



**Original: English**

**No. ICC-02/04-01/15 A A2**

**Date: 14 January 2022**

**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 “Prosecution’s Urgent Request for Extension of Pages”**

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

**The Office of the Prosecutor**

Mr Karim A. A. Khan, Prosecutor  
Ms Helen Brady

**Counsel for the Defence**

Mr Krispus Ayena Odongo  
Chief Charles Achaleke Taku  
Ms Beth Lyons

**Legal Representatives of Victims**

Mr Joseph Akwenyu Manoba  
Mr Francisco Cox

Ms Paolina Massidda

**Others**

Dr. Mohammad Hadi Zakerhossein

Felicity Gerry QC, Wayne Jordash QC, Ben Douglas-Jones QC, Anna McNeil, Philippa Southwell, Dr. Beatrice Krebs and Jennifer Keene-McCann

Erin Baines, Anne-Marie de Brouwer, Annie Bunting, Eefje de Volder, Kathleen M. Maloney, Melanie O'Brien, Osai Ojigho, Valerie Oosterveld, Indira Rosenthal

Louise Arimatsu, Adejoké Babington-Ashaye, Kirsten Campbell, Danya Chaikel, Christine Chinkin; Carolyn Edgerton, Priya Gopalan; Gorana Mlinarević, Angela Mudukuti, Cynthia T. Tai

Sareta Ashraph, Stephanie Barbour, Kirsten Campbell, Alexandra Lily Kather, Jocelyn Getgen Kestenbaum, Maxine Marcus, Gorana Mlinarević, Valerie Oosterveld, Kathleen Roberts, Susana SáCouto, Jelia Sané, Hyunah Yang

Professor Jean Allain, Monash University, Castan Centre for Human Rights Law

Prof. Dr. Mario H. Braakman

Mr Arpit Batra

Professor Bonita Meyersfeld and the Southern African Litigation Centre Trust

Ms Ardila, Mariana; Ms Fernández-Paredes, Teresa; Ms Ibáñez, María Cecilia; Ms Kravetz, Daniela; Ms SáCouto, Susana; Ms Seoane, Dalila

Dr. Rosemary Grey, Global Justice Center (GJC); Amnesty International (AI), Women's Initiatives for Gender Justice (WIGJ)

NIMJ - National Institute of Military Justice

Tina Minkowitz, Robert D. Fleischner

Public International Law & Policy Group

Justice Francis M. Ssekandi

Dr. Ayodele Akenroye, Professor Erin Baines, Professor Kamari M. Clarke, Professor Mark A. Drumbl

Dr. Paul Behrens, University of Edinburgh

Association of Defence Counsel Practicing before the International Courts and Tribunals (ADC-ICT)

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**REGISTRY**

**Registrar**

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of the Defence against the decision of Trial Chamber IX entitled “Trial Judgment” of 4 February 2021 (ICC-02/04-01/15-1762-Red),

In the appeal of the Defence against the decision of Trial Chamber IX entitled “Sentence” of 6 May 2021 (ICC-02/04-01/15-1819-Red),

Having before it the “Prosecution’s Urgent Request for Extension of Pages” of 13 January 2022 (ICC-02/04-01/15-1944),

Pursuant to regulation 37(2) of the Regulations of the Court,

*Renders* the following

## DECISION

1. The page limit for the Prosecutor to file his response to the observations of the *amici curiae* is extended by 5 pages to a total of 30 pages.
2. The page limit for the responses by the Defence and Legal Representatives of Victims is extended by 5 pages to a total of 30 pages.

## REASONS

### I. PROCEDURAL HISTORY

1. On 25 October 2021, the Appeals Chamber issued an order inviting expressions of interest as *amici curiae* in judicial proceedings on the merits of the legal questions presented in the same order (hereinafter: “Order inviting expressions of interest”).<sup>1</sup>
2. On 24 November 2021, the Appeals Chamber granted leave to 18 individuals or groups of individuals to submit, by 23 December 2021, written observations of no

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<sup>1</sup> Order inviting expressions of interest as *amici curiae* in judicial proceedings (pursuant to rule 103 of the Rules of Procedure and Evidence), ICC-02/04-01/15-1884.

more than 15 pages, on the issues identified in paragraph 19 of the Order inviting expressions of interest.<sup>2</sup> The Defence, the Prosecutor and the participating victims were allowed to submit consolidated responses, of no more than 25 pages, to the written observations of the above mentioned *amici curiae*, by Monday, 17 January 2022.<sup>3</sup>

3. On 23 December 2021, the Appeals Chamber received written observations from the *amici curiae*.<sup>4</sup>

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<sup>2</sup> [Decision on the requests for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence](#), ICC-02/04-01/15-1914 (hereinafter: “Decision under Rule 103”), p. 3 and para. 19, referring to [Order inviting expressions of interest](#).

