



**Original: English**

**No. ICC-01/11-01/11 OA 8**

**Date: 18 April 2019**

**THE APPEALS CHAMBER**

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

**SITUATION IN LYBIA**

**IN THE CASE OF  
THE PROSECUTOR v SAIF AL-ISLAM GADDAFI**

**Public**

**Decision on Mr Saif Al-Islam Gaddafi's 'Application for extension of time  
to file the Appeal Brief'**

**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 Mr Saif Al Islam Gaddafi**  
Mr Essa Faal  
Ms Venkateswari Alagenda

**The Office of Public Counsel for Victims**  
Ms Paolina Massidda

**REGISTRY**

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**Registrar**  
Mr Peter Lewis

**Victims Participation and Reparations  
Section**  
Mr Philipp Ambach

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Saif Al-Islam Gaddafi against the decision of Pre-Trial Chamber I entitled ‘Decision on the “Admissibility Challenge by Dr. Saif Al-Islam Gaddafi pursuant to Articles 17(1)(c), 19 and 20(3) of the Rome Statute”’ of 5 April 2019 (ICC-01/11-01/11-662),

Having before it the ‘Application for extension of time to file the Appeal Brief’ of 10 April 2019 (ICC-01/11-01/11-663 (OA8)),

Having before it the ‘Response on Behalf of Victims to the Defence’s Application for an Extension of time to file the Appeal Brief’ (ICC-01/11-01/11-666 (OA8)) and the ‘Prosecution’s Response to Mr Saif Al-Islam Gaddafi’s “Application for extension of time to file the Appeal Brief” (ICC-01/11-01/11-663)’ (ICC-01/11-01/11-667 (OA8)), in which the Office of Public Counsel for Victims and the Prosecutor request extensions of time to file their responses to the appeal brief of Mr Saif Al-Islam Gaddafi,

*Renders* pursuant to regulation 35(2) of the Regulations of the Court the following

#### DECISION

1. The time limit for the filing of the appeal brief of Mr Saif Al-Islam Gaddafi is extended to 16h00 on Tuesday, 9 May 2019 if the Minority Opinion of Judge Perrin de Brichambaut is notified by Tuesday, 30 April 2019. If the Minority Opinion of Judge Perrin de Brichambaut is notified after Tuesday, 30 April 2019, the time limit for the filing of the appeal brief is extended to 16h00 on the tenth day after the notification of the Minority Opinion.
2. The above-mentioned requests of the Prosecutor and the Office of Public Counsel for Victims for extensions of time are rejected.

## REASONS

### I. PROCEDURAL HISTORY

1. On 5 April 2019, Pre-Trial Chamber I, by majority, issued the ‘Decision on the “Admissibility Challenge by Dr. Saif Al-Islam Gaddafi pursuant to Articles 17(1)(c), 19 and 20(3) of the Rome Statute”’<sup>1</sup> (‘Decision’), stating that Judge Perrin de Brichambaut ‘will file a minority opinion in due course’<sup>2</sup> (‘Minority Opinion’).
2. On 10 April 2019, Mr Saif Al-Islam Gaddafi (‘Mr Gaddafi’) submitted a notice of appeal against the Decision, in which he requests an extension of the deadline for filing his appeal brief.<sup>3</sup>
3. On 16 April 2019, the Office of Public Counsel for Victims responded to the request for an extension of time,<sup>4</sup> stating that it does not oppose the request, provided that, if granted, the Appeals Chamber similarly extends the time limit for it to respond to the appeal brief.
4. Also on 16 April 2019, the Prosecutor responded to the request for an extension of time,<sup>5</sup> likewise submitting that she did not oppose the extension sought, and requesting a similar extension to file her response to the appeal brief.

### II. MERITS

5. Pursuant to regulation 64(2) of the Regulations of the Court, ‘the appellant shall file an appeal brief within 21 days of notification of the relevant decision’. Pursuant to regulation 35(2) of the Regulations of the Court, the Appeals Chamber may extend a time limit stipulated ‘if good cause is shown’.

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<sup>1</sup> [ICC-01/11-01/11-662](#).

<sup>2</sup> [Decision](#), p. 29.

<sup>3</sup> ‘Application for extension of time to file the Appeal Brief’, [ICC-01/11-01/11-663](#), pp. 11-21. At paragraph 11, Mr Gaddafi requests the Appeals Chamber ‘to extend the time limit for filing the Defence appeal brief and order that the brief be filed within 31 days of the notification of the Decision (by 9 May 2019 at 4pm) if the Minority Opinion is notified on or prior to the 21-day deadline established under Regulation 64(2) of the Regulations for the submission of the appeal brief, and within ten (10) days of notification of the Minority Opinion if the Minority Opinion is notified after the noted 21-day deadline’ (footnote omitted).

<sup>4</sup> ‘Response on Behalf of Victims to the Defence’s Application for an Extension of time to file the Appeal Brief’, [ICC-01/11-01/11-666](#).(OA8).

<sup>5</sup> ‘Prosecution’s Response to Mr Saif Al-Islam Gaddafi’s “Application for extension of time to file the Appeal Brief” (ICC-01/11-01/11-663)’, [ICC-01/11-01/11-667](#).(OA8).

6. The Appeals Chamber considers that the arguments advanced by Mr Gaddafi and the circumstances of the present case justify an extension of time. Fairness and due process dictate that Mr Gaddafi should be provided with an opportunity to consider the Minority Opinion before filing his appeal brief in order for him to be able to properly formulate his grounds of appeal.<sup>6</sup>

7. In these particular circumstances, good cause has been shown for a moderate extension of time for the filing of the appeal brief. Accordingly, the time limit for the filing of the appeal brief is extended to Tuesday, 9 May 2019 if the Minority Opinion is notified by Tuesday, 30 April 2019, or, to ten days after the notification of the Minority Opinion if it is notified after Tuesday, 30 April 2019.

8. The time limit for the filing of the responses will begin to run from the amended notification date of the appeal brief, as above, in accordance with regulation 64(4) of the Regulations of the Court. The Prosecutor and the OPCV will have access to the Minority Opinion prior to the commencement of the time limit for the filing of their responses and have not otherwise sufficiently demonstrated why the usual 21 days for the filing of a response would be insufficient in the present case.

9. The request of Mr Gaddafi for an extension of time is granted.

10. The requests of the Prosecutor and the OPCV for extensions of time are rejected.

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



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**Judge Chile Eboe-Osuji**

**Presiding Judge**

Dated this 18<sup>th</sup> day of April 2019

At The Hague, The Netherlands

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<sup>6</sup> [Application for extension of time to file the Appeal Brief](#), para. 16.