

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: **ICC-02/04-01/15**

Date: **4 March 2024**

APPEALS CHAMBER

Before:

**Judge Piotr Hofmański
Judge Luz del Carmen Ibáñez Carranza
Judge Marc Perrin de Brichambaut
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze**

SITUATION IN UGANDA

**IN THE CASE OF
*THE PROSECUTOR v. DOMINIC ONGWEN***

PUBLIC

Public Redacted Version of “Defence request for a suspension of its notice of its intent to appeal Trial Chamber IX’s Reparations Order pursuant to Rule 150(2) of the Rules of Procedure and Evidence”, filed on 1 March 2024 as ICC-02/04-01/15-2075-Conf

Source: Defence for Dominic Ongwen

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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I. INTRODUCTION

1. The Defence for Dominic Ongwen ('Defence') requests a suspension of the due date for the notification of the Defence's intent to appeal Trial Chamber IX's *Reparations Order*¹ pursuant to Article 75 of the Rome Statute ('Order'). The character of Dominic Ongwen's ('Convicted Person' or 'Mr Ongwen') case is exceptional due to the number of convictions and victims, the length of the Order² and amount of reparations issued in the Order. The Defence submits this request pursuant to Rule 150(2) of the Rules of Procedure and Evidence ("Rules").³
2. Good cause exists for the suspension of the due date of the notification of the Defence's intent to appeal because:
 - a. Mr Ongwen has not received an Acholi translation of the Order and requests that he be provided with one;⁴
 - b. The Order is exceptionally long and the possible appeal will be complex; and
 - c. Mr Ongwen can only be able to fully and meaningfully participate in his appeal with an Acholi translation of the Order because Mr Ongwen is a special needs person with mental disabilities, and requires adequate time and resources to communicate with and instruct his Counsel.
3. The Defence argues that good cause exists for the suspension of the due date for the notification of the Defence's initial intent to appeal until 29 April 2024, and a subsequent date of any additional points of fact or law to appeal no later than 21 days after Mr Ongwen receives an Acholi translations of the operative parts of the Order. This is necessary to protect Mr Ongwen's fair trial rights pursuant to Articles 67(1)(a), (b), (e), and (f) of the Rome Statute.
4. Finally, the Defence requests that the due date of its appeal brief be 60 days after the notification of its intent to appeal.

¹ *Ongwen* case, Reparations Order, [ICC-02/04-01/15-2074](#) with Annexes I-III.

² The Order is 361 pages long with a substantive annex (Annex I) with 1032 pages.

³ Rule 150(2) of the Rules of Procedure and Evidence.

⁴ Telephone call from Mr Ongwen to Counsel Chief Achaleke Taku, 29 February 2024.

II. CONFIDENTIALITY AND TIME LIMIT REQUEST

4. Pursuant to Regulations 23*bis* of the Regulations of the Court ('RoC'), this request is submitted as confidential as it refers to future mission plans and names of persons not known to the public. The Defence files a public redacted version contemporaneous to this request.
5. Pursuant to Regulation 35 of the RoC, the Defence requests that the time limit for responses to this request be filed no later than 16h00 CET on Thursday, 7 March 2024. The Defence avers that this is necessary as the time limit for filing its notice of its intent to appeal is on 1 April 2024.

III. PROCEDURAL HISTORY

6. On 4 January 2015, Mr Ongwen surrendered to the Séléka in Central African Republic ('CAR').
7. On 6 January 2015, Mr Ongwen surrendered to United States soldiers from the hands of the Séléka in CAR, where he remained for the following eight days.
8. On 16 January 2015, Mr Ongwen was transferred to the custody of the International Criminal Court in Bangui, CAR.⁵
9. On 21 January 2015, Mr Ongwen arrived at the ICC-DC in The Hague, Netherlands.⁶
10. On 26 January 2015, Mr Ongwen had his first appearance.⁷
11. From 21-27 January 2016, Pre-Trial Chamber II held the Confirmation of Charges Hearing.
12. On 23 March 2016, Pre-Trial Chamber II issued the "Decision on the confirmation of charges against Dominic Ongwen"⁸ and the "Separate opinion of Judge Marc Perrin de Brichambaut."⁹
13. On 6 December 2016, the presentation of evidence at trial began.¹⁰
14. On 12 March 2020, the Defence closed the trial with its closing statement.¹¹

⁵ *Ongwen* case, Report of the Registry on the voluntary surrender of Dominic Ongwen and his transfer to the Court, [ICC-02/04-01/15-189](#), paras 1-4.

