



ANNEX A – PROCEDURAL HISTORY

1. On 19 October 2016, the Trial Chamber rendered the Conviction Decision in which it convicted Mr Bemba, Mr Kilolo, Mr Mangenda, Mr Babala and Mr Arido of various offences against the administration of justice pursuant to article 70 of the Statute.¹

2. On 7 November 2016, the Presidency issued a “Decision replacing a judge in the Appeals Chamber”.² On 10 November 2016, the Appeals Chamber designated Judge Silvia Fernández de Gurmendi as the Presiding Judge in the appeals arising out of the Conviction Decision.³

I. BRIEFING

A. Notices of Appeal

3. Mr Arido,⁴ Mr Babala,⁵ Mr Mangenda,⁶ Mr Bemba,⁷ and Mr Kilolo⁸ filed notices of appeal against the Conviction Decision.

B. Appeal Briefs

4. On 1 November 2016, Mr Babala requested a variation of time limits to file his appeal brief.⁹ On 7 November 2016, the Prosecutor responded to this request, stating

¹ “Judgment pursuant to Article 74 of the Statute”, ICC-01/05-01/13-1989-Conf; a public redacted version was registered on the same date ([ICC-01/05-01/13-1989-Red](#)).

² Dated 4 November 2016, [ICC-01/05-01/13-2011](#).

³ “Decision on the Presiding Judge of the Appeals Chamber in appeals against Trial Chamber VII’s ‘Judgment pursuant to Article 74 of the Statute’”, [ICC-01/05-01/13-2022](#).

⁴ “Narcisse Arido’s Notice of Appeal against the Trial Chamber VII’s ‘Judgment pursuant to Article 74 of the Statute’ (ICC-01/05-01/13-1989-Conf)”, dated 31 October 2016 and registered on 1 November 2016, [ICC-01/05-01/13-1995](#).

⁵ “Notice of appeal by the Defence for Mr Fidèle Babala Wandu against the Judgment pursuant to article 74 of the Statute rendered by Trial Chamber VII on 19 October 2016”, dated 2 November 2016 and registered 8 November 2016, ICC-01/05-01/13-1999-tENG; original French version dated 2 November 2016 ([ICC-01/05-01/13-1999](#)).

⁶ “Notice of Appeal”, 4 November 2016, [ICC-01/05-01/13-2006](#).

⁷ “Notice of Appeal”, 7 November 2016, [ICC-01/05-01/13-2012](#), with one confidential annex.

⁸ “Acte d’appel de la Défense de Maître Aimé Kilolo Musamba à l’encontre du ‘Judgment pursuant to Article 74 of the Statute’ (ICC-01/05-01/13-1989-Conf) rendu par la Chambre de première instance VII le 19 octobre 2016”, dated 7 November 2016 and registered on 8 November 2016, [ICC-01/05-01/13-2015](#).

that she did not oppose the request and additionally requesting the Appeals Chamber to adopt a synchronised schedule for all documents in support of the appeal.¹⁰ On 10 November 2016, Mr Mangenda joined Mr Babala’s request.¹¹ On 10 November 2016, the Appeals Chamber issued an “Order shortening time limit for responses” to the Prosecutor’s request.¹² On 17 November 2016, Mr Babala,¹³ Mr Bemba,¹⁴ Mr Arido¹⁵ and Mr Kilolo¹⁶ responded to the Prosecutor’s request.

5. On 23 November 2016, the Appeals Chamber issued a “Decision on requests for an extension of the time limit for the filing of the documents in support of the appeal” setting time limits for the submission of the appeal briefs and inviting the appellants to specify briefly the findings in the Conviction Decision they would be challenging on appeal.¹⁷ Pursuant to this decision Mr Bemba,¹⁸ Mr Babala,¹⁹ Mr Mangenda,²⁰ Mr Kilolo²¹ and Mr Arido²² filed their respective detailed notices of appeal.

⁹ “Application by the Defence for Mr Babala for a variation of deadlines for any proceedings on appeal”, dated 31 October 2016 and registered on 9 November 2016, [ICC-01/05-01/13-1996-tENG](#); original French version dated 31 October 2016 ([ICC-01/05-01/13-1996](#)).

¹⁰ “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](#).

¹¹ “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)”, [ICC-01/05-01/13-2021](#).

