



Original: English

No. ICC-01/04-02/06 A

Date: 19 July 2019

THE APPEALS CHAMBER

Before:
Judge Howard Morrison, Presiding
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

Decision on Mr Bosco Ntaganda's and the Prosecutor's requests for time extension for 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
Ms Fatou Bensouda, Prosecutor
Ms Helen Brady

Counsel for the Defence
Mr Stéphane Bourgon
Mr Christopher Gosnell

Legal Representatives of Victims
Ms Sarah Pellet
Mr Dmytro Suprun

REGISTRY

Registrar
Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

Having before it the ‘Request for extension of time to file notice of appeal’ of 17 July 2019 (ICC-01/04-02/06-2361),

Having before it the ‘Prosecution’s response to request for extension of time to file notice of appeal’ of 18 July 2019 (ICC-01/04-02/06-2362),

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

- 1) The time limit for the filing of Mr Bosco Ntaganda’s and the Prosecutor’s notices of appeal against the decision of Trial Chamber VI entitled ‘Judgment’ issued on 8 July 2019 (ICC-01/04-02/06-2359) is extended by 30 days.
- 2) The Prosecutor’s request for an extension of the time limit for the filing of the appeal brief is rejected.

REASONS

1. On 8 July 2019, Trial Chamber VI (the ‘Trial Chamber’) issued a decision, in which it found Mr Ntaganda guilty of crimes against humanity and war crimes (the ‘Conviction Decision’).¹
2. On 17 July 2019, Mr Ntaganda filed the ‘Request for extension of time to file notice of appeal’ (the ‘Request’).² He requests that the Appeals Chamber extend by 60 days the time limit for the filing of the notice of appeal.³

¹ ‘[Judgment](#)’, ICC-01/04-02/06-2359.

² [ICC-01/04-02/06-2361](#).

³ [Request](#), para. 24.

3. In support of his request, Mr Ntaganda submits that the Conviction Decision involves complex issues and that the factual findings are some 320 pages long.⁴ He avers that the Trial Chamber entered convictions in respect of events of which he had had no notice until the relevant testimony was given.⁵ Mr Ntaganda submits that additional workload arises from the hearing on sentencing, which, according to him, may be held in September 2019.⁶ He also refers to the need to translate parts of the Conviction Decision into Kinyarwanda, the language which he fully understands and speaks.⁷ Mr Ntaganda argues that good cause exists for granting the requested extension.⁸ Having consulted the Office of the Prosecutor, he submits that the Prosecutor does not oppose his request on condition that the Appeals Chamber grants a similar extension for the Prosecutor, to which he agrees.⁹

4. On 18 July 2019, the Prosecutor filed the ‘Prosecution’s response to request for extension of time to file notice of appeal’ (the ‘Response’).¹⁰ She submits that she does not oppose the Request, subject to the grant of a similar extension for any notice of appeal which she may file.¹¹ The Prosecutor submits that she would not oppose an extension of the time limit for the filing of the appeal brief equal to that granted for the notice of appeal plus an additional 30 days.¹² She contends that good cause for the extension of the time limit for the filing of the appeal brief is ‘a natural consequence’ of the grant of extension for the notice of appeal, ‘together with a modest additional increment’.¹³

5. The Appeals Chamber notes that, under rule 150(2) of the Rules of Procedure and Evidence (the ‘Rules’) and regulation 35(2) of the Regulations of the Court respectively, it has the power to extend the time limits for the filing of a notice of appeal and an appeal brief. It may do so if ‘good cause’ has been shown. The Appeals Chamber considers that the reasons advanced by Mr Ntaganda and the Prosecutor in support of their requests, as summarised above, demonstrate ‘good cause’, justifying a

⁴ [Request](#), paras 14-15.

⁵ [Request](#), para. 15.

⁶ [Request](#), paras 18-19.

⁷ [Request](#), paras 20-23.

⁸ [Request](#), para. 24.

⁹ [Request](#), para. 3.

¹⁰ [ICC-01/04-02/06-2362](#).

¹¹ [Response](#), para. 1.

¹² [Response](#), para. 4.

¹³ [Response](#), para. 5.

modest extension of the time limit for the filing of the notices of appeal. In this regard, the Appeals Chamber notes the requirement set out in regulation 57 of the Regulations of the Court to state in the notice ‘[t]he grounds of appeal [...], specifying the alleged errors and how they affect the appealed decision’.¹⁴ This requires a thorough analysis of the impugned decision, which, in the present case, is indeed both complex and lengthy. In addition, the parties are involved in proceedings regarding sentencing and Mr Ntaganda awaits the translation of parts of the Conviction Decision into Kinyarwanda.

6. As to the length of the extension sought, however, the Appeals Chamber considers that an extension by 60 days would be disproportionate, bearing in mind that the regular time limit for the submission of the notice of appeal, as per rule 150(1) of the Rules, is 30 days. Notwithstanding the judicial recess, the Appeals Chamber does not consider it appropriate to triple the time limit. Rather, the Appeals Chamber considers that an extension by 30 days is, in the circumstances, appropriate.

7. Turning to the Prosecutor’s request to extend the time limit for the filing of the appeal brief from 90 days after notification of the Conviction Decision to 180 days, the Appeals Chamber considers that the Prosecutor’s arguments do not demonstrate ‘good cause’ in terms of regulation 35(2) of the Regulations of the Court. The Appeals Chamber notes in this regard that, while with regard to the notice of appeal, a large part of the time limit would fall within the judicial recess, this is not the case with regard to the appeal brief, where the regular time limit is significantly longer (90 days as opposed to 30 days). Accordingly, the Appeals Chamber rejects the request for an extension of the time limit for the submission of the appeal brief.

¹⁴ See *Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Appeals Chamber, ‘Decision on the Prosecutor’s request for time extension for the notice of appeal and the appeal brief’, 19 July 2019, ICC-02/11-01/15-1268 (A), para. 8.

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



Judge Howard Morrison
Presiding

Dated this 19th day of July 2019

At The Hague, The Netherlands