⁶ *Ibid*, para. 17.

⁷ See [ICC-02/04-01/15-T-4-ENG](#).

⁸ See *Ongwen* case, Decision on the confirmation of charges against Dominic Ongwen, [ICC-02/04-01/15-422-Red](#).

⁹ See *Ongwen* case, Separate opinion of Judge Marc Perrin de Brichambaut, [ICC-02/04-01/15-422-Anx-tENG](#).

¹⁰ [ICC-02/04-01/15-T-26-ENG](#).

¹¹ [ICC-02/04-01/15-T-258-Red-ENG](#).

15. On 4 February 2021, Trial Chamber IX rendered its Judgment. The Trial Chamber found Mr Ongwen guilty of 61 counts, which include the crime sites of Pajule, Odek, Lukodi and Abok, charges related to sexual and gender-based crimes and use of child soldiers.¹²
16. On 6 May 2021, Trial Chamber IX rendered its Sentence. The Trial Chamber gave Mr Ongwen 25 years in prison.¹³
17. On 15 December 2022, the Appeals Chamber confirmed the Judgment¹⁴ and Sentence.¹⁵
18. On 27 February 2024, the Defence contacted Language Services Section ('LSS') about the procedure it would prefer to request an Acholi translation of the Order.¹⁶ Just like with the Judgment and Sentence, LSS asked that the Defence identify sections for translation based on which sections the Defence preferred to have translated first.¹⁷ LSS asked that this be done all at the same time, and the Defence stated that it would attempt to have the full translation request submitted on 4 March 2024.¹⁸
19. On 28 February 2024, Trial Chamber IX issued the Order.¹⁹

IV. APPLICABLE LAWS

18. According to article 67(1)(a) of the Statute, the accused is entitled to "be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks."²⁰ Article 67(1)(f) further provides that the accused is entitled to translations "necessary to meet the requirements of fairness, if any of the proceedings or documents presented to the Court are not in a language which the accused fully understands and speaks."²¹ According to Rule 144(1) and (2), the accused is entitled to translations of decisions of the Trial Chamber concerning the reparations imposed on a convicted person. The Order concerns reparations imposed on the Convicted Person as the Order has been issued

¹² [ICC-02/04-01/15-1762-Red](#).

¹³ *Ongwen* case, Sentence, ICC-02/04-01/15-1819-Conf ([public redacted version](#)) with partially dissenting opinion [Annex](#).

¹⁴ *Ongwen* case, Public Redacted Judgment on the appeal of Mr Ongwen against the decision of Trial Chamber IX of 4 February 2021 entitled "Trial Judgment", [ICC-02/04-01/15-2022-Red](#).

¹⁵ *Ongwen* case, Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled "Sentence", [ICC-02/04-01/15-2023](#) and ANNEX 1: Partly Dissenting Opinion of Judge Luz del Carmen Ibáñez Carranza, [ICC-02/04-01/15-2023-Anx1](#).

¹⁶ Telephone call between Thomas Obhof and LSS, 27 February 2024 at 15h51 CET.

¹⁷ Telephone call between Thomas Obhof and LSS, 27 February 2024 at 15h51 CET.

¹⁸ Telephone call between Thomas Obhof and LSS, 27 February 2024 at 15h51 CET.

¹⁹ *Ongwen* case, Reparations Order, [ICC-02/04-01/15-2074](#) with Annexes I-III.

²⁰ Article 67(1)(a) of the Rome Statute.

²¹ Article 67(1)(a) of the Rome Statute.

pursuant to Article 75 of the Rome Statute.²² Mr Ongwen must also be granted adequate time and facilities to prepare and instruct his Counsel pursuant to Article 67(1)(b) of the Rome Statute, and includes the ability to raise defences on appeal through Article 67(1)(e) of the Rome Statute.

