



Original: English

**No. ICC-02/04-01/15 A2
Date: 2 June 2021**

THE APPEALS CHAMBER

Before: Judge Luz del Carmen Ibáñez Carranza, Presiding
Judge Piotr Hofmański
Judge Solomy Balungi Bossa
Judge Reine Alapini-Gansou
Judge Gocha Lordkipanidze

SITUATION IN UGANDA

IN THE CASE OF THE PROSECUTOR v. DOMINIC ONGWEN

Public document

**Decision on the Defence request for extension of time limit for the filing of the
notice of appeal and the appeal brief**

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

The Office of the Prosecutor

Fatou Bensouda, Prosecutor
Helen Brady

Counsel for the Defence

Krispus Ayena Odongo
Chief Charles Achaleke Taku
Ms Beth Lyons

Legal Representatives of Victims

Joseph Akwenyu Manoba
Francisco Cox

Paolina Massidda

REGISTRY

Registrar

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

Having before it the ‘Defence Request for an Alteration of the due date for its Notice of Appeal and Document in Support of its Appeal of the Sentence’ of 24 May 2021 (ICC-02/04-01/15-1828),

Pursuant to rule 150(2) of the Rules of Procedure and Evidence and regulation 35(2) of the Regulations of the Court,

Renders the following

DECISION

The Defence’s request for extension of time limits for the filing of the notice of appeal and the appeal brief against the decision of Trial Chamber IX entitled ‘Sentence’ is granted.

REASONS

I. PROCEDURAL HISTORY

1. On 4 February 2021, Trial Chamber IX (‘Trial Chamber’) convicted Mr Ongwen of crimes against humanity and war crimes (the ‘Conviction Decision’).¹
2. On 6 May 2021, the Trial Chamber sentenced Mr Ongwen for the above crimes for which he was convicted (the ‘Sentencing Decision’).²
3. On 24 May 2021, the Defence filed a request for an extension of the time limit to file its notice of appeal and appeal brief against the Sentencing Decision (the ‘Request’).³

¹ [Trial Judgment](#), ICC-02/04-01/15-1762-Conf (public redacted version notified on the same day, ICC-02/04-01/15-1762-Red).

² [Sentence](#), ICC-02/04-01/15-1819-Conf (public redacted version notified on the same day, ICC-02/04-01/15-1819-Red), pp. 133-138.

³ [Defence Request for an Alteration of the due date for its Notice of Appeal and Document in Support of its Appeal of the Sentence](#), ICC-02/04-01/15-1828.

4. On 26 May 2021, the Appeals Chamber filed an order setting the time limit for the filing of responses to the Request on 31 May 2021.⁴ On the same day, the Prosecutor filed her response to the Request (the ‘Prosecutor’s Response’).⁵

5. On 28 and 31 May 2021, the Legal Representatives of Victims (LRV) and the Common Legal Representative of Victims (CLRV) filed their respective responses (the ‘LRV’s Response’, and the ‘CLRV’s Response’).⁶

II. MERITS

6. The Defence requests that the Appeals Chamber extend the time limit to file the notice of appeal against the Sentencing Decision from 7 June 2021 to 28 June 2021 and the time limit to file the appeal brief from 5 August 2021 to 26 August 2021.⁷ The Defence argues that its request meets the criterion of ‘good cause’ pursuant to rule 150(2) of the Rules of Procedure and Evidence (the ‘Rules’) and regulation 35(2) of the Regulations of the Court (the ‘Regulations’), because (i) Mr Ongwen has not received a translation of the Sentencing Decision in a language he fully understands and speaks (*i.e.*, Acholi) and thus requires additional time to review the Sentencing Decision in order to meaningfully participate in the appeal; and (ii) the appeal is complex and the Defence must prepare for concurrent appellate proceedings.⁸

7. The Prosecutor supports the Request, stating that the factors raised by the Defence constitute ‘good cause’ for extending the time limits and the length of the extensions sought does not appear unreasonable.⁹ The LRV also support the Request.¹⁰ The CLRV objects to the Defence’s arguments and submits that should the Appeals Chamber grant the Request, the extension must be ‘modest, meaning that an extra time limit of one or two weeks (instead of three) should be adequate’.¹¹ She also submits that, as the

⁴ [Order concerning the time limit for responses to the ‘Defence Request for an Alteration of the due date for its Notice of Appeal and Document in Support of its Appeal of the Sentence’](#), ICC-02/04-01/15-1831.

