

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-02/06

Date: 16 January 2020

THE APPEALS CHAMBER

Before:

**Judge Howard Morrison, Presiding
Judge Chile Eboe-Osuji
Judge Piotr Hofmański
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa**

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR V. BOSCO NTAGANDA***

Public

**Defence Notice further to “Prosecution Response to the Defence Motion Seeking
Extension of Time to Submit Appeal Brief”**

Source: Defence Team of Mr. Bosco Ntaganda

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

The Office of the Prosecutor

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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. Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Further to the “Order regarding the ‘Motion seeking extension of time to submit Appeal Brief due to unavailability of translation of Judgment’” issued by the Appeals Chamber on 10 January 2020 (“Order”),¹ the filing of its “Submission Pursuant to ‘Order regarding the Motion seeking extension of time to submit Appeal brief due to unavailability of translation of Judgment’” by the Registry on 13 January 2020 (“Registry Submissions”) and the “Prosecution Response to the Defence Motion Seeking Extension of time to Submit Appeal Brief” filed on 14 January 2020 (“Prosecution Response”), Counsel representing Mr. Ntaganda (“Defence” or “Mr. Ntaganda”) hereby submit this:

Defence Notice further to “Prosecution Response to the Defence Motion Seeking Extension of Time to Submit Appeal Brief”

1. On 9 January 2020, as a result of the Registry’s failure to comply with the Appeals Chamber’s 20 September 2019 Order² and not having received by 7 January 2020 the translation of parts of the Trial Judgment rendered on 8 July 2019 as prescribed by the Appeals Chamber, the Defence requested “that the deadline for filing of its appeal brief be extended until one week after the Registry has provided the translation in question”.³
2. Pursuant to the Registry Submissions filed on 13 January 2020, the Registry has now confirmed that it “will be able to complete draft translations of all Additional Sections by 17 February 2020”.
3. In its 14 January 2020 response, the Prosecution indicated that it “does not, in principle, object to the Defence’s request for an extension of time to file its appeal

¹ Order regarding the ‘Motion seeking extension of time to submit Appeal Brief due to unavailability of translation of Judgment’, 10 January 2020, [ICC-01/04-02/06-2454](#).

² Decision on Mr Ntaganda’s request for an extension of the page and time limit for the filing of the appeal brief and related matters, 20 September 2019, [ICC-01/04-02/06-2415](#).

³ Motion seeking extension of time to submit Appeal Brief due to unavailability of translation of Judgment, 9 January 2020, [ICC-01/04-02/06-2453](#), para. 8.

brief on the remaining grounds of appeal to one week following the Registry's provision of the Kinyarwanda translation of the judgment".⁴ The Prosecution added however, that "it would not object to an earlier deadline, for the filing of the Defence appeal brief and corresponding filing of the Prosecution response within 60 days."⁵

4. As a preliminary matter, the Defence deems necessary to reiterate its 16 September submission, filed at the request of the Appeals Chamber, that:

"In accordance with Rule 144, the Defence respectfully submits that the translation of the pages (...) in addition to the pages that have already been translated pursuant to Trial Chamber VI's request, is essential for the purpose of allowing Mr. Ntaganda to participate meaningfully in the drafting of his appeal and to give instructions to the Defence".⁶

5. Notwithstanding the above submission and the necessity to translate the additional pages required to meet the requirements of fairness under article 67, paragraph 1(f), and having consulted with Mr. Ntaganda on this issue, the Defence stands ready, exceptionally, in the interest of justice and with a view to favouring the expeditious conduct of the proceedings, to propose a possible alternative.

6. Subject to the implementation of the following measures to protect Mr. Ntaganda's rights, the Defence submits that it would be ready to submit the appeal brief no later than 31 January 2020: (i) the provision of resources to allow a legally qualified Kinyarwanda speaker to work on a full time basis with Mr. Ntaganda for a minimum of eight days;⁷ (ii) the possibility for the Defence to submit corrections to Mr. Ntaganda's appeal brief, based on his reading and understanding of the parts of the Trial Judgment translated into Kinyarwanda, until Monday 16 March 2020; and

⁴ Prosecution Response to the Defence Motion Seeking Extension of Time to Submit Appeal Brief, 14 January 2020, [ICC-01/04-02/06-2457](#), para. 1.

⁵ Prosecution Response to the Defence Motion Seeking Extension of Time to Submit Appeal Brief, 14 January 2020, [ICC-01/04-02/06-2457](#), para. 2.

⁶ Request for translation of parts of the Judgment, 16 September 2019, [ICC-01/04-02/06-2405](#), para 7.

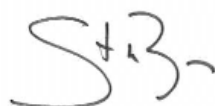
⁷ From Monday 20 January to Wednesday 29 January 2020; a potential candidate has already been identified for this purpose.

(iii) the Registry meeting the 17 February 2020 target date to complete the translation of the parts of the Trial Judgment ordered by the Appeals Chamber and transmitting to the Defence, on a rolling basis, the parts of the Judgment translated as they become available.

7. The Defence respectfully submits that the implementation of the above measures represents the minimum required to ensure that Mr. Ntaganda is provided with the opportunity to participate meaningfully in the drafting of his appeal and to give instructions to the Defence.

8. Lastly, the Defence respectfully submits that the alternative solution proposed herein should not be construed in any way as an acceptance or recognition that it can substitute the translation of the relevant parts of the Trial Judgment in normal circumstances.

RESPECTFULLY SUBMITTED THIS 16TH DAY OF JANUARY 2020

A handwritten signature in dark ink, appearing to read 'StB' with a flourish at the end.

Me Stéphane Bourgon, *Ad.E* Counsel representing Bosco Ntaganda

The Hague, The Netherlands