19. In response to a trial chamber’s decision regarding reparations imposed on a convicted person, parties may appeal decisions on reparations pursuant to Rule 150.²³ For the purposes of Rule 150, Regulation 57 of the Regulations of the Court (“Regulations”) lists the requirements for an appellant’s notice of appeal.²⁴ This list states that the appellant must include “[t]he grounds of appeal, cumulatively or in the alternative, specifying the alleged errors and how they affect the appealed decision.”²⁵
20. Rule 150 also dictates the procedure of filing a notice of appeal.²⁶ According to Rule 150(1), “an appeal against [...] a reparations order under article 75 may be filed no later than 30 days from the date on which the party filing the appeal is notified of the [...] reparation order.”²⁷ However, Rule 150(2) provides that “the Appeals Chamber may extend the time limit [...] for good cause, upon the application of the party seeking to file the appeal.”²⁸ In addition, Regulation 35(2) states that “the Chamber may extend or reduce a time limit if good cause is shown.”²⁹
21. Although ‘good cause’ has not been defined, it has been addressed in relation to Regulation 35(2) of the RoC.³⁰ For example, in *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaissona*, the Pre-Trial Chamber found that, “[a]ccording to the well-established jurisprudence of the Court, the ‘good cause’ criterion is satisfied when there are ‘sound reasons’ which ‘would objectively provide justification for the inability of a party to comply with his/her obligation’; as regards the reasons outside one party’s control, they must amount to ‘exceptional circumstances.’”³¹

²² See *Ongwen* case, Reparations Order, [ICC-02/04-01/15-2074](#), p. 6, introductory paragraph.

²³ See Rule 150 of the Rules.

²⁴ Regulation 57 of the RoC.

²⁵ Regulation 57(e) of the RoC.

²⁶ See Rule 150 of the Rules.

²⁷ Rule 150(1) of the Rules.

²⁸ Rule 150(2) of the Rules.

²⁹ Regulation 35(2) of the RoC.

³⁰ Regulation 35(2) of the RoC.

³¹ *Yekatom* case, Decision on the Confirmation of Charges against Alfred Yekatom and Patrice Edouard Ngaissona, [ICC-01/14-01/18-403-Red-Corr](#), para. 23. See also, *Ongwen* case, Decision on Defence Request for Variation of the 30 September Deadline, [ICC-02/04-01/15-1591](#). See also, *Lubanga* case, Reasons for the ‘Decision of the Appeals Chamber

22. In *The Prosecutor v Bosco Ntaganda* and *The Prosecutor v Laurent Gbagbo and Charles Blé Goudé*,³² the Appeals Chambers identified four reasons that provide justification for the inability of the party to comply with its obligations, including: 1) lack of translation of the Trial Chamber decision into the language that the accused fully understands and speaks,³³ 2) the complexity of the appeal and the concurrent sentencing proceedings,³⁴ 3) the inability of the accused to meaningfully participate in his appeal because of the absence of a translation of the Trial Chamber decision,³⁵ and 4) the Registry failed to provide translations in accordance with the timeline set by the Appeals Chamber.³⁶
23. First, the Appeals Chamber found that the absence of a translation of the Trial Chamber decision into the language that the accused fully understands and speaks is good cause for the extension of a time limit.³⁷ For example, in *Ntaganda* the Appeals Chamber extended “the time limit for the filing of Mr Ntaganda’s and the Prosecutor’s notice of appeal against” the Trial Chamber’s decision because portions of the Trial Chamber decision had not been translated into the

on the request of counsel to Mr Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007’ issued on 16 February 2007, [ICC-01/04-01/06-834](#), paras 7 and 9.

³² (1) *Ntaganda* case, Decision on Mr Bosco Ntaganda’s and the Prosecutor’s requests for time extension for the notice of appeal and the appeal brief, [ICC-01/04-02/06-2364](#). (2) *Ntaganda* case, 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, [ICC-01/04-02/06-2415](#), para. 12. (3) *Ntaganda* case, Decision on the request for extension of time, [ICC-01/04-02/06-2461](#), para. 11. (4) *Gbagbo* and *Blé Goudé* case, Decision on the Prosecutor’s request for time extension for the notice of appeal and the appeal brief, [ICC-02/11-01/15-1268](#), para. 9. (5) *Gbagbo* and *Blé Goudé* case, Decision on Mr Gbagbo’s requests for extension of time, translations and correction of transcripts, [ICC-02/11-01/15-1289](#), page 3 and para. 23. Note that this time limit was further extended because the Registry failed to provide Mr Gbagbo with translations on a rolling basis. (Decision on Mr Gbagbo’s request for extension of time to file a response to the Prosecutor’s appeal brief, [ICC-02/11-01/15-1304](#), para. 9).

