



**Original: English**

**No. ICC-01/13 OA 2  
Date: 25 January 2019**

**THE APPEALS CHAMBER**

**Before:** Judge Solomy Balungi Bossa, Presiding Judge  
Judge Chile Eboe-Osuji  
Judge Howard Morrison  
Judge Piotr Hofmański  
Judge Luz del Carmen Ibáñez Carranza

**SITUATION ON REGISTERED VESSELS OF THE UNION OF THE  
COMOROS, THE HELLENIC REPUBLIC AND THE KINGDOM OF  
CAMBODIA**

**Public**

**Decision on the Prosecutor's request for extension of page limit and extension of  
time limit**

**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

**Legal Representatives of Victims**

Mr Rodney Dixon

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

**States Representatives**

Mr Rodney Dixon

**REGISTRY**

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**Registrar**

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of the Office of the Prosecutor against the decision of Pre-Trial Chamber I entitled ‘Decision on the “Application for Judicial Review by the Government of the Union of the Comoros”’ of 15 November 2018 (ICC-01/13-68),

Having before it the ‘Prosecution’s omnibus request for extension of pages, extension of time, and suspensive effect’ of 21 January 2019 (ICC-01/13-74),

*Renders* the following

## DECISION

1. The time limit for the filing of the Prosecutor’s appeal brief is extended to 16h00 on Monday, 11 February 2019.
2. The Union of the Comoros and the victims participating in the proceedings may file their respective responses within 20 days of notification of the Prosecutor’s appeal brief.
3. The page limit for the Prosecutor’s appeal brief and the Union of the Comoros’ and the victims’ responses is extended to 50 pages.

## REASONS

### I. PROCEDURAL HISTORY

1. On 15 November 2018, Pre-Trial Chamber I ('Pre-Trial Chamber') issued the 'Decision on the "Application for Judicial Review by the Government of the Union of the Comoros"' ('Impugned Decision').<sup>1</sup>
2. On 18 January 2019, the Pre-Trial Chamber granted the Prosecutor's request for leave to appeal the Impugned Decision.<sup>2</sup>
3. On 21 January 2019, the Prosecutor filed the 'Prosecution's omnibus request for extension of pages, extension of time, and suspensive effect' ('Prosecutor's Request').<sup>3</sup>
4. On 22 January 2019, the Appeals Chamber issued the 'Order on the filing of responses to the request of the Prosecutor for extension of pages, extension of time, and suspensive effect', in which it ordered that responses to the Prosecutor's Request be filed by 16h00 on 24 January 2019.<sup>4</sup>
5. On 24 January 2019, the Union of the Comoros ('Comoros')<sup>5</sup>, the victims represented by Mr Rodney Dixon ('LRV'),<sup>6</sup> and the victims represented by Ms Paolina Massidda ('OPVC')<sup>7</sup> (together referred as 'Victims') filed their responses.

### II. MERITS

6. The Appeals Chamber notes that in her request the Prosecutor seeks (i) an extension of the page limit for the Prosecutor's appeal brief to a maximum of 50 pages; (ii) an extension of the time limit for the Prosecutor's appeal brief until 11 February 2019; and (iii) an order pursuant to article 82(3) of the Statute suspending

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<sup>1</sup> Impugned Decision, [ICC-01/13-68](#).

<sup>2</sup> 'Decision on the Prosecutor's request for leave to appeal the "Decision on the 'Application for Judicial Review by the Government of the Union of the Comoros"', [ICC-01/13-73](#), p. 22.

<sup>3</sup> [ICC-01/13-74](#).

<sup>4</sup> [ICC-01/13-76](#) (OA2), p. 3.

<sup>5</sup> 'Response on behalf of the Government of the Union of the Comoros to the "Prosecution's omnibus request for extension of pages, extension of time, and suspensive effect"', [ICC-01/13-79](#) ('Comoros' Response').

<sup>6</sup> 'Response of the Victims to the "Prosecution's omnibus request for extension of pages, extension of time, and suspensive effect"', [ICC-01/13-78](#) ('LRV's Response').

<sup>7</sup> 'Victims' response to the Prosecution's Omnibus Request', [ICC-01/13-77](#) ('OPVC's Response').

the effect of the Impugned Decision until the Prosecutor's appeal has been determined.<sup>8</sup> The present decision will address the Prosecutor's requests for extension of page limit and time limit. A decision on the Prosecutor's request for suspensive effect will be issued separately.

### **A. Preliminary issue: participation of the Victims in the proceedings**

7. The Appeals Chamber notes that the Prosecutor brings her appeal under article 82(1)(d) of the Statute. The Appeals Chamber recalls that it previously determined that 'for appeals arising under article 82 (1) [...] (d) of the Statute, victims who have participated in the proceedings that gave rise to the particular appeal need not seek the prior authorisation of the Appeals Chamber to file a response to the document in support of the appeal'.<sup>9</sup> While this determination was made in relation to victims participating in the proceedings giving rise to an appeal on the basis of article 68(3) of the Statute, the same considerations apply to the case at hand: the Victims have participated in the proceedings before the Pre-Trial Chamber pursuant to a decision issued by that Chamber on 24 April 2015<sup>10</sup> and they are, therefore, '[p]articipants' in terms of Regulation 65(5) of the Regulations of the Court ('Regulations') and entitled to file a written response to the Prosecutor's appeal brief in this appeal.