<sup>3</sup> [Decision under Rule 103](#), p. 3 and para. 22.

<sup>4</sup> [AMICUS BRIEF BY JUSTICE FRANCIS M. SSEKANDI](#), 20 December 2021, ICC-02/04-01/15-1926; [Amicus Curiae Observations on the issue of Sexual and Gender-based Crimes: Sexual Slavery & Forced Marriage](#), 19 December 2021 (notified on 20 December 2021), ICC-02/04-01/15-1927; [Amicus Curiae pursuant to Rule 103\(1\) of the Rules of Procedure and Evidence](#), 20 December 2021, ICC-02/04-01/15-1928; [AMICUS CURIAE OBSERVATION](#), 21 December 2021, ICC-02/04-01/15-1929; [Amicus Curiae Observations Regarding the Relevance to this Case of the Convention on the Rights of Persons with Disabilities](#), 21 December 2021 (notified on 22 December 2021), ICC-02/04-01/15-1930; [Submission of amicus curiae observations by the National Institute of Military Justice \(NIMJ\)](#), 21 December 2021 (notified on 22 December 2021), ICC-02/04-01/15-1931; [Amici Curiae Observations on Duress and the Standards Applicable to Assessing Evidence of Sexual Violence](#), 22 December 2021, ICC-02/04-01/15-1932 (with one Annex); [Amici Curiae Observations on Sexual- and Gender-Based Crimes, Particularly Forced Pregnancy, and on Standards of Proof Required for Sexual and Reproductive Violence Pursuant to Rule 103 of the Rules of Procedure and Evidence](#), 22 December 2021 (notified on 23 December 2021), ICC-02/04-01/15-1933; [Amici Curiae Observations on Sexual- and Gender-Based Crimes, Particularly Sexual Slavery, and on Cumulative Convictions Pursuant to Rule 103 of the Rules of Procedure and Evidence](#), 23 December 2021, ICC-02/04-01/15-1934; [Amici Curiae Brief on Forced Marriage](#), 22 December 2021 (notified on 23 December 2021), ICC-02/04-01/15-1935 (with Annex 1); [Submission of Amicus Curiae observations on the merits of the legal questions presented in the “Order inviting expressions of interest as amici curiae in judicial proceedings \(pursuant to rule 103 of the Rules of Procedure and Evidence\)” of 25 October 2021 \(ICC-02/04-01/15A\)](#), 23 December 2021, ICC-02/04-01/15-1936; [OBSERVATIONS OF THE ASSOCIATION OF DEFENCE COUNSEL PRACTISING BEFORE THE INTERNATIONAL COURTS AND TRIBUNALS \(ADC-ICT\) AS AMICUS CURIAE REGARDING QUESTIONS POSED BY THE APPEALS CHAMBER IN PROSECUTOR v. ONGWEN](#), 23 December 2021, ICC-02/04-01/15-1937; [Amici Curiae Observations on the Rome Statute’s definition of ‘forced pregnancy’ by Dr Rosemary Grey, Global Justice Center, Women’s Initiatives for Gender Justice and Amnesty International](#), 23 December 2021, ICC-02/04-01/15-1938; [Amicus Curiae Observations pursuant to Rule 103\(1\) of the Rules of Procedure and Evidence](#), 23 December 2021, ICC-02/04-01/15-1939; [Amicus Curiae Observations by Public International Law & Policy Group](#), 23 December 2021, ICC-02/04-01/15-1940; [Amici curiae observations submitted by Prof. Bonita Meyersfeld and the Southern African Litigation Centre Trust pursuant to rule 103 of the Rules of Procedure and Evidence](#), 23 December 2021, ICC-02/04-01/15-1941; [Submission of observations pursuant to rule 103 of the Rules of Procedure and Evidence, as amici curiae on transcultural forensic psychiatric issues](#), 23 December 2021, ICC-02/04-01/15-1942; [Amicus curiae observations on issues raised in the Appeals Chamber Order of 25 October 2021 inviting expressions of interest as amici curiae in judicial proceedings \(pursuant to Rule 103 of the Rules of Procedure and Evidence\)](#), 23 December 2021, ICC-02/04-01/15-1943.