³³ *Ntaganda* case, Decision on Mr Bosco Ntaganda’s and the Prosecutor’s requests for time extension for the notice of appeal and the appeal brief, [ICC-01/04-02/06-2364](#), paras 3-5; *Ntaganda* case, 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, [ICC-01/04-02/06-2415](#), para. 12; *Gbagbo* and *Blé Goudé* case, Decision on Mr Gbagbo’s requests for extension of time, translations and correction of transcripts, [ICC-02/11-01/15-1289](#), paras 21-23.

³⁴ *Ntaganda* case, Decision on Mr Bosco Ntaganda’s and the Prosecutor’s requests for time extension for the notice of appeal and the appeal brief, [ICC-01/04-02/06-2364](#), paras 3 – 5; *Ntaganda* case, 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, [ICC-01/04-02/06-2415](#), para. 12; *Gbagbo* and *Blé Goudé* case, Decision on the Prosecutor’s request for time extension for the notice of appeal and the appeal brief, [ICC-02/11-01/15-1268](#), para. 4.

³⁵ *Gbagbo* and *Blé Goudé* case, Decision on Mr Gbagbo’s requests for extension of time, translations and correction of transcripts, [ICC-02/11-01/15-1289](#), paras 23.

³⁶ *Ntaganda* case, Decision on the request for extension of time, [ICC-01/04-02/06-2461](#), paras 8-11; *Gbagbo* and *Blé Goudé* case, Decision on Mr Gbagbo’s request for extension of time to file a response to the Prosecutor’s appeal brief, [ICC-02/11-01/15-1304](#), paras 5-9.

³⁷ *Ntaganda* case, 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, [ICC-01/04-02/06-2415](#), paras 13-15. *See also*, *Gbagbo* and *Blé Goudé* case, Decision on Mr Gbagbo’s requests for extension of time, translations and correction of transcripts, [ICC-02/11-01/15-1289](#), para. 23.

language that Mr Ntaganda understands and speaks.³⁸ Here, the Appeals Chamber extended the time limit to file the notice of appeal by 31 days, from 9 August 2019 to 9 September 2019.³⁹

24. Second, the Appeals Chamber found that the complexity of the appeal and the concurrent sentencing proceedings amounts to good cause for the extension of the time limit.⁴⁰ The *Ntaganda* Appeals Chamber found that Mr Ntaganda showed ‘good cause’ for the extension of a time limit because of the complexity of the appeal, the concurrent sentencing and reparation proceedings, and portions of the Trial Chamber decision had not been translated into the language that Mr Ntaganda understands and speaks.⁴¹ Here, in addition to his request for a time extension to file his appeal brief, Mr Ntaganda also requested that sections of the Trial Chamber decision be translated in accordance with Rule 144.⁴² He argued that translations were necessary to allow him to “meaningfully participate in the drafting of his appeal and to give instructions to the Defence.”⁴³ The Appeals Chamber, considering both the request for translations and a time extension, ruled that the Registry must provide translations of the Trial Chamber Judgment and extended the time limit for Mr Ntaganda to file the section of his appeal brief related to the non-translated sections of the Trial Chamber decision.⁴⁴
25. Similarly, the Appeals Chamber in *Gbagbo and Blé Goudé* found that the inability of the accused to meaningfully participate in his appeal because of the absence of a translation of the Trial Chamber decision is good cause for the extension of a time limit.⁴⁵ Here, Mr Gbagbo requested an extension of the time limit to file his response to the Prosecutor’s appeal brief until full translations of Judge Henderson’s reasons, Judge Herrera Carbuccion’s dissenting opinion, the prosecutor’s notice of appeal, and the prosecutor’s appeal brief.⁴⁶ The Appeals Chamber found that it must “ensure that these Appellate proceedings advance both fairly and

³⁸ *Ntaganda* case, Decision on Mr Bosco Ntaganda’s and the Prosecutor’s requests for time extension for the notice of appeal and the appeal brief, [ICC-01/04-02/06-2364](#), p. 3, para. 3.

