



Original: **English**

No.: ICC-01/05-01/08

Date: 29/12/2014

**THE APPEALS CHAMBER**

**Before:** Judge Sanji Mmasenono Monageng, Presiding Judge  
Judge Sang-Hyun Song  
Judge Akua Kuenyehia  
Judge Erkki Kourula  
Judge Anita Ušacka

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC**

**IN THE CASE OF  
THE PROSECUTOR  
v. Jean-Pierre Bemba Gombo**

*Public*

**Defence Urgent Request for Extension of Time**

**Source:** Defence for Mr. Jean-Pierre Bemba Gombo

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

**The Office of the Prosecutor**

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**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented**

**(Participation/Reparation)**

**Applicants**

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Victims**

Paolina Massidda

**The Office of Public Counsel for the  
Defence**

Xavier-Jean Keita

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Herman von Hebel

**Defence Support Section**

**Deputy Registrar**

**Victims and Witnesses Unit**

Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section Other**

## A. SUBMISSIONS

1. On 5 December 2014, the Defence filed an urgent request for interim release (the Request).<sup>1</sup>

2. On 8 December 2014, the Trial Chamber issued an order shortening the deadlines for any responses or replies.<sup>2</sup>

3. On the first day of the judicial recess, the Trial Chamber issued its decision, rejecting the Request (the Decision).<sup>3</sup>

4. According to the applicable deadlines under the Rules of Procedure and Evidence and the Regulations of the Court, any notice of appeal would be due on 29 December 2014, and the document in support of the appeal on 31 December 2014.

5. Although there is no general rule that deadlines are suspended during the judicial recess, various ICC Chambers have recognised that there is implicit good cause to do so.<sup>4</sup>

6. Moreover, in terms of the specific circumstances of this case, due to exigencies beyond its control, the Defence was required to work through the last two judicial recesses. In particular, due to the arrest of the former Lead Counsel and former Case Manager, the Defence was required to dedicate a significant amount of time during the 2013-2014 recess in order to address the issues raised by this turn of events.

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<sup>1</sup> ICC-01/05-01/08-3211.

<sup>2</sup> ICC-01/05-01/08-3212.

<sup>3</sup> ICC-01/05-01/08-3221.

<sup>4</sup> ICC-01/04-01/06-T-203-Red2-ENG, pp.64-65; ICC-01/05-01/08-T-43-Red-ENG, pp.31-32; ICC-01/04-01/07-T-224-ENG, p.56; ICC-01/04-01/07-T-173-Red-ENG, pp.77-78; ICC-01/04-01/07-T-286-Red-ENG, p.5.

7. In May 2014, the Trial Chamber also rejected a Defence request for a suspension of the deadlines in order to accommodate the 2014 summer judicial recess; as a result, the Defence was compelled to work throughout the entire summer in order to meet the deadline of 25 August 2014 for the filing of Mr. Bemba's closing brief.<sup>5</sup>

8. As a result of the fact that the Defence was compelled to defer its recess for the last year, the Defence will not be present in The Hague during the current winter judicial recess, and do not have a mechanism for transmitting the Decision to Mr. Bemba in order to take informed instructions as to whether to appeal the Decision.

9. The Decision raises important issues concerning the interpretation of Article 58 (and the notion of a "trial"), the presumption of innocence, and the extent to which the Trial Chamber can rely on factual findings which are not in evidence in this case.

10. Article 82(1)(b) recognises the importance of the presumption of liberty and the right to seek judicial review of ongoing pre-conviction detention by setting an automatic right to appeal decisions on release.

11. However, this right will be illusory in circumstances in which the Defence does not have the time and resources to either take informed instructions, or to construct a properly reasoned appeal.

12. It is also not in the interests of efficient and expeditious proceedings to seize the Appeals Chamber with an appeal, which, with the benefit of informed instructions, the Defence might have declined to file. In this regard, the Defence is not asserting that the workload for compiling the notice of appeal is in itself

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<sup>5</sup> ICC-01/05-01/08-3071, para. 18.

onerous,<sup>6</sup> but that there are practical impediments at this juncture as concerns the ability of the Defence to make an informed decision as to whether it is in Mr. Bemba's best interests to seek a final ruling on this matters. This is particularly the case given that firstly, Mr. Bemba has a pending application on interim release in the Article 70 case, secondly, the Decision raises issues that impact on this pending application, and thirdly, there are outstanding issues concerning legal representation in that case.

13. For these reasons, pursuant to Regulation 19*bis*(2),<sup>7</sup> the Defence for Mr. Jean-Pierre Bemba respectfully requests that all appellate deadlines concerning the Decision be suspended, and should not commence to run until after the conclusion of the judicial recess.

14. Alternatively, the Defence submits that there is good cause to vary the applicable deadlines concerning the Decision, pursuant to Regulation 35(1) of the Regulations of the Court.

## **B. RELIEF SOUGHT**

15. For the reasons set out above, the Defence for Mr. Bemba respectfully requests the Honourable Appeals Chamber to

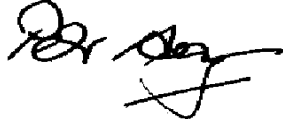
**ORDER** that the applicable deadlines for appealing the Decision are suspended for the duration of the judicial recess.

The whole respectfully submitted.

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<sup>6</sup> Cf ICC-02/11-01/11-189, paras. 4-5.

<sup>7</sup> The Defence submits that the phrase "Unless otherwise determined by the Chamber" in Regulation 19*bis* (2) necessarily implies that the Chamber has the power to vary all deadlines arising during the judicial recess.

A handwritten signature in black ink, appearing to read 'Peter Haynes', with a stylized flourish at the end.

Peter Haynes QC  
Lead Counsel of Mr. Jean-Pierre Bemba

The Hague, The Netherlands

29 December 2014