### **B. Request for extension of page limit**

8. Regulation 37 of the Regulations provides that, unless otherwise provided or ordered, a document filed with the Registry shall not exceed 20 pages, but that the Chamber may, at the request of a participant, extend the page limit in 'exceptional circumstances'.

9. The Prosecutor submits that 'exceptional circumstances' justify extending the page limit for the Prosecutor's appeal brief by a further 30 pages, to a maximum of 50

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<sup>8</sup> [Prosecutor's Request](#), paras 2, 16.

<sup>9</sup> *Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, 'Reasons for the "Decision on the "Request for the recognition of the right of victims authorized to participate in the case to automatically participate in any interlocutory appeal arising from the case and, in the alternative, application to participate in the interlocutory appeal against the ninth decision on Mr Gbagbo's detention (ICC-02/11-01/15-134-Red3)""', 31 July 2015, [ICC-02/11-01/15-172](#), para. 19.

<sup>10</sup> 'Decision on the Victims' Participation', [ICC-01/13-18](#).

pages.<sup>11</sup> The Prosecutor submits, *inter alia*, that this appeal is ‘exceptional both in its nature and scope, and its outcome is likely to affect not only this situation but the operations of this Court as a whole’.<sup>12</sup> She further contends that a proper examination of the issues identified for appeal, and the associated grounds of appeal, will require a detailed analysis of the Statute, the Rules of Procedure and Evidence, the previous jurisprudence of the Court, as well as the application of the law by the Pre-Trial Chamber in the Impugned Decision.<sup>13</sup> For similar reasons, the Prosecutor does not oppose a corresponding extension of the page limit being granted to the Comoros for its response.<sup>14</sup>

10. The Comoros and the LRV make no submissions with regard to the Prosecutor’s request for extension of the page limit of her appeal brief.<sup>15</sup> The OPCV does not oppose the request for an extension of page limit under the condition that corresponding extensions be granted to the victims and other participants.<sup>16</sup>

11. Having considered the reasons advanced by the Prosecutor for the requested extension of the page limit, the Appeals Chamber is satisfied that the circumstances put forward by the Prosecutor in support of her request for page extension are ‘exceptional’ in terms of regulation 37(2) of the Regulations. The Appeals Chamber also considers that the number of extra pages sought (30), resulting in a page limit of 50 pages, is reasonable. The request for page extension is therefore granted. The Appeals Chamber also considers it appropriate to extend the page limits for the responses by the Comoros and by the Victims to 50 pages.

### **C. Request for extension of time limit**

12. Regulation 65(4) and (5) of the Regulations provides that, when leave to appeal is granted, 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.

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<sup>11</sup> [Prosecutor’s Request](#), para. 4.

<sup>12</sup> [Prosecutor’s Request](#), para. 4.

<sup>13</sup> [Prosecutor’s Request](#), para. 7.

<sup>14</sup> [Prosecutor’s Request](#), para. 8.

<sup>15</sup> [Comoros’ Response](#), para. 4; [LRV’s Response](#), para. 4.

<sup>16</sup> [OPCV’s Response](#), paras 2, 14, p. 10.

13. The Prosecutor submits that there is good cause to extend the time limit for her appeal brief by 10 days, until 11 February 2019.<sup>17</sup> In support of her request, the Prosecutor submits that should the Appeals Chamber determine that the exceptional circumstances of this appeal justify the extension of pages requested, ‘then, logically, there is also good cause of a corresponding extension of time in which to draft those additional submissions’.<sup>18</sup> The Prosecutor does not oppose that a corresponding extension be granted to the Comoros and the Victims for their respective responses.<sup>19</sup>

14. The Comoros and the LRV make no submissions with regard to the Prosecutor’s request for extension of time for her appeal brief. They both however contend that it is essential that the deadline of 15 May 2019 set by the Pre-Trial Chamber in the Impugned Decision is not extended.<sup>20</sup> The OPCV does not oppose the request for an extension of time limit under the condition that corresponding extensions be granted to the victims and other participants.<sup>21</sup>

15. In light of the submissions of the Prosecutor, and having granted the Prosecutor’s request for a page extension in respect of her appeal brief, the Appeals Chamber is satisfied that good cause has been shown warranting a time extension for the filing of the Prosecutor’s appeal brief by ten days. Accordingly, the Appeals Chamber determines that the time limit for the filing of the Prosecutor’s appeal brief is extended to 16h00 on Monday, 11 February 2019.

16. Having granted an extension of the time limit for the submission of the Prosecutor’s appeal brief by ten days, the Appeals Chamber also considers it appropriate to extend the time limit for the filing of the responses to the appeal brief by ten days.

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<sup>17</sup> [Prosecutor’s Request](#), para. 9.

<sup>18</sup> [Prosecutor’s Request](#), para. 10.

<sup>19</sup> [Prosecutor’s Request](#), para. 11.

<sup>20</sup> [Comoros’ Response](#), para. 4; [LRV’s Response](#), para. 4.

<sup>21</sup> [OPCV’s Response](#), paras 2, 14, p. 10.

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

A handwritten signature in black ink, appearing to read 'P. Hofmański', written over a horizontal line.

**Judge Piotr Hofmański  
For the Presiding Judge**

Dated this 25<sup>th</sup> day of January 2019

At The Hague, The Netherlands