

Situation in the Central African Republic

ICC-PIDS-CIS-CAR-02-014/18\_Eng  
Updated: September 2018

## ***The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido***

ICC-01/05-01/13

Trial opened on 29 September 2015 for offences against the administration of justice in connection with the case *The Prosecutor v. Jean-Pierre Bemba Gombo*. Closing statements took place on 31 May 2016. Guilty verdict on 19 October 2016 and sentence on 22 March 2017. Appeals on verdict and sentence on 8 March 2018. New sentences for Mr Bemba, Mr Mangenda and Mr Kilolo pronounced on 17 September 2018. Convictions and acquittals in relation to all five accused are final. Imprisonment sentences were served.

### **Jean-Pierre Bemba Gombo**



**Date of birth:** 4 November 1962

**Place of birth:** Bokada, Equateur province, of the Democratic Republic of Congo

**Nationality:** Congolese

**Current situation:** Imprisonment sentence served

**Warrant of arrest:** Issued under seal on 20 November 2013 | Made public on 28 November 2013

**Initial appearance:** 27 November 2013

**Decision on the Confirmation of charges:** 11 November 2014

**Opening of the trial:** 29 September 2015

**Verdict:** 19 October 2016

**Sentence:** 22 March 2017 and 17 September 2018

**Appeals judgment:** 8 March 2018

### **Aimé Kilolo Musamba**



**Date of birth:** 1 January 1972

**Nationality:** Belgian

**Current situation:** Imprisonment sentence served

**Warrant of arrest:** Issued under seal on 20 November 2013 | Made public on 28 November 2013

**Arrest:** 23 November 2013

**Transfer to the Court:** 25 November 2013

**Initial appearance:** 27 November 2013

**Decision on the Confirmation of charges:** 11 November 2014

**Opening of the trial:** 29 September 2015

**Verdict:** 19 October 2016

**Sentence:** 22 March 2017 and 17 September 2018

**Appeals judgment:** 8 March 2018

### **Jean-Jacques Mangenda Kabongo**



**Date of birth:** 10 January 1979

**Nationality:** Congolese

**Current situation:** Imprisonment sentence served

**Warrant of arrest:** Issued under seal on 20 November 2013 | Made public on 28 November 2013

**Arrest:** 23 November 2013

**Transfer to the Court:** 4 December 2013

**Initial appearance:** 5 December 2013

**Decision on the Confirmation of charges:** 11 November 2014

**Opening of the trial:** 29 September 2015

**Verdict:** 19 October 2016

**Sentence:** 22 March 2017 and 17 September 2018

**Appeals judgment:** 8 March 2018

## Fidèle Babala Wandu



**Date of birth:** 15 April 1956

**Nationality:** Congolese

**Current situation:** Imprisonment sentence served

**Warrant of arrest:** Issued under seal on 20 November 2013 | Made public on 28 November 2013

**Arrest:** 24 November 2013

**Transfer to the Court:** 25 November 2013

**Initial appearance:** 27 November 2013

**Decision on the Confirmation of charges:** 11 November 2014

**Opening of the trial:** 29 September 2015

**Verdict:** 19 October 2016

**Sentence:** 22 March 2017

**Appeals judgment:** 8 March 2018

## Narcisse Arido



**Date of birth:** 15 May 1978

**Nationality:** National of the Central African Republic

**Current situation:** Imprisonment sentence served

**Warrant of arrest:** Issued under seal on 20 November 2013 | Made public on 28 November 2013

**Arrest:** 23 November 2013

**Transfer to the Court:** 18 March 2014

**Initial appearance:** 20 March 2014

**Decision on the Confirmation of charges:** 11 November 2014

**Opening of the trial:** 29 September 2015

**Verdict:** 19 October 2016

**Sentence:** 22 March 2017

**Appeals judgment:** 8 March 2018

On 19 October 2016, Trial Chamber VII found the five accused guilty of various offences against the administration of justice related to the false testimonies of defence witnesses in another case before the ICC: *The Prosecutor v. Jean-Pierre Bemba Gombo* (Main Case).

On 8 March 2018, the Appeals Chamber rejected the appeals submitted by the five accused against their conviction. It confirmed the convictions in respect of most of the charges. However, it acquitted Mr Bemba, Mr Kilolo and Mr Mangenda of the charge of presenting evidence that a party knows is false or forged (Article 70(1)(b) of the Rome Statute), finding that this provision only applies to the presentation of documentary evidence, not to the calling of witnesses, as in the case at hand. The convictions and acquittals in relation to the five accused are now final.

