



Original: English

No. ICC-01/05-01/13 A10

Date: 20 August 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 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 document

Scheduling order for a hearing before the Appeals Chamber

Order 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 Mr Jean-Pierre Bemba Gombo
Ms Melinda Taylor
Ms Mylène Dimitri

Registrar
Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber VII entitled ‘Decision Re-sentencing Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba and Mr Jean-Jacques Mangenda Kabongo’ of 17 September 2018 (ICC-01/05-01/13-2312),

Having before it the ‘Request for an Appeals Hearing in Connection with the Defence Appeal against the decision of Trial Chamber VII entitled “Decision Re-sentencing Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba and Mr Jean-Jacques Mangenda Kabongo”’ of 3 July 2019 (ICC-01/05-01/13-2332 (A10)),

Issues the following

SCHEDULING ORDER

1. The above-mentioned request is granted. A hearing before the Appeals Chamber will be held on Wednesday, 4 September 2019, in order to hear submissions by the parties on the above-mentioned appeal.
2. Further directions on the schedule of the hearing and conduct of the proceedings will be issued in due course.

REASONS

1. On 17 December 2018, Mr Jean-Pierre Bemba Gombo filed an appeal¹ against the decision of Trial Chamber VII entitled ‘Decision Re-sentencing Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba and Mr Jean-Jacques Mangenda Kabongo’ (the ‘Re-Sentencing Decision’).²

¹ ‘Article 82(1)(a) [*sic*] Appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber VII entitled “Decision Re-sentencing Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba and Mr Jean-Jacques Mangenda Kabongo”, ICC-01/05-01/13-2315 (A10) (the ‘[Appeal Brief](#)’), with [annex A](#) (ICC-01/05-01/13-2315-AnxA (A10)) and annex B (ICC-01/05-01/13-2315-Conf-AnxB (A10)).

² [ICC-01/05-01/13-2312](#).

2. On 3 July 2019, Mr Bemba filed a request for a hearing before the Appeals Chamber ‘to discuss key legal and procedural issues’ arising from his appeal against the Re-Sentencing Decision.³ He submits that these issues are novel and complex.⁴ Mr Bemba maintains that as, at the time his appeal against the Trial Chamber’s first sentencing decision was examined, he was unaware of the Appeals Chamber’s intention to remand the sentence, he did not have any opportunity to address ‘the possible prejudice that would ensue in such re-sentencing proceedings, from the lack of a clear evidential record and related rulings’.⁵ He further argues that before rendering its judgment in March 2018, the Appeals Chamber did not hear oral arguments on the ‘implications of the evidential regime adopted by Trial Chamber VII’.⁶

3. In her response, the Prosecutor argues that Mr Bemba fails to justify the need for a hearing.⁷ She argues that a hearing in this case is neither useful nor necessary for the Appeals Chamber’s determination of Mr Bemba’s appeal.⁸ The Prosecutor avers that the re-sentencing proceedings are limited to the issues that were remanded by the Appeals Chamber.⁹ She contends that the parties have already submitted ‘extensive and detailed submissions’ on appeal.¹⁰ The Prosecutor submits that if the Appeals Chamber decides to schedule a hearing, she requests to be informed of the topics on which it would like to hear submissions.¹¹

4. The Appeals Chamber considers that a hearing, limited to issues arising from the present appeal, would be useful in assisting it in its decision-making process. However, noting the arguments advanced by Mr Bemba in support of his Request, the Appeals Chamber recalls that it has already found in its decision on the scope of Mr

³ ‘Request for an Appeals Hearing in Connection with the Defence Appeal against the decision of Trial Chamber VII entitled “Decision Re-sentencing Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba and Mr Jean-Jacques Mangenda Kabongo”’, dated 2 July 2019 and registered on 3 July 2019, ICC-01/05-01/13-2332 (A10) (the ‘[Request](#)’), paras 1, 9.

⁴ [Request](#), para. 4.

⁵ [Request](#), para. 5.

⁶ [Request](#), para. 5.

⁷ ‘Prosecution’s Response to Mr Bemba’s Request to the Appeals Chamber to hold an Oral Hearing in the Re-sentencing appeal proceedings (ICC-01/05-01/13-2332)’, 15 July 2019, ICC-01/05-01/13-2335 (A10) (the ‘[Response](#)’), paras 1, 4, 13-19.

⁸ [Response](#), paras 1, 6.

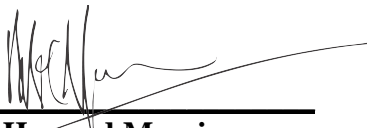
⁹ [Response](#), paras 2, 7-9.

¹⁰ [Response](#), paras 3, 10-12.

¹¹ [Response](#), para. 17.

Bemba's appeal that it will not consider his submissions challenging (i) his convictions; (ii) findings otherwise related to his convictions; and (iii) the Trial Chamber's approach to the evidence.¹² Similarly, the arguments regarding the remand of sentencing issues before the Trial Chamber do not appear to relate to the Re-Sentencing Decision. The Appeals Chamber already declined to consider these arguments in Mr Bemba's Reply.¹³ In these circumstances, the Appeals Chamber grants Mr Bemba's request and decides to hold a hearing to hear submissions of the parties on matters related to the Re-Sentencing Decision. It will issue further directions on the conduct of the hearing in due course.

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



Judge Howard Morrison
Presiding

Dated this 20th day of August 2019

At The Hague, The Netherlands

¹² 'Decision on the scope of the appeal of Mr Jean-Pierre Bemba Gombo', 20 August 2019, ICC-01/05-01/13-2337 (A10) (the 'Decision of 20 August 2019'), para. 18.

¹³ See Decision of 20 August 2019, para. 8.