¹² [ICC-01/05-01/13-2023](#).

¹³ “Réponse de la Défense de M. Fidèle Babala Wandu à ‘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 (A 2))”, [ICC-01/05-01/13-2032](#).

¹⁴ “Response to ‘Order shortening time limit for responses’”, [ICC-01/05-01/13-2033](#).

¹⁵ “Narcisse Arido’s 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)”, [ICC-01/05-01/13-2034](#).

¹⁶ “Réponse de la Défense de Monsieur Aimé Kilolo Musamba à ‘Prosecution’s response to Fidèle Babala Wandu’s request for an extension of time to file his appeal brief’ of 7 November 2016 (ICC-01/05-01/13-2013 (A2))”, [ICC-01/05-01/13-2036](#).

¹⁷ [ICC-01/05-01/13-2046](#).

¹⁸ “Public Redacted Version of ‘Bemba Defence Filing Identifying Errors in the Trial Judgment’”, 31 January 2017, ICC-01/05-01/13-2102-Conf, with two public and two public redacted annexes; a public redacted version was registered on the same day ([ICC-01/05-01/13-2102-Red](#)).

¹⁹ “Soumission de la Défense de M. Babala en exécution de l’ordonnance de la Chambre d’appel ICC-01/05-01/13-2046 A A2 A3 A5 [sic] A5”, 14 February 2017, [ICC-01/05-01/13-2107](#).

²⁰ “Detailed Notice of Appeal”, 14 February 2017, [ICC-01/05-01/13-2108](#).

²¹ “Aimé Kilolo Musamba’s submissions in compliance with ‘Decision on requests for an extension of the time limit for the filing of the documents in support of the appeal’ (ICC-01/05-01/13-2046)”, 14 February 2017, ICC-01/05-01/13-2109-Conf.

²² “Narcisse Arido’s Updated Detailed Notice of Appeal”, 22 February 2017, ICC-01/05-01/13-2110-Conf.

6. On 21 March 2017, Mr Babala requested an extension of the page limit for his appeal brief.²³ On 23 March 2017, the Appeals Chamber granted an extension of the page limit to Mr Babala and to the four other appellants, with respect to their appeal briefs, as well as to the Prosecutor, with respect to her response to the appellants' appeal briefs.²⁴
7. On 24 March 2017, Mr Bemba filed a request²⁵ seeking an extension of both the time and page limits for the filing of his appeal brief. On 29 March 2017, the Appeals Chamber rejected his request.²⁶
8. On 5 April 2017, Mr Kilolo filed a request seeking an extension of the time limit for filing his appeal brief from 18 April to 24 April 2017.²⁷ On 6 April 2017, Mr Mangenda filed a response in which he supported Mr Kilolo's request and requested that a similar extension be granted to all appellants.²⁸ On 10 April 2017, the Appeals Chamber granted the request for extension of time to all appellants.²⁹
9. On 24 April 2017, Mr Arido, Mr Babala, Mr Mangenda, Mr Bemba, and Mr Kilolo filed their respective appeal briefs.
10. On 14 September 2017, Mr Mangenda requested leave to file a corrected version of his appeal brief,³⁰ which was allowed by the Appeals Chamber on 5 October 2017.³¹

²³ "Request from the Defence for Mr Babala for an extension to the page limit for its appeal brief", registered on 24 March 2017, [ICC-01/05-01/13-2121-tENG](#); original French version ([ICC-01/05-01/13-2121](#)).

²⁴ "Decision on Mr Babala's request for an extension of page limit for his document in support of the appeal", [ICC-01/05-01/13-2124](#). This decision was rendered before the filing of a response from the Prosecutor as the Appeals Chamber considered that this would not prejudice the Prosecutor. *See* fn. 11. *See also* "Prosecution's Response to 'Requête de la Défense de M. Babala sollicitant l'extension du nombre de pages de son mémoire en appel'", 23 March 2017, [ICC-01/05-01/13-2125](#).

²⁵ "Request for an extension of the page limit and deadline", [ICC-01/05-01/13-2126](#), with one confidential annex. A corrected version was registered on 27 March 2017 ([ICC-01/05-01/13-2127](#)).

