

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-02/05-03/09
Date: 22 December 2014

THE APPEALS CHAMBER

Before: Judge Sanji Mmasenono Monageng
Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka

SITUATION IN THE DARFUR, SUDAN

IN THE CASE OF *THE PROSECUTOR*

v.

ABDALLAH BANDA ABAKAER NOURAIN

Public

**Defence Request for extension of time limit to submit Document in Support of
Appeal**

Sources: Defence Team of Abdallah Banda Abakaer Nourain

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Ms. Fatou Bensouda
Mr. Julian Nicholls

Counsel for the Defence

Mr. Karim A. A. Khan QC
Mr. David Hooper QC

Legal Representatives of the Victims

Ms. Hélène Cissé
Mr. Jens Dieckmann

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. Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. The Defence for Abdallah Banda Abakaer Nourain (“Defence”) respectfully requests an extension of the time limit¹ by six working days to file its document in support of appeal (“appeal brief”) further to Trial Chamber IV’s grant of leave to appeal² the *Warrant of arrest for Abdallah Banda Abakaer Nourain*.³ The Appeals Chamber’s grant of the requested extension would result in the appeal brief being due by Monday, 12 January 2015.
2. Regulation 35(2) of the Regulations of the Court (“Regulations”) provides that a Chamber “may extend [...] a time limit [prescribed in the Regulations] if good cause is shown”.
3. The Defence respectfully submits that the novel legal and factual issues engaged by this appeal⁴ as well as the fact that relevant members of the Defence will be mostly unavailable to work on the appeal brief over the winter judicial recess⁵ constitute ‘good cause’ under Regulation 35(2) of the Regulations.
4. In this regard, the Defence notes the prior practice of Trial Chamber V(A) of the Court in providing both the Prosecution and the defence an extension or alternation of the deadline to submit filings based, at least in part, on the Court’s winter judicial recess.⁶ The Defence submits that the same or similar factors

¹ Pursuant to Regulation 65(4) of the Regulations of the Court, when leave to appeal is granted under Rule 155 of the Rules of Procedure and Evidence “the appellant shall file, within ten days of notification of the decision granting leave to appeal, a document in support of the appeal”.

² Decision on defence application for leave to appeal the decision on “Warrant of arrest for Abdallah Banda Abakaer Nourain” and, in the alternative, request for reconsideration, 19 December 2014, ICC-02/05-03/09-619-Conf (“Decision”) (Jude Eboe-Osuji partially dissenting). A public redacted version of the Decision was issued on the same date.

³ 11 September 2014, ICC-02/05-03/09-606 (with a dissenting opinion from Judge Eboe-Osuji).

⁴ The issue on appeal is whether the Trial Chamber “erred in not hearing further from the defence on the appropriateness of replacing the summons to appear by a warrant of arrest after being satisfied that the accused would not appear voluntarily for his trial” (Decision, para. 55).

⁵ The winter Court recess is scheduled to run from 15 December 2014 to 2 January 2015. The Defence additionally notes that the ICC library, which the Defence may need to access in connection with the drafting of the appeal brief, is closed from today (22 December 2014) through the end of the judicial recess.

⁶ See *Prosecutor v. Ruto and Sang*, Order on the Prosecution’s Request for extension of time limit, 20 December 2014, ICC-01/09-01/11-1128, para. 4 (“The Chamber is satisfied that the Prosecution has met this [good cause] requirement. The Chamber notes that the Request implicates novel issues [...] and that Prosecution staff are unavailable during the judicial recess thereby reducing the manpower available to produce the response.”);

justifying Trial Chamber V(A)'s extension or alteration of the time limit for filing documents likewise exists with respect to the present Defence request.

Respectfully Submitted,



Mr. Karim A. A. Khan QC
Lead Counsel
for Abdallah Banda Abakaer Nourain

Dated this 22nd Day of December 2014
At The Hague, the Netherlands

Decision on Prosecutor's Application for Witness Summonses and resulting Request for State Party Cooperation, 17 April 2014, ICC-01/09-01/11-1274-Corr2, para. 2 and fn. 3 (indicating that the Chamber *proprio motu* extended the normal deadline for submitting a filing in response, the time limit for which ran over the winter judicial recess).