



Original: English

No. ICC-02/05-01/09 OA 2

Date: 28 February 2018

THE APPEALS CHAMBER

Before:
Judge Silvia Fernández de Gurmendi
Judge Sanji Mmasenono Monageng
Judge Christine Van den Wyngaert
Judge Howard Morrison
Judge Piotr Hofmański

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR v. OMAR HASSAN AHMAD AL BASHIR**

Public document

URGENT

Decision on applications for extension of the page and time limits

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

States Representatives
Competent authorities of the Hashemite
Kingdom of Jordan

REGISTRY

Registrar
Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

In the appeal of the Hashemite Kingdom of Jordan against the decision of Pre-Trial Chamber II entitled “Decision under article 87(7) of the Rome Statute on the non-compliance by Jordan with the request by the Court for the arrest and surrender [of] Omar Al-Bashir” of 11 December 2017 (ICC-02/05-01/09-309),

Having before it the “The Hashemite Kingdom of Jordan’s Application for an Extension of the Page Limit for its Appeal against the ‘Decision under article 87(7) of the Rome Statute on the non-compliance by Jordan with the request by the Court for the arrest and surrender or [sic] Omar Al-Bashir’” of 27 February 2018 (ICC-02/05-01/09-321),

Renders pursuant to regulations 35 (2) and 37 (2) of the Regulations the following

DECISION

1. The page limit for the Hashemite Kingdom of Jordan’s appeal brief and the Prosecutor’s response in the above-mentioned appeal is extended to 50 pages.
2. The time limit for the filing of the appeal brief and the response thereto is extended by seven days.

REASONS

I. PROCEDURAL HISTORY

1. On 11 December 2017, Pre-Trial Chamber II (“Pre-Trial Chamber”) issued the “Decision under article 87(7) of the Rome Statute on the non-compliance by Jordan with the request by the Court for the arrest and surrender [of] Omar Al-Bashir”¹ (“Decision on Non-Compliance”).
2. On 21 February 2018, the Pre-Trial Chamber granted the Hashemite Kingdom of Jordan (“Jordan”) leave to appeal the Decision on Non-Compliance.²

¹ [ICC-02/05-01/09-309](#).

² “Decision on Jordan’s request for leave to appeal”, [ICC-02/05-01/09-319](#).

3. On 27 February 2018, Jordan requested an extension of the page limit for its appeal against the Decision on Non-Compliance to 50 pages³ (“Page Limit Extension Request”).

4. On 28 February 2018, the Prosecutor responded to the Page Limit Extension Request.⁴

II. MERITS

5. Regulation 37 of the Regulations provides that a document filed with the Registry shall not exceed 20 pages, but that the Chamber may extend the page limit “in exceptional circumstances”. Regulation 65 (4) and (5) of the Regulations provide that the appellant shall file an appeal brief within ten days of notification of the decision granting leave to appeal and that a response may be filed within ten days of notification of the appeal brief. Pursuant to regulation 35 (2) of the Regulations, a Chamber may extend or reduce a time limit if good cause is shown.

6. Jordan submits that the issues under appeal are “complex and novel” requiring, *inter alia*, an analysis of “the interrelationship between the Rome Statute and fundamental rules and principles of general international law”.⁵ It argues that, “given the importance and complexity of the appeal [...] for the functioning of the Court more generally, it would be in the best interests of justice to allow Jordan to advance its arguments in proper detail”.⁶ On this basis, Jordan requests an extension of the page limit to 50 pages.

7. The Prosecutor agrees with Jordan that the issues that will be raised in the present appeal justify an extension of the page limit, albeit a more modest extension from 20 to 30 pages, and that the same extension should be granted for her response.⁷ The Prosecutor further requests at least a seven day extension of time for the filing of

³ “The Hashemite Kingdom of Jordan’s Application for an Extension of the Page Limit for its Appeal against the ‘Decision under article 87(7) of the Rome Statute on the non-compliance by Jordan with the request by the Court for the arrest and surrender or [sic] Omar Al-Bashir’”, [ICC-02/05-01/09-321](#) (OA 2).

⁴ “Prosecution Response to the Kingdom of Jordan’s Application for an Extension of the Page Limit”, ICC-02/05-01/09-323 (OA 2) (“Response”).

⁵ [Page Limit Extension Request](#), para. 8.

⁶ [Page Limit Extension Request](#), para. 10.

⁷ [Response](#), paras 5-6.

the response in order to allow an appropriate amount of time for her to address the complex and lengthier arguments that will be presented.⁸

8. Having considered the reasons advanced by Jordan for the requested extension of the page limit, the Appeals Chamber is satisfied that exceptional circumstances justify an extension to 50 pages for both the appeal brief and the response in the present appeal.

9. In order to allow Jordan and the Prosecutor to properly elaborate their arguments, the Appeals Chamber also considers it appropriate to grant an extension of the applicable deadline for the filing of the appeal brief and the response thereto. The Appeals Chamber considers a seven day extension to be adequate for this purpose.

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



Judge Howard Morrison
President of the Appeals Division

Dated this 28th day of February 2018

At The Hague, The Netherlands

⁸ [Response](#), paras 8-12.