²⁶ "Decision on Mr Bemba's request for extension of the time and page limits for his document in support of the appeal", [ICC-01/05-01/13-2129](#).

²⁷ "Urgent Request for Extension of Time to Submit the Appeal Brief", [ICC-01/05-01/13-2133](#), dated 4 April 2017.

²⁸ "Response to 'Urgent Request for Extension of Time to Submit the Appeal Brief'", [ICC-01/05-01/13-2134](#), with one confidential annex.

²⁹ "Decision on extension of time limits for documents in support of the appeals", [ICC-01/05-01/13-2136](#).

³⁰ "Request for Leave to File a Corrected Version of Appeal Brief", ICC-01/05-01/13-2225-Conf, with one confidential annex.

C. Response

11. On 4 May 2017, the Prosecutor filed a request seeking an extension of the time limit and a further extension of the page limit with respect to her consolidated response to the appellants' appeal briefs.³² On 18 May 2017, the Appeals Chamber granted an extension of the page and time limits for the Prosecutor's consolidated response and directed Mr Kilolo, Mr Babala and Mr Arido to file public redacted versions of their appeal brief.³³

12. On 10 July 2017, the Prosecutor filed a consolidated response to the appellants' appeal briefs.³⁴

13. On 25 August 2017, the Prosecutor filed the "Prosecution's request for leave to file a corrected version of its response brief".³⁵ Mr Mangenda filed a response on 29 August 2017.³⁶ On 4 September 2017, the Prosecutor requested leave to reply to Mr Mangenda's response³⁷ to which Mr Mangenda also responded.³⁸ On 5 October 2017, the Appeals Chamber granted the Prosecutor's request to file a corrected version of her response to the appellants' appeal briefs and denied her request for leave to reply to Mr Mangenda's response.³⁹

³¹ "Decision on requests to file corrected versions of appeal submissions", [ICC-01/05-01/13-2235](#).

³² "Prosecution's Request for a Variation of the Time and Page Limits for its Brief in Response to the Appellants' Documents in Support of Appeal", ICC-01/05-01/13-2154-Conf.

³³ "Decision on the Prosecutor's request for an extension of page and time limits for her consolidated response to the documents in support of the appeals", [ICC-01/05-01/13-2161](#).

³⁴ "Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeal", ICC-01/05-01/13-2170-Conf, original version registered on 10 July 2017 and corrigendum registered on 24 August 2017; a public redacted version was registered on 25 August 2017 ([ICC-01/05-01/13-2170-Corr-Red](#)). A further correction was registered on 13 October 2017; a public redacted version was registered on the same day ([ICC-01/05-01/13-2170-Corr2-Red](#)).

³⁵ "Public redacted version of 'Prosecution's request for leave to file a corrected version of its response brief', ICC-01/05-01/13-2207-Conf, 25 August 2017", ICC-01/05-01/13-2207-Conf; a public redacted version was registered on 12 September 2017 ([ICC-01/05-01/13-2207-Red](#)).

³⁶ "Response to Prosecution's request for leave to file a corrected version of its response brief", ICC-01/05-01/13-2210-Conf, with one confidential annex.

³⁷ "Prosecution's request for leave to reply to Mangenda's 'Response to Prosecution's request for leave to file a corrected version of its response brief'", ICC-01/05-01/13-2216-Conf.

³⁸ "Response to 'Prosecution's request for leave to reply to Mangenda's 'Response to Prosecution's request for leave to file a corrected version of its response brief'", dated 7 September 2017 and registered 8 September 2017, ICC-01/05-01/13-2220-Conf.

³⁹ "Decision on requests to file corrected versions of appeal submissions", [ICC-01/05-01/13-2235](#).

D. Requests for leave to reply to the Prosecutor's Response

14. On 11 July 2017, Mr Babala filed a request seeking suspension of the time limit to file a request for leave to reply to the Prosecutor's Response until he receives the French translation of the Prosecutor's Response.⁴⁰ On 13 July 2017, Mr Bemba joined Mr Babala's request.⁴¹ On the same day, Mr Arido filed a similar request.⁴² On 14 July 2017, the Appeals Chamber issued the "Decision on requests for variation of time limits for a request for leave to reply" setting a deadline for the filing of any such requests.⁴³ The reasons for this decision were provided on 14 August 2017.⁴⁴

