

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/04-02/06**

Date: **16 March 2020**

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 notice of intention regarding deadlines

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor
Mr James Stewart
Ms Helen Brady

Counsel for the Defence

Mr Stéphane Bourgon
Ms Kate Gibson

Legal Representatives of the Victims

Ms Sarah Pellet
Mr Dmytro Suprun

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Introduction

1. The Prosecution hereby notifies the Appeals Chamber that as matters presently stand, it currently intends to comply with the pending deadlines in the *Ntaganda* appeal proceedings despite the disruptions resulting from the COVID-19 outbreak.
2. However the Prosecution also respectfully notifies the Chamber that this current intention will require continual review and reassessment based on how the situation unfolds in the coming weeks. This is particularly in light of the disruptions which will be caused by staff now being required to work from home in difficult circumstances, and given that some staff in the office have already become unwell and there is a real potential for others to be similarly affected based on what is known about the spread of the illness. The Prosecution believes it is prudent to now notify the Chamber that if circumstances so require and the Prosecution finds itself unable to meet the deadlines in this case, it may be required to request a reasonable extension of time pursuant to regulation 35(2) of the Regulations of the Court, based on a showing of “good cause”. If that became necessary, the Prosecution would file such a request as expeditiously as possible in the circumstances.

Submissions

3. On 13 March 2020, the Management of the Court, on the advice from the Host State and the Crisis Management Team, decided to physically close the ICC Headquarters premises from 17 March 2020 until 31 March 2020. Staff members are expected to work remotely during this time, and possibly longer if the measures are extended, and only critical staff will be authorised access to the building. On 15 March 2020, the Management of the Court informed staff that the Host State authorities announced additional and stricter measures including the closure of schools and universities.

4. The Prosecution currently intends to file its response to the Defence appeal against the Conviction Decision on 3 April 2020¹ and its response to the Defence appeal against the Sentencing Decision on 14 April 2020.² The Prosecution has organised its internal resources to give priority to these appeal proceedings and to work on the two response briefs in a timely fashion.

5. However, at this stage the Prosecution also notes the very real possibility that the ongoing events may jeopardise its current plans. The Office of the Prosecutor takes very seriously the health of its staff members who, simultaneously to their work obligations, must also now care for their children and families, especially because of school cancellation in The Netherlands until at least 6 April 2020. In addition, already several Prosecution staff members have fallen ill or are caring for ill children and/or their family and partners. Given what is known about the spread of the illness, there is a real likelihood that other staff members may likewise fall ill. Further, although Prosecution staff are expected to work remotely from tomorrow, not all staff are currently able to do so because of technical restrictions on the number of Citrix licenses available. Finally, the Prosecution reasonably anticipates that if a large number of Court staff are all working from home at the same time, this will cause disruptions in the use of servers and databases which are crucial for Prosecution staff to use to perform their work and meet the deadlines. All these matters will undoubtedly hamper and impede the Prosecution in its work on the two response briefs due on 3 and 14 April 2020.

Conclusion

6. The Prosecution emphasises that it is doing its best at the present time to comply with its deadlines in these proceedings, and that it currently intends to file

¹ Pursuant to regulation 59(1) of the Regulations of the Court (“RoC”), the Prosecution must file its response to the Defence appeal against the Conviction Decision 60 days after the Defence filed its second part of the appeal on 31 January 2020.

² Pursuant to regulation 59(1) of the RoC, the Prosecution must file its response to the Defence appeal against the Sentencing Decision 60 days after the Defence filed its appeal on 6 February 2020.

its responses to Ntaganda's appeals against the Conviction Decision and Sentencing Decision by the deadlines of 3 April and 14 April 2020, respectively.

7. However, the Prosecution also hereby respectfully notifies the Appeals Chamber that if factors beyond its control, including the ones outlined above, detrimentally impact on its ability to meet its deadlines in this case, it may be required to request a reasonable extension of time pursuant to regulation 35(2) of the Regulations of the Court, based on a showing of good cause. If that became necessary, the Prosecution would file as expeditiously as possible in the circumstances.



Fatou Bensouda, Prosecutor

Dated this 16th day of March 2020

At The Hague, The Netherlands