⁵ [Prosecution Response to the Defence request for an alteration of the due date for its notice of appeal and document in support of its appeal of the Sentence](#), ICC-02/04-01/15-1830.

⁶ [Victims’ Response to “Defence request for an Alteration of the due date for its Notice of Appeal and the Document in Support of its Appeal of the Sentence”](#), ICC-02/04-01/15-1834; [CLRV Response to the “Defence Request for an Alteration of the due date for its Notice of Appeal and Document in Support of its Appeal of the Sentence”](#), ICC-02/04-01/15-1835.

⁷ [Request](#), paras 1, 28.

⁸ [Request](#), paras 2, 17-27.

⁹ [Prosecutor’s Response](#), paras 3-6.

¹⁰ [LRV’s Response](#), para. 10.

¹¹ [CLRV’s Response](#), para. 17.

Appeals Chamber previously decided, Mr Ongwen should be provided with the translations of the priority parts of the Sentencing Decision on a rolling basis to ensure that the appellate proceedings advance both fairly and expeditiously.¹²

8. Pursuant to rule 150(2) of the Rules and regulation 35(2) of the Regulations, the Appeals Chamber may extend the time limits for the filing of a notice of appeal and an appeal brief if ‘good cause’ is shown. The Appeals Chamber notes that the Sentencing Decision is currently only available in English. In this regard, the Appeals Chamber recalls that article 67(1)(b) and (f) of the Statute entitle the accused to ‘have adequate time and facilities for the preparation of the defence’ and to ‘have [...] such translations as are 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’. The Appeals Chamber further recalls that it has previously held that article 67(1)(f) of the Statute ‘does not, *per se*, require that a full translation of the decision under article 74 of the Statute be provided to a convicted person before filing of a notice of appeal’, and that ‘it must also take into account the circumstances as a whole and the convicted person’s ability to understand the details of his conviction by other means’.¹³ Although the present appeal is not an appeal against a decision under article 74 of the Statute, the above-mentioned statement is relevant to the present context.

9. The Appeals Chamber finds that the reasons put forward by the Defence demonstrate ‘good cause’ for the purposes of rule 150(2) of the Rules and regulation 35(2) of the Regulations. In particular, the Appeals Chamber notes the Defence’s arguments regarding the unavailability of a translation of the Sentencing Decision in a language Mr Ongwen fully understands and speaks, and the fact that, in the absence of such translation, the Defence team has been providing Mr Ongwen with translation assistance, which, also due to the restrictions arising from ongoing COVID-19 situations, requires additional time.¹⁴ The Appeals Chamber further notes the Defence’s argument concerning the preparation of concurrent appellate proceedings; in particular,

¹² [CLRV’s Response](#), para. 13.

¹³ See [Decision on Mr Ongwen’s request for time extension for the notice of appeal and on translation](#), 24 February 2021, ICC-02/04-01/15-1781, para. 10.

¹⁴ [Request](#), paras 20-21.

the anticipated scope and complexity of the appeal against the Conviction Decision,¹⁵ and the fact that the appeal brief against the Conviction Decision is due on 21 July 2021,¹⁶ which is two weeks prior to the current deadline for the appeal brief against the Sentencing Decision.¹⁷ The Appeals Chamber also notes that the Prosecutor and the LRV support the Request, and that the CLRV accepts that a ‘modest’ extension of the time limits could be granted. In light of the above, the Appeals Chamber consider that good cause has been shown warranting the extension of time and that the length of extension sought (*i.e.*, three weeks) is reasonable in the present circumstances.

10. The Appeals Chamber therefore grants the Request. Consequently, the time limits for the filing of the notice of appeal and the appeal brief are extended to Monday, 28 June 2021 and Thursday, 26 August 2021, respectively. The present decision does not affect the schedule set in the Regulations for the Prosecutor and participating victims to file responses to the appeal brief.

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



Judge Luz del Carmen Ibáñez Carranza
Presiding

Dated this 2nd day of June 2021

At The Hague, The Netherlands

¹⁵ [Request](#), paras 23-34. *See also*, [Defence Notification of its Intent to Appeal the Trial Judgment](#), 21 May 2021, ICC-02/04-01/15-1826 (The Defence raises 90 grounds in support of its appeal.); Decision on ‘Defence request for a page limit extension for its notice of appeal’, 18 May 2021, ICC-02/04-01/15-1825, para. 10.

¹⁶ [Decision on Mr Ongwen’s second request for time extension](#), 9 April 2021, ICC-02/04-01/15-1811, p. 3.

¹⁷ [Request](#), para. 25.