15. On 24 July 2017, Mr Arido,⁴⁵ Mr Babala,⁴⁶ Mr Mangenda,⁴⁷ Mr Bemba⁴⁸ and Mr Kilolo⁴⁹ filed requests seeking leave to reply to the Prosecutor's Response. On 27 July 2017, the Prosecutor filed a response to the five appellants' requests for leave

⁴⁰ "Requête de la Défense de M. Babala demandant la suspension de l'échéance applicable à une requête visant à solliciter l'autorisation pour soumettre une réplique à la «Prosecution's Consolidated Response to the Appellants' [sic] Documents in Support of Appeals» (ICC-01/05-01/13-2170-Conf)", [ICC-01/05-01/13-2171](#). This document was originally filed confidentially but was reclassified as public pursuant to the "Order on reclassification of documents and Reasons for the 'Decision on requests for variation of time limits for a request for leave to reply'", 14 August 2017, [ICC-01/05-01/13-2196](#).

⁴¹ "Request to Join the Application of 'Requête de la Défense de M. Babala demandant la suspension de l'échéance applicable à une requête visant à solliciter l'autorisation pour soumettre une réplique à la «Prosecution's Consolidated Response to the Appellants' [sic] Documents in Support of Appeals» (ICC-01/05-01/13-2170-Conf)", [ICC-01/05-01/13-2173](#).

⁴² "Narcisse Arido's Response in Support of Fidèle Babala Wandu's Request for the Deadline to File its Request For Leave to Reply to Prosecution's Response to Run from the Date of Notification of Complete French Translation and Request for Extension of Time under Regulation 35", [ICC-01/05-01/13-2174](#). This document was originally filed confidentially but was reclassified as public pursuant to the "Order on reclassification of documents and Reasons for the 'Decision on requests for variation of time limits for a request for leave to reply'", 14 August 2017, [ICC-01/05-01/13-2196](#).

⁴³ [ICC-01/05-01/13-2175](#).

⁴⁴ "Order on reclassification of documents and Reasons for the 'Decision on requests for variation of time limits for a request for leave to reply'", [ICC-01/05-01/13-2196](#).

⁴⁵ "Narcisse Arido's Request for Leave to Reply to the 'Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeals [sic]' (ICC-01/05-01/13-2170-Conf)", ICC-01/05-01/13-2180-Conf; a public redacted version was registered on 31 August 2017 ([ICC-01/05-01/13-2180-Red](#)).

⁴⁶ "Application for Leave to Reply to the 'Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeal' (ICC-01/05-01/13-2170-Conf)", registered on 18 August 2017, [ICC-01/05-01/13-2181-tENG](#); original French version ([ICC-01/05-01/13-2181](#)). This document was originally filed confidentially but was reclassified as public pursuant to the "Decision on requests for leave to reply to the Prosecutor's consolidated response to the documents in support of the appeal", 18 August 2017, [ICC-01/05-01/13-2197](#).

⁴⁷ "Request for leave to reply to 'Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeal", [ICC-01/05-01/13-2182](#). This document was originally filed confidentially but was reclassified as public pursuant to the "Order on reclassification of documents", 06 September 2017, [ICC-01/05-01/13-2219](#).

⁴⁸ "Defence Request for Leave to Reply to the 'Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeal", ICC-01/05-01/13-2183-Conf, with two confidential annexes; a public redacted version was registered on 31 August 2017 ([ICC-01/05-01/13-2183-Red](#)).

⁴⁹ "Request for Leave to Reply to 'Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeal (ICC-01/05-01/13-2170-Conf)", [ICC-01/05-01/13-2184](#).

to reply.⁵⁰ On 27 July 2017, Mr Bemba filed the “Defence Request for Leave to Reply to the Prosecution Consolidated Response Dated 27 July 2017”.⁵¹ The Appeals Chamber rejected these requests on 18 August 2017.⁵²

II. PROCEDURAL MOTIONS

A. Requests for leave to withdraw

16. On 23 November 2016, Mr Paul Djunga Mudimbi requested leave to withdraw as legal counsel for Mr Kilolo.⁵³ On 28 November 2016, the Appeals Chamber granted the request.⁵⁴ On 4 May 2017, co-counsel for Mr Kilolo, Mr Steven Powles, requested leave to withdraw.⁵⁵ This request was granted by the Appeals Chamber on 17 May 2017.⁵⁶

