](#).

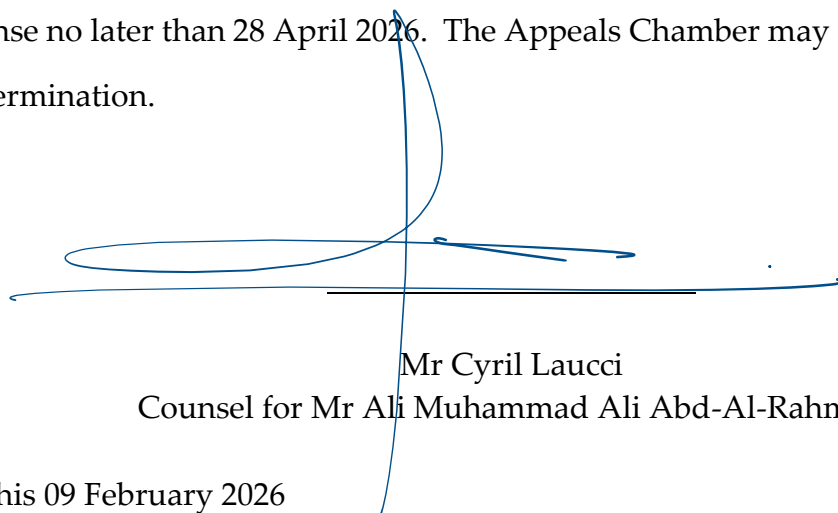
² ICC-02/05-01/20-1303-Conf (Public redacted version: [ICC-02/05-01/20-1303-Red](#)).

³ [ICC-02/05-01/20-1272 A](#); [ICC-02/05-01/20-1283 A](#); [ICC-02/05-01/20-1287 A](#).

⁴ [ICC-02/05-01/20-1285](#); [ICC-02/05-01/20-1288](#).

the Defence's successive applications.⁵ In the absence of full information regarding the OTP's actual workload and staffing constraints, the Defence leaves to the discretion of the Appeals Chamber the determination of an appropriate extension, bearing in mind the Appellant's right to have his appeal resolved expeditiously.

4. Finally, the Defence respectfully submits that the OTP may have made a mistake in the calculation of the time limit for submission of its Response at paragraph 2 of its Application. With a notification of the Defence Appeal Brief on 2 February 2026, the 60-day time limit started running on 3 February 2026 pursuant to regulation 33(b) of the RoC. According to the Defence's calculation, it ends on 3, not 7 April 2026. In the Defence's understanding – which may be wrong –, the fact that 3 April is a Court holiday does not vary this time limit. It is just that regulation 33(d) authorizes to file on the next working day following expiry of the time limit, i.e. 7 April, but the actual time limit remains 3 April. An extension by 24 days of the current 3 April time limit would lead to 27 April 2026, not 1st May, as submitted by the OTP. With that new extended time limit, the OTP may, pursuant to regulation 33(d) of the RoC, file its Response no later than 28 April 2026. The Appeals Chamber may clarify this aspect in its determination.



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

Dated this 09 February 2026

At The Hague, The Netherlands.

⁵ [ICC-02/05-01/20-1285](#), para. 14; [ICC-02/05-01/20-1288](#).