



Original: English

No. ICC-01/04-02/06 A A2

Date: 17 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

Decision on the request for extension of time

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

The Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor
Ms Helen Brady

Counsel for the Defence

Mr Stéphane Bourgon
Mr Christopher Gosnell

Legal Representatives of Victims

Ms Sarah Pellet
Mr Dmytro Suprun

REGISTRY

Registrar

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Bosco Ntaganda against the ‘Judgment’ of Trial Chamber VI of 8 July 2019 (ICC-01/04-02/06-2359),

Having before it the ‘Motion seeking extension of time to submit Appeal Brief due to unavailability of translation of Judgment’ of 9 January 2020 (ICC-01/04-02/06-2453),

Pursuant to regulation 35(2) of the Regulations of the Court,

Issues the following

DECISION

1. The Registrar shall provide translation into Kinyarwanda of the sections of the ‘Judgment’ (ICC-01/04-02/06-2359) identified in paragraph 9 of the ‘Request for translation of parts of the Judgment’ (ICC-01/04-02/06-2405) on a rolling basis with the remaining parts being provided by no later than 17 February 2020.
2. The time limit for the filing of Mr Bosco Ntaganda’s appeal brief in relation to the grounds of appeal other than the first and third ground is extended to 31 January 2020.
3. Within 14 days of receipt of the remaining sections of said translation, a corrected version of the second part of the appeal brief may be filed, with changes in track limited to those directly arising from consultation with Mr Bosco Ntaganda following his examination of the translated version of portions of the ‘Judgment’ (ICC-01/04-02/06-2359).

REASONS

PROCEDURAL HISTORY

1. On 20 September 2019, the Appeals Chamber issued the ‘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’ (the ‘Extension Decision’),¹ in which it, *inter alia*:

- i) directed the Registrar to provide translation into Kinyarwanda of the sections of the ‘Judgment’ of Trial Chamber VI² identified in paragraph 9 of the ‘Request for translation of parts of the Judgment’³ on a rolling basis and in the order requested by Mr Ntaganda; the full translation of these sections was to be provided by no later than 7 January 2020;
- ii) extended Mr Bosco Ntaganda’s time limit for filing his appeal brief in relation to the grounds of appeal other than the first two identified in his notice of appeal to 14 January 2020.⁴

2. On 1 October 2019, the Appeals Chamber rendered its decision on Mr Ntaganda’s request for reconsideration of the Extension Decision, in which it, *inter alia*, varied the Extension Decision such that Mr Ntaganda was to file the first part of his appeal brief – in relation to the first and third, rather than first and second, grounds of appeal – by 11 November 2019.⁵ As a result, the second part of his appeal brief, due by 14 January 2020, would contain the remaining grounds of appeal other than the first and the third.

3. On 9 January 2020, Mr Ntaganda filed the ‘Motion seeking extension of time to submit Appeal Brief due to unavailability of translation of Judgment’ (the ‘Request for Extension of Time’),⁶ in which he submits that he was informed that the above-mentioned translation of the ‘Judgment’ into Kinyarwanda was not complete, despite the expiry of the time limit therefor.⁷ He argues that the Appeals Chamber ‘evidently considered that the deadline for the Defence to file its appeal brief and the translation of the Trial Judgment into Kinyarwanda were interdependent’.⁸ Mr Ntaganda

¹ [ICC-01/04-02/06-2415](#).

² 8 July 2019, [ICC-01/04-02/06-2359](#).

³ 16 September 2019, [ICC-01/04-02/06-2405](#).

⁴ [Extension Decision](#), p. 3.

⁵ [Decision on Mr Ntaganda’s request for reconsideration of the decision on time and page extensions](#), ICC-01/04-02/06-2426, para. 8.

⁶ [ICC-01/04-02/06-2453](#).

⁷ [Request for Extension of Time](#), paras 1, 6, 8.