B. Requests related to disclosure

17. On 18 September 2017, Mr Bemba submitted a “Consolidated Request for Disclosure and Judicial Assistance”.⁵⁷ The Prosecutor responded on 2 October 2017.⁵⁸ On 6 October 2017, Mr Bemba requested leave to reply to the response⁵⁹ to which the

⁵⁰ “Prosecution’s Consolidated Response to the Appellants’ Requests for Leave to Reply to ‘Prosecution’s Consolidated Response to the Appellants’ Document in Support of the Appeal”, ICC-01/05-01/13-2187-Conf, with two confidential annexes; a public redacted version was registered on 6 September 2017 ([ICC-01/05-01/13-2187-Red](#)).

⁵¹ ICC-01/05-01/13-2188-Conf, with three confidential annexes; a public redacted version was registered on 7 August 2017 ([ICC-01/05-01/13-2188-Red](#)).

⁵² “Decision on requests for leave to reply to the Prosecutor’s consolidated response to the documents in support of the appeal”, [ICC-01/05-01/13-2197](#).

⁵³ “Demande d’autorisation de retrait en application de la norme 78(1) du Règlement de la Cour”, [ICC-01/05-01/13-2053](#).

⁵⁴ “Decision on request for leave to withdraw”, [ICC-01/05-01/13-2065](#).

⁵⁵ “Request for Leave to Withdraw”, ICC-01/05-01/13-2153-Conf.

⁵⁶ “Decision on request for leave to withdraw”, [ICC-01/05-01/13-2158](#).

⁵⁷ ICC-01/05-01/13-2227-Conf-Exp with nine confidential annexes; a public redacted version was registered on 20 September 2017 ([ICC-01/05-01/13-2227-Red2](#)).

⁵⁸ “Prosecution’s Response to Bemba’s ‘Consolidated Request for Disclosure and Judicial Assistance’”, ICC-01/05-01/13-2233-Conf; a public redacted version was registered on 14 February 2018 ([ICC-01/05-01/13-2233-Red](#)).

⁵⁹ “Defence Request for Leave to Reply to the Prosecution’s Response to Bemba’s ‘Consolidated Request for Disclosure and Judicial Assistance’”, ICC-01/05-01/13-2236-Conf, with two confidential annexes; original version registered on 6 October 2017 and corrigendum registered on 10 October 2016 (ICC-01/05-01/13-2236-Conf-Corr); a public redacted version was registered on 12 October 2017 ([ICC-01/05-01/13-2236-Corr-Red](#)).

Prosecutor responded on 11 October 2017.⁶⁰ These requests are rejected in the present judgment.

18. On 13 November 2017, Mr Bemba submitted “Request for a Remedy for Disclosure and Article 54(1) violations”,⁶¹ to which Mr Arido responded on 22 November 2017.⁶² On 24 November 2017, the Prosecutor responded to Mr Bemba and Mr Arido.⁶³ On 30 November 2017, Mr Bemba requested leave to reply to the Prosecutor’s response⁶⁴ to which the Prosecutor responded on 4 December 2017.⁶⁵ These requests are rejected in the present judgment.

19. On 4 January 2018, Mr Bemba submitted the “Second Request for an Effective Remedy for Disclosure Violations”,⁶⁶ to which Mr Arido responded on 15 January 2018.⁶⁷ On the same date, the Prosecutor filed her response to Mr Bemba and Mr Arido.⁶⁸ On 19 January 2018, Mr Bemba filed his request for leave to reply to the Prosecutor’s response,⁶⁹ to which the Prosecutor responded and requested for orders to his Defence Counsel.⁷⁰ Mr Bemba responded to the Prosecutor’s request on

⁶⁰ “Prosecution’s Response to Mr Bemba’s ‘Defence Request for Leave to Reply to the Prosecution’s Response to Bemba’s ‘Consolidated Request for Disclosure and Judicial Assistance’””, ICC-01/05-01/13-2238-Conf; a public redacted version was registered on 14 February 2018 ([ICC-01/05-01/13-2238-Red](#)).

⁶¹ ICC-01/05-01/13-2241-Conf, with one public and eleven confidential annexes.

