



Original: **English**

No.: ICC-01/04-02/06  
Date: 17 September 2019

**THE APPEALS CHAMBER**

**Before:** Judge Howard Morrison, Presiding Judge  
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**

**Prosecution response to Mr Ntaganda “Request for extension of page limit and time to file appeal brief” (ICC-01/04-02/06-2398)**

**Source:** Office of the Prosecutor

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

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**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Other  
Section**

## Submissions

1. On 9 September 2019, Mr Ntaganda filed his notice of appeal against the whole Judgment whereby he raised 15 grounds of appeal.<sup>1</sup> Also on 9 September 2019, the Prosecution filed its notice of appeal against two discrete findings of the Judgment which are contained in two grounds of appeal.<sup>2</sup>
2. On 11 September 2019, Mr Ntaganda requested an extension of 150 pages additional to the prescribed 100 pages for his appeal brief, and a 100-day extension to the established time limit to file his brief.<sup>3</sup>
3. On 12 September 2019, the Common Legal Representative for Victims (the “Victims”) opposed the Request.<sup>4</sup> They submitted that the requested deadline of 14 January 2020 is “excessive, disproportionate, and unwarranted”<sup>5</sup> and “an extension of 150% of the foreseen page-limit is excessive, disproportionate, and entirely unjustified”.<sup>6</sup> They further submitted that any agreement by the Prosecution with Mr Ntaganda’s Request does not bolster the existence of good cause.<sup>7</sup> They underlined that any delay in the appeals proceedings negatively affects their interest in the expeditious resolution of appeals and reparations proceedings.<sup>8</sup>
4. Considering Mr Ntaganda’s arguments and the Victims’ submissions, the Prosecution agrees with the Victims that the requested extensions of pages and time limit are excessive and unjustified.<sup>9</sup> However, the Prosecution considers that the ongoing sentencing proceedings coupled with the inherent complexity of appeals against final judgments do constitute ‘exceptional circumstances’ and ‘good cause’

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<sup>1</sup> ICC-01/04-02/06-2396.

<sup>2</sup> ICC-01/04-02/06-2395. The Appeals Chamber had previously granted an extension of 30 days to Mr Ntaganda and the Prosecution to file their notices of appeal and had rejected the Prosecution’s request for an extension of time to file the appeal briefs. *See* ICC-01/04-02/06-2364.

<sup>3</sup> ICC-01/04-02/06-2398 (the “Request”).

<sup>4</sup> ICC-01/04-02/06-2400 (“CLR V Response”).

<sup>5</sup> CLR V Response, para. 10.

<sup>6</sup> CLR V Response, para. 23.

<sup>7</sup> CLR V Response, paras. 11, 24.

<sup>8</sup> CLR V Response, paras. 11, 25.

<sup>9</sup> On 13 September 2019, the Appeals Chamber ordered the Prosecution to file any response to Mr Ntaganda Request and the CLR V Response by Tuesday 17 September 2019. *See* ICC-01/04-02/06-2401.

justifying a moderate and reasonable extension in pages and time for Mr Ntaganda to file his appeal brief. The practical benefit of obtaining translations of parts of the Judgment into Kinyarwanda at this time also weighs in favour of a moderate extension of time.<sup>10</sup>

5. With respect to the length of the brief, an extension of 50 pages (amounting to a 150-page brief) would appear reasonable in the circumstances. Any extension which would exceed 100 pages (*ie.* a brief which is more than 200 pages) would be overly excessive. The Prosecution and Victims should also be granted matching extensions of the page limits for their responses to Mr Ntaganda's appeal brief.


6. With respect to the time limit for filing the brief, the Prosecution does not oppose an extension of 60 days (the time limit for Mr Ntaganda would be 6 December 2019), so long as the Prosecution and Victims are granted an extension of 30 days (their responses would be due on 9 March 2020). However, if the Appeals Chamber were minded to grant an extension of 30 days (the time limit for Mr Ntaganda would then be 6 November 2019), the Prosecution respectfully requests 30 additional days to the usual 60-days allowed for filing its response (the Prosecution's and Victims' responses would then be due on 5 February 2020). Otherwise, the Prosecution and Victims would be unduly prejudiced by the fact that a significant part of the period for drafting the response briefs would lie in the judicial recess. Considering the recess and other likely appeal litigation, including in relation to the sentence, there is 'good cause' to grant this additional extension. In addition, if Mr Ntaganda is granted an extension of pages, the Prosecution and Victims would also need additional time to respond to an appeal brief exceeding the prescribed page limit.

7. Finally, since the Prosecution has also appealed the Judgment, it requests the same extension of time eventually granted to Mr Ntaganda for its appeal brief so that

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<sup>10</sup> Upon the Appeals Chamber's order, Mr Ntaganda identified parts of the Judgment that he requests to be translated into Kinyarwanda: ICC-01/04-02/06-2405.

the time limits for the two appeals are synchronised. The Prosecution does not need additional pages.

A handwritten signature in blue ink, appearing to read 'Bensouda', with a long horizontal line extending from the end of the signature.

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Fatou Bensouda, Prosecutor

Dated this 17<sup>th</sup> day of September 2019

At The Hague, The Netherlands