³⁹ *Ntaganda* case, Mr. Ntaganda’s Notice of Appeal against the Judgment pursuant to Article 74 of the Statute, ICC-01/04-02/06-2359, [ICC-01/04-02/06-2396](#), para. 5.

⁴⁰ *Ntaganda* case, Decision on Mr Bosco Ntaganda’s and the Prosecutor’s requests for time extension for the notice of appeal and the appeal brief, [ICC-01/04-02/06-2364](#), paras 3-5. *See also*, *Gbagbo and Blé Goudé* case, Decision on the Prosecutor’s request for time extension for the notice of appeal and the appeal brief, [ICC-02/11-01/15-1268](#), paras 4-8.

⁴¹ *Ntaganda* case, Decision on Mr Bosco Ntaganda’s and the Prosecutor’s requests for time extension for the notice of appeal and the appeal brief, [ICC-01/04-02/06-2364](#), para. 3.

⁴² *Ntaganda* case, Request for translation of parts of the Judgment, [ICC-02/04-01/15-2405](#), paras 7-11.

⁴³ *Ibid*, para. 7.

⁴⁴ *Ntaganda* case, 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, [ICC-01/04-02/06-2415](#), para.14.

⁴⁵ *Gbagbo and Blé Goudé* case, Decision on Mr Gbagbo’s requests for extension of time, translations and correction of transcript, [ICC-02/11-01/15-1289](#). Note that the extension was granted to Mr Blé Goudé in order to keep both defendants on the same timeline.

⁴⁶ *Ibid*, para. 11.

expeditiously.”⁴⁷ So, it concluded that “Mr Gbagbo needs to have the opportunity to provide meaningful input in relation to his appeal.”⁴⁸ Thus, the Appeals Chamber granted an extension by ordering that Mr Gbagbo file his response to the Prosecutor’s appeal brief “within 21 days of the provision of the full draft French translation of Judge Henderson’s reasons.”⁴⁹

26. Finally, the Appeals Chamber demonstrated the importance of translations of the Trial Chamber decision by extending the time limit for a party to file because the registry failed to provide translations in accordance with the timeline set by the Appeals Chamber. For example, the *Ntaganda* Appeals Chamber concluded that: 1) the Registry must provide translations of the Trial Chamber decision by 17 February 2020, 2) the time limit for Mr Ntaganda to submit his appeal brief is 31 January 2020, and 3) Mr Ntaganda may file a corrected version of the appeal brief within 14 days of receipt of the last translation of the Trial Chamber decision because the Registry failed to comply with the Appeals Chamber’s order to provide translations of the Trial Chamber Judgment into a language that Mr Ntaganda fully understands and speaks.⁵⁰ Similarly, the *Gbagbo and Blé Goudé* Appeals Chamber further extended the limit for Mr Gbagbo to submit his response to the Prosecutor’s Appeal Brief because the Registry did not provide translations on a rolling basis.⁵¹ Rather, Mr Gbagbo received the whole translation on 29 January 2020.⁵² In his request for a time limit extension, Mr Gbagbo stated that the Registry did not provide translations on rolling basis and, as a result, the defence received all 950 pages of translation at one time.⁵³ So, Mr Gbagbo must read and analyse the entirety of Judge Henderson’s reasons and discuss it with his defence team in only ten working days.⁵⁴ Thus, the Appeals Chamber found that ‘good cause’ for an extension of time was shown and extended the deadline for Mr Gbagbo to submit his response to the Prosecutor’s appeal brief from 12 February 2020⁵⁵ to 6 March 2020.⁵⁶

⁴⁷ *Ibid*, para. 23.

⁴⁸ *Ibid*.

⁴⁹ *Ibid*, para. 25 (noting that the Appeals Chamber denied Mr Gbagbo’s request that the time limit begin to run from the notification of the French translation).

⁵⁰ *Ntaganda* case, Decision on the request for extension of time, [ICC-01/04-02/06-2461](#).

⁵¹ *Gbagbo and Blé Goudé* case, Decision on Mr Gbagbo’s requests for extension of time to file a response to the Prosecutor’s appeal brief, [ICC-02/11-01/15-1304](#), para. 9.