## Key judicial developments:

### WARRANT OF ARREST AND SURRENDER TO THE COURT

On 19 November 2013, the Prosecution submitted to Pre-Trial Chamber II an application under article 58 of the Rome Statute for the issuance of a warrant for the arrest of Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido.

On 20 November 2013, Pre-Trial Chamber II issued a warrant of arrest under seal, *ex parte*, and a redacted version was made public on 28 November 2013.

On 23 and 24 November 2013, the Belgian authorities arrested Aimé Kilolo Musamba, the authorities of the Netherlands arrested Jean-Jacques Mangenda Kabongo, the French authorities arrested Narcisse Arido and the authorities of the Democratic Republic of the Congo (DRC) arrested Fidèle Babala Wandu, acting pursuant to requests for arrest and surrender issued by the ICC.

Fidèle Babala Wandu and Aimé Kilolo Musamba were transferred to the ICC Detention centre on 25 November 2013. Jean-Jacques Mangenda Kabongo was transferred on 4 December 2013.

Narcisse Arido was surrendered to the Court by French authorities on 18 March 2014 following the completion of the relevant national proceedings in France.

### INITIAL APPEARANCES

Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba and Fidèle Babala Wandu made their initial appearance before the Court on 27 November 2013, Jean-Jacques Mangenda on 5 December 2013 and Narcisse Arido on 20 March 2014. At these hearings, the Chamber verified the suspects' identities and ensured that they had been informed of the crimes which they were alleged to have committed and of their rights before the Court.

### INTERIM RELEASE

On 21 October 2014, Pre-Trial Chamber II [ordered](#) the release of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido subject to the condition that they appear for trial or whenever summoned. The four suspects were subsequently released from the custody of the ICC. The ICC Prosecutor appealed the Pre-Trial Chamber's two decisions.

On 29 May 2015, the Appeals Chamber [reversed](#) and remanded to Trial Chamber VII the [decision](#) ordering the interim release of Aimé Kilolo Musamba, Fidèle Babala Wandu, Jean Jacques Mangenda Kabongo and Narcisse Arido. However, the Chamber found that, taking into account the length of time that has passed since their release, it would not be in the interests of justice for the suspects to be re-arrested. On 29 May 2015, the Appeals Chamber also [reversed](#) and remanded to Trial Chamber VII the [decision](#) ordering Mr Bemba's interim release in the context of this case.

On 17 August 2015, Trial Chamber VII [ordered](#) the continued release of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido with a number of conditions, including to be present in The Hague at their trial

On 19 October 2016, at a public hearing following the Chamber's judgement, Trial Chamber VII decided that Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido would remain on conditional release, pending the imposition of penalties in their case.

On 12 June 2018, Trial Chamber VII ordered interim release under specific conditions for Mr Bemba in this case. It found that, taking into account all relevant factors and the circumstances of the case as a whole, the legal requirements for continued detention were not met. Specifically, noting that Mr Bemba has served more than 80% of the maximum possible sentence, the Chamber considered it disproportionate to further detain Mr Bemba merely to ensure his appearance for sentencing. The Chamber ordered the interim release of Mr Bemba under specific conditions including refraining from making public statements on this case, not changing his address without prior notice, not contacting any witness in this case and to fully comply with all orders issued in this case, and to surrender himself immediately to the relevant authorities if required by the Trial Chamber. It falls to the Registry to make all necessary arrangements and consultations to implement the Chamber's ruling.

### CONFIRMATION OF CHARGES

On 11 November 2014, Pre-Trial Chamber II partially confirmed the charges of offences against the administration of justice for Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido and committed the five suspects to trial. On 30 January 2015, the Presidency of the ICC constituted Trial Chamber VII, to be in charge of the trial in this case.

### TRIAL

The trial opened on 29 September 2015 before Trial Chamber VII.

On 29 April 2016, Trial Chamber VII closed the submission of evidence in the case and the closing oral statements took place on 31 May-1 June 2016.

In the course of 46 days of hearings, Trial Chamber VII heard 13 witnesses and expert witnesses called by the Prosecution, and 6 called by the defence teams for the five accused. The Chamber examined numerous evidentiary materials, including audio recordings of intercepted telephone communications, and documentary evidence. Trial Chamber VII issued 266 written orders and decisions and 80 oral decisions.

## VERDICT

On 19 October 2016, Trial Chamber VII delivered its judgment and found the five accused guilty of various offences against the administration of justice, relating to the false testimonies of defence witnesses in the case *The Prosecutor v. Jean-Pierre Bemba Gombo*.

## SENTENCES

On 22 March 2017, Trial Chamber VII delivered its decision on sentencing.