4. On 13 January 2022, the Prosecutor filed an urgent request seeking an extension of five pages to respond to the *amici curiae*'s observations (hereinafter: "Request").<sup>5</sup>

5. On 14 January 2022, the Defence and the Legal Representatives of Victims (hereinafter: "LRVs") filed their respective responses to the Request.<sup>6</sup>

## II. MERITS

### A. Submissions

6. The Prosecutor requests that the Appeals Chamber extend the page limit to respond to the observations of the *amici curiae* from 25 to 30 pages.<sup>7</sup>

7. In support of his Request, the Prosecutor advances the following main reasons: (i) the 18 *amici curiae*'s observations, which were filed on 23 December 2021, amount to "a total of 323 pages (with 200 additional pages annexed)", and two of them "substantially exceeded" the page limit set out by the Appeals Chamber;<sup>8</sup> (ii) despite his effort to address the "multiple and complex" arguments raised by the *amici curiae* within the allotted 25 pages, it has become apparent that a "modest extension of five pages is needed to be able to adequately respond to all the issues raised";<sup>9</sup> (iii) while the Prosecutor is aware that he brings this request very late, he has "exercised [his] best efforts to confine [his] submissions to the existing page limit"<sup>10</sup> and, at this juncture, he has concluded that "further edits would likely prejudice [his] ability to assist the Appeals Chamber by providing submissions which are both clear and germane to the wide-ranging issues raised by the *amici*."<sup>11</sup>

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<sup>5</sup> Prosecution's Urgent Request for Extension of Pages, 13 January 2022, ICC-02/04-01/15-1944.

<sup>6</sup> Defence Response to the Prosecution's Urgent Request for a Page Extension, ICC-02/04-01/15-1945 (hereinafter: "Defence Response"); CLRV Response to the Prosecution's Urgent Request for an Extension of Pages, 13 January 2022 (notified on 14 January 2022), ICC-02/04-01/15-1946 (hereinafter: "CLRV Response"); Victims Response to the "Prosecution's Urgent Request for an Extension of Pages", ICC-02/04-01/15-1948 (hereinafter: "LRV Response").

<sup>7</sup> Request, paras 1, 7.

<sup>8</sup> Request, para. 4.

<sup>9</sup> Request, para. 4.

<sup>10</sup> Request, para. 5.

<sup>11</sup> Request, para. 5.

8. The Prosecution does not object to the same extension being granted to the Defence and the participating victims.<sup>12</sup>

9. In their responses, the Defence<sup>13</sup> and the LRVs<sup>14</sup> submit that they support the Request, and request that the same page limit extension be granted to them.

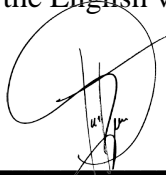
## **B. Determination by the Appeals Chamber**

10. Regulation 37 of the Regulations of the Court (hereinafter: “Regulations”) provides:

1. A document filed with the Registry shall not exceed 20 pages, unless otherwise provided in the Statute, Rules, these Regulations or ordered by the Chamber.
2. The Chamber may, at the request of a participant, extend the page limit in exceptional circumstances.

11. The Appeals Chamber notes the reasons advanced by the Prosecutor in support of his Request and it finds that in the circumstances of the case ‘exceptional circumstances’ within the meaning of regulation 37(2) of the Regulations exist that justify an extension of the page limit as requested by the Prosecutor. The Appeals Chamber further notes the limited extension sought (five pages), and the fact that the Defence and the LRVs both support the Request so long as the same extension is granted to them. In these circumstances, the Appeals Chamber finds it appropriate to grant the Request. It further decides to grant the same extension to the Defence and the LRVs for their respective responses.

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



**Judge Luz del Carmen Ibáñez Carranza**  
**Presiding**

Dated this 14<sup>th</sup> day of January 2022

At The Hague, The Netherlands

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<sup>12</sup> Request, para. 5.

<sup>13</sup> Defence Response, paras 2-3.

<sup>14</sup> CLRV Response, paras 1-2; LRV Response, paras 2-4.