⁵² *Gbagbo and Blé Goudé* case, Decision on Mr Gbagbo’s requests for extension of time to file a response to the Prosecutor’s appeal brief, [ICC-02/11-01/15-1304](#), para. 6.

⁵³ *Ibid*, at para. 6.

⁵⁴ *Ibid*, at para. 6.

⁵⁵ Note that 12 February 2020 is 14 days after the 29 January 2020, which is the date Mr Gbagbo received the full translation.

⁵⁶ *Ibid*.

V. SUBMISSIONS

27. The Defence submits that good cause exists for suspension of the due date of the notification of the Defence's intent to appeal until 29 April 2024, and a further chance to append any additional grounds of appeal until 21 days after a full translation of the Order is provided in Acholi. Good cause for the suspension of the due date until an Acholi translation of the Order is provided exists because: 1) Mr Ongwen has not received a translation of the Order in a language that he fully understands and speaks; 2) the Order is exceptionally long and any appeal will be complex; and 3) Mr Ongwen can only be able to fully and meaningfully participate in his appeal with an Acholi translation of the Order because Mr Ongwen is a special needs person with mental disabilities, and requires adequate time and resources to communicate with and instruct his Counsel.
28. Additionally, the Defence submits that good cause exists for an extension of the due date of the appeals brief until 60 days after the submission of its initial intent to appeal. Having regards to Regulation 33(1)(b) and (d) of the RoC, should the Defence file an intent to appeal, it requests that the Appeals Brief be due by 16h00 CET on 1 July 2024.

i. The Appeals Chamber should suspend the date for the Defence's notification of its intent to appeal until 29 April 2024 to allow the Defence extra time to try to go through the Order with Mr Ongwen.

29. The due date to file the Defence's notice of appeal should be suspended until 29 April 2024 because Mr Ongwen has not received a full translation of the Order in Acholi. Like Mr Ntaganda and Mr Gbagbo in their respective cases,⁵⁷ Mr Ongwen does not fully understand or speak the language in which these proceedings are held and the language in which the Order is written. Mr Ongwen only fully understands and speaks Acholi. On 29 February 2024, Mr Ongwen inquired as to the status of an Acholi translation and requests that one be prepared as soon as possible.⁵⁸
30. Furthermore, as Mr Ongwen is serving his sentence in Bergen Prison, Norway, it complicates matters for the Defence as it cannot meet regularly in person with Mr Ongwen. Rather, the Defence must speak with Mr Ongwen over the telephone for almost all of its communications and instructions. Although this communication is valuable, it is more challenging and time

⁵⁷ *Ongwen* case, Decision on Defence Request for Findings on Fair Trial Violations Related to the Acholi Translation of the Confirmation Decision, [ICC-02/04-01/15-1147](#), para. 1.

⁵⁸ Telephone call from Mr Ongwen to Counsel Chief Achaleke Taku, 29 February 2024.

consuming than meeting in person. Without an Acholi translation of the Order, Mr Ongwen will not be able to read the content of the Order while the Defence explains it to him, and therefore the Defence will be required to spend countless extra hours on telephone conversations, and possible video-conference meetings, merely explaining the factual and legal findings of the Trial Chamber to Mr Ongwen, not to mention the hours it shall need to spend explaining possible strategies.⁵⁹ This must all be done without Mr Ongwen having a copy of the Order in Acholi.

31. The amount of time required to explain the Order to Mr Ongwen is intensified by the fact that this case includes more victims than any previous case before the Appeals Chamber and the longest reparations order issued in the history of the Court. Prior to this Decision, the longest reparations decision was 156 pages⁶⁰ and the largest case included convictions on only 18 charges⁶¹ and approximately 10,500 potentially eligible victims.⁶² The *Ongwen* Trial Chamber Order is more than double the size of any previous order, which includes substantive Annex I of 1032 pages, and has nearly five times the amount of potentially eligible victims than in the *Ntaganda* case.⁶³
32. The Defence has contacted LSS of the Court. LSS requested the Defence to identify the order of the sections in which it would like to receive Acholi translations. However, the Defence maintains that a full translation of the operative parts of the Order is necessary for Mr Ongwen to be fully apprised of the factual and legal findings of the Trial Chamber. The structure of the Order is such that all operative sections are equally important, and any untranslated operative section would cause prejudice to Mr Ongwen. Like in *Blé Goudé and Gbagbo*, the Appeals Chamber should find that a full translation of the operative sections is necessary for the Convicted Person to have the “opportunity to provide meaningful input” in relation to his potential grounds of appeal.⁶⁴
33. Suspending the due date of the Defence’s notice of its intent to appeal until 29 April 2024, and a further timeframe of 21 days after LSS provides a full Acholi translation of the operative

⁵⁹ [REDACTED].