- **Jean-Pierre Bemba Gombo** was sentenced to one year imprisonment and EUR 300,000 fine.
- **Aimé Kilolo Musamba** was sentenced to 2 years and 6 months' imprisonment and EUR 30,000 fine. The time that Mr Kilolo previously spent in detention was deducted and the Chamber ordered the suspension of the remaining term of imprisonment for a period of 3 years so that the sentence shall not take effect (i) if Mr Kilolo pays the fine; and (ii) unless during that period Mr Kilolo commits another offence anywhere that is punishable with imprisonment.
- **Jean-Jacques Mangenda Kabongo** was sentenced to 2 years' imprisonment. The time that Mr Mangenda spent previously in detention was deducted. The Chamber ordered the suspension of the operation of the remaining term of imprisonment for a period of 3 years so that the sentence shall not take effect unless during that period Mr Mangenda commits another offence anywhere that is punishable with imprisonment.
- **Narcisse Arido** was sentenced in total to 11 months' imprisonment. The time Mr Arido spent previously in detention was deducted. Since the imposed sentence is equivalent to the period that Mr Arido spent in custody, the Chamber considered the sentence of imprisonment as served.
- **Fidèle Babala Wandu** was sentenced in total to 6 months' imprisonment. The time Mr Babala spent previously in detention was deducted. Since the imposed sentence is less than the period of time Mr Babala spent in custody, the Chamber considered the sentence of imprisonment as served.

## APPEALS

Following these decisions, Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu, and Narcisse Arido appealed the Judgment. The Prosecutor as well as Jean-Pierre Bemba Gombo, Fidèle Babala Wandu, and Narcisse Arido appealed the Sentence.

On 8 March 2018, the Appeals Chamber [confirmed the convictions](#) in respect of most of the charges. However, it acquitted Mr Bemba, Mr Kilolo and Mr Mangenda of the charge of presenting evidence that a party knows is false or forged. The convictions and acquittals in relation to the five accused are now final.

Regarding the sentences, the Appeals Chamber rejected the appeals of Mr Bemba, Mr Babala and Mr Arido; the sentences imposed on Mr Babala and Mr Arido are now final. But the Appeals Chamber granted the Prosecutor's appeal. It reversed the sentences of Mr Bemba, Mr Mangenda and Mr Kilolo and remanded the matter to the Trial Chamber for a new determination.

## NEW DETERMINATION OF SENTENCES

On 17 September 2018, following the Appeals Chamber Judgment, Trial Chamber VII delivered the sentences against Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba and Jean-Jacques Mangenda Kabongo:

- Mr Bemba was sentenced to one year imprisonment and fined him EUR 300,000.
- Mr Kilolo and Mr Mangenda were sentenced each to a total of 11 months of imprisonment.
- Mr Kilolo was also fined EUR 30,000.

To reach this decision, Trial Chamber VII noted the reversal by the Appeals Chamber of the convictions for one offence (presenting evidence that a party knows is false or forged) and considered holistically, among other factors: (i) the gravity of the offences for which the convicted persons were found responsible, (ii) their role in the attempt to obstruct the investigation of the offences, as well as (iii) their individual degree of participation and intent. It also placed special emphasis on the deterrent effects related to the fact that the three convicted persons have been imprisoned for significant periods of time in the present case, which has had significant effects on their professional reputations, financial circumstances, and family circumstances.

The Chamber ordered the deduction from the convicted persons' sentence of the time they have spent in detention, pursuant to an order of the Court and, accordingly, considered the sentences of imprisonment as served.

The fines were ordered to be paid to the Court within 3 months of its decision and thereafter transferred to the Trust Fund for Victims

**Composition of Trial Chamber VII**

Judge Bertram Schmitt, Presiding Judge

Judge Marc Perrin de Brichambaut

Judge Raul C. Pangalangan

**Representation of the Office of the Prosecutor**

Fatou Bensouda, Prosecutor

James Stewart, Deputy Prosecutor

Kweku Vanderpuye, Senior Trial Lawyer

**Defence Counsel for Jean-Pierre Bemba**

Melinda A. Taylor

**Defence Counsel for Aimé Kilolo Musamba**

Paul Djunga Mudimbi

Steven Sacha Powles

**Defence Counsels for Jean-Jacques Mangenda Kabongo**

Christopher Michael Gosnell

Arthur Vercken De Vreuschmen

**Defence Counsels for Fidèle Babala Wandu**

Jean-Pierre Kilenda Kakengi Basila

Azama Shalie Rodoma

**Defence Counsel for Narcisse Arido**

Charles A. Taku

Beth Suzan Lyons