



Original: English

No: **ICC-01/05-01/13**
Date: **10 November 2016**

THE APPEALS CHAMBER

Before: Judge Silvia Fernández de Gurmendi
Judge Sanji Mmasenono Monageng
Judge Howard Morrison
Judge Piotr Hofmański
Judge Geoffrey Henderson

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF
THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO, AIMÉ KILOLO MUSAMBA,
JEAN-JACQUES MANGENDA KABONGO, FIDÈLE BABALA WANDU AND
NARCISSE ARIDO

Public

Response to “Requête de la Défense de M. Babala visant à suspendre les échéances applicables à une potentielle procédure d’appel” (ICC-01/05-01/13-1996)

Source: Defence for Jean-Jacques Kabongo Mangenda

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr James Stewart
Mr Kweku Vanderpuye

Counsel for Jean-Jacques Kabongo Mangenda

Mr Christopher Gosnell

Counsel for Jean-Pierre Bemba Gombo

Ms Melinda Taylor

Counsel for Aimé Kilolo Musamba

Mr Paul Djunga Mudimbi

Counsel for Fidèle Babala Wandu

Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Mr Charles Achaleke Taku

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. Jean-Jacques Mangenda supports Mr. Fidèle Babala Wandu's request¹ to extend the deadline for filing the document in support of his appeal, and requests that any such extension also be accorded to any other appellant to ensure a unified briefing schedule.
2. The extension, in addition to being supported by good cause for the reasons presented by Mr. Babala and the Prosecution,² will also likely ensure that no submissions in the appeal from the Trial Judgment³ need be presented in advance of the Trial Chamber's Sentencing Judgment. This facilitates a more orderly procedure considering that the Trial Chamber's Sentencing Judgment may, directly or indirectly, be relevant to the appeal from the Trial Judgment.
3. The complexity of the Trial Judgment in this case is also enhanced by the factual, as well as legal, complexity of the issues addressed therein. Much of the evidence relied upon by the Trial Chamber was documentary evidence not addressed in detail during oral hearings. The issues arising out of the interpretation of that large volume of documentary evidence, therefore, require greater analysis than might otherwise have been required in respect of testimonial evidence.
4. The absence of a complete and official translation of the Trial Judgment into French, even assuming (as argued by the Prosecution)⁴ that it is not a condition precedent for triggering the applicable deadlines, is also a relevant consideration. Rule 144(2) of the Rules of Procedure and Evidence requires that decisions concerning the criminal responsibility of the accused "shall be provided as soon as possible to [...] [t]he accused, in a language he or she fully understands or speaks, if necessary to meet the requirements of fairness under article 67, paragraph 1(f)."⁵ Proposals to modify this rule so as to only require translation "in whole or to the extent necessary to meet the

¹ *Bemba et al.*, Requête de la Défense de M. Babala visant à suspendre les échéances applicables à une potentielle procédure d'appel, ICC-01/05-01/13-1996, 31 October 2016 ("Request").

² *Bemba et al.*, Prosecution's response to Fidèle Babala Wandu's request for an extension of time to file his appeal brief, ICC-01/05-01/13-2013, 7 November 2016 ("Response"), para. 6 (submitting that "[g]ood cause is therefore shown in this case – the *Bemba et al.* case is complex. Not only does it involve five convicted persons, each of them was convicted of different article 70 offences with varying modes of participation. The case involves a range of legal, factual and procedural issues, as reflected in the 458 page Judgment.")

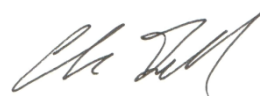
³ *Bemba et al.*, Judgment pursuant to Article 74 of the Statute, ICC-01/05-01/13-1989-Red, 19 October 2016 ("Trial Judgment").

⁴ Response, paras. 9-10.

⁵ All future reference to "Rule" shall be understood as a reference to the ICC Rules of Procedure and Evidence.

requirements of fairness under article 67, paragraph 1(f)” have not been adopted.⁶ The translations of the parts of the Trial Judgment that have so far been provided have been made subject to the express *caveat* that they are draft translations only. While such rough and incomplete translations may be a satisfactory basis for making submissions in respect of sentencing, different considerations may apply in respect of appellate submissions. Although the Request does not require a ruling on this issue unless the primary relief is not granted,⁷ it is respectfully submitted that the current state of translations is a further consideration that favours granting the requested extension of time.

5. The duration of the requested extension is believed to be reasonable and appropriate, and is shorter or comparable to those granted in other international tribunals.⁸



Christopher Gosnell
Counsel for Mr. Jean-Jacques Kabongo Mangenda

Respectfully submitted this 10 November 2016,
At The Hague, The Netherlands

⁶ Report of the Bureau on Study Group on Governance, ICC-ASP/13/28, 28 November 2014, p. 37, available at <https://asp.icc-cpi.int/iccdocs/asp_docs/ASP13/ICC-ASP-13-28-ENG.pdf>, last accessed 9 November 2016.

⁷ The argument concerning the commencement of the relevant deadlines solely after notification of the full French translation of the Judgment is made in the alternative only. Request, para. 1.

⁸ See e.g. *Popović et al.*, IT-05-88-A, Decision on Joint Defence Motion for Extension of Time to File Notice of Appeal, 25 June 2010, p. 2; *Popović et al.*, IT-05-88-A, Decision on Motions for Extension of Time and for Permission to Exceed Word Limitations, 20 October 2010, pp. 5-6 (granting a total period of 225 days between judgment and deadline for filing appeal brief); *Milutinović et al.*, IT-05-87-A, Decision on Motions for Extensions of Time to File Notices of Appeal, 23 March 2009, p. 4; *Sainović et al.*, IT-05-87-A, Decision on Joint Defence Motion Seeking Extension of Time to File Appeal Briefs, 29 June 2009, pp. 4-5 (granting a total period of 210 days between judgment and deadline for filing appeal brief); *Nyiramasuhuko et al.* ICTR-98-42-A, Decision on Motions for Extension of Time for the Filing of Appeal Submissions, 22 July 2011, paras. 9, 13 and 16 (granting a total period of 180 days for appellants whose defence was exclusively francophone whereas the trial judgment was in English); *Perišić*, IT-04-81-A, Decision on Momčilo Perišić’s Motion for an Extension of Time to File a Notice of Appeal, 16 September 2011; *Perišić*, IT-04-81-A, Decision on Momčilo Perišić’s Motion for an Extension of Time to File his Appeal Brief, 24 November 2011, pp. 1-2 (granting a total period of 149 days between judgment and deadline for filing appeal brief).