⁶⁰ *Ntaganda* case, Public Redacted Version of Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659, [ICC-01/04-02/06-2858-Red](#).

⁶¹ *Ntaganda* case, Judgment, [ICC-01/04-02/06-2359](#), pages 535-539.

⁶² *Ntaganda* case, Public Redacted Version of Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659, [ICC-01/04-02/06-2858-Red](#), para. 320.

⁶³ See Order, para. 577 (noting that Trial Chamber IX estimated 49,772 potentially eligible victims).

⁶⁴ *Gbagbo and Blé Goudé* case, Decision on Mr Gbagbo’s requests for extension of time, translations and correction of transcripts, [ICC-02/11-01/15-1289](#), para. 23.

sections of the Order will allow Mr Ongwen time to read and understand the Trial Chamber's findings, allow the Defence to address questions Mr Ongwen will have regarding the factual and legal findings of the Trial Chamber, and allow the Defence and Mr Ongwen to discuss grounds for appeal and sentencing matters.⁶⁵ This Appeals Chamber should suspend the due date to file the Defence's notice of its intent to appeal until 29 April 2024, and allow further submissions at least 21 days after a translation of the Order into Acholi is provided to the Defence.

ii. The Appeals Chamber should suspend the date for the Defence's notification of its intent to appeal because the appeal will be complex and the Defence must prepare its grounds for its intent to appeal with Mr Ongwen incarcerated at Bergen Prison, Norway.

34. The due date to file the Defence's notice of appeal should be suspended until 29 April 2024, while allowing additional grounds for appeal up to 21 days after Mr Ongwen receives an Acholi translation of the operative sections of the Order, because the appeal process is complex and the Defence must prepare the appeals while Mr Ongwen is incarcerated at Bergen Prison, Norway. Mr Ongwen has not received an Acholi translation of the Order and the Defence must ensure that Mr Ongwen fully understands the findings of the Trial Chamber.
35. The Defence may seek leave to submit additional evidence for the appeals proceedings. Calling additional evidence may be important given the scope of the Order against Mr Ongwen. Calling additional evidence requires conducting additional investigations and analysing evidence to determine what should be included in any appeal against the Order.
36. The challenge of analysing this complex Order and preparing for an appeal is amplified by the fact that Mr Ongwen is incarcerated away from the seat of the Court. The Defence cannot meet regularly with Mr Ongwen to discuss the appeal proceedings. In addition, Defence team members are extremely limited in its ability to travel to Bergen, Norway to meet in-person with Mr Ongwen. [REDACTED], this cannot replace the ability to meet with Mr Ongwen two to three times per week during the entire period of preparing any potential grounds for the notice of its intent to appeal.
37. The Appeals Chamber should suspend the due date for the Defence's notification of its intent to appeal until 29 April 2024, and then allow additional submissions 21 days after an Acholi

⁶⁵ *Ibid*, paras 14 and 22-27.

translation of the operative sections of the Order are provided, because of the complexity of the appeal, the special circumstances associated with Mr Ongwen serving his sentence at Bergen Prison, Norway and the fact that Mr Ongwen does not have an Acholi translation of the Order.

iii. The Appeals Chamber should suspend the date for the Defence's notification of its intent to appeal because Mr Ongwen can only be able to fully and meaningfully participate in his appeal with an Acholi translation of the Judgment as Mr Ongwen is a special needs person with mental disabilities, and requires adequate time and resources to communicate with and instruct his Counsel.