⁸ [Request for Extension of Time](#), para. 7.

therefore requests, in addition to any remedial orders to the Registry, that the time limit for the second part of his appeal brief be extended until one week after the Registrar has provided said translation.⁹

4. On 10 January 2020, the Appeals Chamber suspended the time limit for the second part of Mr Ntaganda's appeal brief.¹⁰

5. On 13 January 2020, the Registrar filed submissions on the issue of translation (the 'Registrar's Submissions').¹¹ He 'regrets the oversight in implementing' the Appeals Chamber's direction to provide the Kinyarwanda translation by 7 January 2020.¹² The Registrar submits that the translation is being prepared 'as a matter of the highest priority' and will be completed by 17 February 2020.¹³

6. On 14 January 2020, the Prosecutor filed her response to the Request for Extension of Time (the 'Prosecutor's Response'),¹⁴ in which she submits that she does not, in principle, object to the Request for Extension of Time, provided she remains entitled to the 60-day time-limit thereafter to file her response.¹⁵ The Prosecutor, however, observes that Mr Ntaganda has already had over six months to draft his appeal brief and proposes that if Mr Ntaganda is in a position to file his appeal brief before receipt of the Kinyarwanda translation, and without prejudice to any request to amend his brief once the translation is received, she would not object to an earlier deadline for the filing of the brief.¹⁶

7. On 16 January 2020, Mr Ntaganda filed additional submissions (the 'Additional Submissions'),¹⁷ in which he indicates that he would be ready to submit the appeal brief by 31 January 2020 if: (i) resources are provided for a legally qualified Kinyarwanda speaker to work with him for a minimum of eight days; (ii) he is

⁹ [Request for Extension of Time](#), paras 2, 8.

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

¹¹ [Submissions Pursuant to "Order regarding the 'Motion seeking extension of time to submit Appeal Brief due to unavailability of translation of Judgment'"](#), ICC-01/04-02/06-2456.

¹² [Registrar's Submissions](#), para. 3.

¹³ [Registrar's Submissions](#), para. 4.

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

¹⁵ [Prosecutor's Response](#), para. 1.

¹⁶ [Prosecutor's Response](#), para. 2.

¹⁷ Defence Notice further to "Prosecution Response to the Defence Motion Seeking Extension of Time to Submit Appeal Brief", ICC-01/04-02/06-2458.

allowed to submit corrections to the appeal brief, ‘based on his reading and understanding of the parts of the Trial Judgment translated into Kinyarwanda, until Monday 16 March 2020’; and (iii) the Registrar completes the translation by 17 February 2020 and transmits to him, ‘on a rolling basis, the parts of the Judgment translated as they become available’.¹⁸ Mr Ntaganda argues that these measures will enable him ‘to participate meaningfully in the drafting of his appeal and to give instructions to the Defence’.¹⁹ Finally, he submits that his proposal ‘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’.²⁰

MERITS

8. Pursuant to regulation 35(2) of the Regulations of the Court, a Chamber may extend or reduce a time limit if good cause is shown.

9. The Appeals Chamber notes that, due to an oversight, the Registrar failed to provide the translation of portions of the ‘Judgment’ into Kinyarwanda within the prescribed time limit and will not be able to provide the full requested translation until 17 February 2020. Mr Ntaganda has, nonetheless, indicated that he is in a position to submit the appeal brief by 31 January 2020 if certain language resources in Kinyarwanda are provided to him and if he is permitted to make corrections to the appeal brief following receipt of the full translation.

10. Based on the information provided in the Registrar’s Submissions, the Appeals Chamber finds it appropriate to set the time limit of 17 February 2020 for the requested translation of the ‘Judgment’ into Kinyarwanda. The Registrar shall provide parts of the translated document on a rolling basis when ready.

11. In the circumstances, the Appeals Chamber considers that good cause has been shown warranting a limited time extension for the filing of the second part of Mr Ntaganda’s appeal brief. Having considered the Additional Submissions, the Appeals Chamber finds it appropriate to extend the time limit for his appeal brief to 31 January 2020. Regarding the possibility of supplementing the appeal brief at a later

¹⁸ Additional Submissions, para. 6.

¹⁹ Additional Submissions, para. 7.

²⁰ Additional Submissions, para. 8.

date, the Appeals Chamber is not persuaded that Mr Ntaganda will need a month from the receipt of the last portion of the requested translation to supplement the brief. Instead, the Appeals Chamber finds it appropriate to grant 14 days for that purpose. Accordingly, Mr Ntaganda may, if necessary, file a corrected version of the second part of his appeal brief within 14 days of receipt of the last portion of the requested translation into Kinyarwanda. Changes must appear in track and must be limited to those directly arising from consultation with Mr Ntaganda following his examination of the translated version of portions of the ‘Judgment’.

Done in both English and French, the English version being authoritative.



Judge Howard Morrison
Presiding

Dated this 17th day of January 2020

At The Hague, The Netherlands