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No. ICC-01/04-02/06 A A2 A3

Date: 5 June 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 document

Order regarding the hearing scheduled for 29 June - 1 July 2020

Order 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
Ms Kate Gibson

Legal Representatives of Victims
Ms Sarah Pellet
Mr Dmytro Suprun

Registrar
Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

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

In the appeal of Mr Bosco Ntaganda against the ‘Sentencing judgment’ of Trial Chamber VI of 7 November 2019 (ICC-01/04-02/06-2442),

Issues the following

ORDER

1. The dates for the hearing before the Appeals Chamber, scheduled for 29 June to 1 July 2020 (ICC-01/04-02/06-2486), are vacated.
2. The ‘Decision on request for leave to reply’ (ICC-01/04-02/06-2488) is amended in that Mr Bosco Ntaganda’s reply, for which leave was granted in that decision, shall be made in writing, not exceeding 10 pages, and shall be filed by 16h00 on Thursday, 2 July 2020.

REASONS

I. PROCEDURAL HISTORY

1. On 9 March 2020, the Appeals Chamber scheduled a hearing in the above-mentioned appeals for 29 June 2020 to 1 July 2020.¹
2. On 11 March 2020, the Appeals Chamber granted Mr Bosco Ntaganda’s request for leave to reply to the Prosecutor’s response to the ‘Defence Appeal Brief – Part I’ (the ‘Decision on Leave to Reply – Part I’).² The Appeals Chamber ordered the reply to be delivered orally at the hearing.³

¹ [Scheduling order for a hearing before the Appeals Chamber](#), ICC-01/04-02/06-2486.

² [Decision on request for leave to reply](#), ICC-01/04-02/06-2488.

³ [Decision on Leave to Reply – Part I](#), para. 8.

3. On 4 and 15 May 2020, the Appeals Chamber partially granted two other requests for leave to reply to the Prosecutor's responses to Mr Ntaganda's appeal briefs, in which it directed Mr Ntaganda to file written replies.⁴

4. On 5 May 2020, Mr Ntaganda filed 'Defence submissions on the scheduled oral hearing', in which he sets out 'the particular issues and obstacles' which he faces in relation to the conduct of the appeal due to the COVID-19 pandemic.⁵

II. MERITS

5. The Appeals Chamber finds it appropriate to vacate the proposed hearing dates of 29 June to 1 July 2020. At the time of allocating those dates in the court calendar the impact of the COVID-19 pandemic on the scheduling of hearings before the Appeals Chamber was not apparent. The Appeals Chamber notes in this connection that the hearing in the appeal in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé* was postponed in order to allow for the finalisation of technical preparations.⁶ If it is possible to hold a hearing at a later date, this or alternative arrangements will be communicated to all parties and participants.

6. The Appeals Chamber is mindful of the deadlines set in the Chambers Practice Manual. Pursuant to paragraph 90 of the manual, '[i]f an oral hearing is to occur, this shall take place within three months of the filing of the response to the appeal brief'.⁷ This decision will inevitably mean that any hearing will take place later than envisaged in the manual.⁸ However, the Appeals Chamber is satisfied that the COVID-19 pandemic and the resulting difficulties in the Court's operations constitute exceptional circumstances within the meaning of paragraph 93 of the Chambers Practice Manual.

⁴ [Decision on request for leave to reply](#), 4 May 2020, ICC-01/04-02/06-2522; [Decision on request for leave to reply](#), 15 May 2020, ICC-01/04-02/06-2530. See also [Decision on request for extension of time limit](#), 19 May 2020, ICC-01/04-02/06-2535.

⁵ [ICC-01/04-02/06-2524-Corr.](#)

⁶ [Decision vacating the hearing before the Appeals Chamber](#), 22 May 2020, ICC-02/11-01/15-1352.

⁷ [Chambers Practice Manual](#), 2019.

⁸ The Prosecutor's response to the second part of Mr Ntaganda's appeal brief in the conviction appeal was filed on 3 April 2020 (ICC-01/04-02/06-2500-Conf) (the public redacted version was registered on 15 April 2020 ([ICC-01/04-02/06-2500-Red](#))). The Prosecutor's response to Mr Ntaganda's appeal brief in the sentencing appeal was filed on 14 April 2020 (ICC-01/04-02/06-2509-Conf) (the public redacted version was filed on the same date ([ICC-01/04-02/06-2509-Red](#))).

7. In view of the above, the Appeals Chamber amends the Decision on Leave to Reply – Part I. Consistent with the other above-mentioned decisions on leave to reply, Mr Ntaganda’s reply, for which leave was granted in the Decision on Leave to Reply – Part I,⁹ shall be made in writing, not exceeding 10 pages, and filed by 16h00 on Thursday, 2 July 2020.

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



Judge Howard Morrison
Presiding

Dated this 5th day of June 2020

At The Hague, The Netherlands

⁹ [Decision on Leave to Reply – Part I](#), para. 8.