38. Mr Ongwen will only be able to fully and meaningfully participate in his appeal or give direction to the Defence if he has time to review an Acholi translation of the Trial Chamber Order. Mr Ongwen is a special needs person. Suspending the due date of the Defence's notice of its intent to appeal until 29 April 2024, and then allow additional submissions 21 days after an Acholi translation of the operative sections of the Order are provided, shall afford Mr Ongwen his rights pursuant to Articles 67(1)(a), (b), (e), and (f) of the Rome Statute.
39. As previously stated, the Order is complex and the Defence must explain each reparation order and the Trial Chamber's reasoning to Mr Ongwen through electronic means.⁶⁶ Without time to analyse an Acholi translation of the Order personally, Mr Ongwen will not understand the reasoning of the Order, cannot fully and meaningfully discuss the reasoning relied upon by the Trial Chamber, or fully understand any appeal that the Parties may present.
40. Mr Ongwen's formal education in Uganda ended with second grade. He was stolen away from his family and a normal life at the tender age of nine and did not receive a proper education. Mr Ongwen reads at a very slow pace, and his ability to process legal issues is lower than the average person. Mr Ongwen spent the end of his formative years and the rest of life – until 27 December 2014 – trying to survive in the LRA. Mr Ongwen has the right to participate in his appeal, and he requires additional time to do this.
41. Mr Ongwen still suffers from moderate PTSD, depression, [REDACTED]. Hearing and reading about his time in the LRA causes pain and suffering during extended periods, and Mr Ongwen must have time to read through the Order while taking extended breaks during traumatic sections.

⁶⁶ [REDACTED].

42. Suspending the due date of the Defence's notification of appeal until 29 April 2024 and allowing 21 days after an Acholi translation of the Trial Chamber judgment is provided to add any additional grounds of appeal will allow Mr Ongwen to fully and meaningfully participate in his appeal because 1) the Defence will have the opportunity to discuss the Trial Chamber's findings with Mr Ongwen and address his questions or concerns, 2) Mr Ongwen will have the opportunity to read and analyse the Order against him when an Acholi translation of the operative sections are provided, and 3) it will allow Mr Ongwen time to consider and address his Defence about these issues once an Acholi translation of the operative parts has been provided. It will also facilitate the advancement of fair and expeditious proceedings. Thus, extensions of the due date for the Defence's notification of its intent to appeal until 29 April 2024, and to allow the Defence to file additional grounds of appeal up to 21 days after an Acholi translation of the Order is provided, will allow Mr Ongwen to fully and meaningfully participate in his appeal and give direction to the Defence.

iv. The Defence requests the Appeals Chamber to change the due date of the appeals brief to 60 days after the Defence's notice of its intent to appeal.

43. As outlined above, the Defence shall be spending much of its time explaining the Order to Mr Ongwen through telecommunications as he is incarcerated at Bergen Prison, Norway, noting specifically that Mr Ongwen does not have an Acholi translation of the Order and that he is a special needs person with disabilities. This extra workload detracts from time which the Defence would normally use to develop its arguments for its grounds of appeal while preparing its notice of its intent to appeal, especially noting that the Defence only has one full time person and two half time persons. Considering the arguments raised in earlier sections, the Defence asserts that good cause has been shown to change the due date of its appeal brief from the stipulated date of 90 days after the Order was notified⁶⁷ to 60 days after the Defence submits its notice of its intent to appeal on 1 July 2024.

VI. RELIEF

44. The Defence submits that good cause exists for the suspension the due date of the Defence's notification of its intent to appeal until 29 April 2024 as Mr Ongwen has not received a translation of the Trial Chamber's Order in a language that he understands and speaks, the

⁶⁷ See Regulation 58(1) of the RoC.

appeal is complex, and Acholi translations will allow Mr Ongwen to meaningfully participate in his appeal.

45. Furthermore, the Defence requests that the Appeals Chamber allow the Defence to add additional grounds of appeal up to 21 days after Mr Ongwen receives an Acholi translation of the Order. This additional request shall guarantee that Mr Ongwen is afforded all of his right to participate in any potential appeal against the Order.
46. Finally, the Defence requests that the Appeals Chamber set the due date for the Defence's appeal brief at 60 days from the submission of the Defence's initial intent to appeal.

Respectfully submitted,



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Chief Charles Achaleke Taku
On behalf of Dominic Ongwen

Dated this 4th day of March, 2024

At The Hague, Netherlands