⁶² “Narcisse Arido’s Response to Bemba Defence’s ‘Request for a Remedy for Disclosure and Article 54(1) violations’”, ICC-01/05-01/13-2242-Conf.

⁶³ “Prosecution’s response to Bemba’s ‘Request for a Remedy for Disclosure and Article 54(1) violations’”, ICC-01/05-01/13-2243-Conf.

⁶⁴ “Request for Leave to Reply to the ‘Prosecution’s Response to Bemba’s ‘Request for a Remedy for Disclosure and Article 54(1) violations’””, ICC-01/05-01/13-2245-Conf.

⁶⁵ “Prosecution’s response to Bemba’s Request for Leave to Reply to his ‘Request for a Remedy for Disclosure and Article 54(1) violations’”, ICC-01/05-01/13-2246-Conf.

⁶⁶ ICC-01/05-01/13-2252-Conf, with seven confidential annexes; a public redacted version was registered on 8 January 2018 ([ICC-01/05-01/13-2252-Red](#)).

⁶⁷ “Narcisse Arido’s Response to Bemba Defence’s ‘Second Request for an Effective Remedy for Disclosure violations’”, ICC-01/05-01/13-2253-Conf.

⁶⁸ “Prosecution’s response to Bemba’s ‘Second Request for an Effective Remedy for Disclosure Violations’”, ICC-01/05-01/13-2254-Conf; a public redacted version was registered on 14 February 2018 ([ICC-01/05-01/13-2254-Red](#)).

⁶⁹ “Request for Leave to Reply to the ‘Prosecution’s response to Bemba’s ‘Second Request for an Effective Remedy for Disclosure Violations’””, ICC-01/05-01/13-2255-Conf, with one confidential annex.

⁷⁰ “Prosecution’s response to Bemba’s 19 January 2018 request for leave to reply, and request for orders to Defence Counsel for Mr Bemba”, 24 January 2018, ICC-01/05-01/13-2261-Conf.

29 January 2018.⁷¹ On 10 February 2018, Mr Babala filed an “*adjonction*” to Mr Bemba’s response.⁷² These requests are rejected in the present judgment.

C. Motion for a request for cooperation

20. On 13 September 2017, Mr Mangenda filed his “Motion for Request for Cooperation”⁷³ to which the Prosecutor responded on 25 September 2017.⁷⁴ On 24 January 2018, the Appeals Chamber rejected this motion with reasons to follow in its judgment disposing of the appeals against conviction.⁷⁵ These reasons are provided in the present judgment.

D. Request for judicial notice

21. On 28 April 2017, Mr Bemba requested that the Appeals Chamber, under article 69 (6) of the Statute, take judicial notice of two decisions that had been issued by a Dutch District Court in October 2013.⁷⁶ On 3 May 2017, the Prosecutor filed her response opposing this request.⁷⁷ On 8 May 2017, Mr Bemba filed a request, seeking leave to reply to the Prosecutor’s response.⁷⁸ On 17 May 2017, the Appeals Chamber rejected Mr Bemba’s request for judicial notice and his request for leave to reply to the Prosecutor’s response.⁷⁹

E. Requests for admission of additional evidence on appeal

1. Mr Arido’s first request

22. On 14 March 2017, Mr Arido filed an application in which he requested the Appeals Chamber to admit as additional evidence on appeal material concerning

⁷¹ “Response to Prosecution’s request for orders to Defence Counsel for Mr Bemba”, ICC-01/05-01/13-2264-Conf.

⁷² “Adjonction de la Défense de Monsieur Fidèle Babala Wandu à ‘Response to Prosecution’s request for orders to Defence Counsel for Mr Bemba’ (ICC-01/05-01/13-2264-Conf)”, ICC-01/05-01/13-2266-Conf.

⁷³ ICC-01/05-01/13-2224-Conf, with twelve confidential annexes.

⁷⁴ “Prosecution’s response to Mangenda’s request for cooperation”, ICC-01/05-01/13-2230-Conf.

⁷⁵ “Decision on the ‘Motion for Request for Cooperation’”, [ICC-01/05-01/13-2258](#).

⁷⁶ “Request for judicial notice”, ICC-01/05-01/13-2150-Conf, with one confidential annex; a public redacted version was registered on 10 May 2017 ([ICC-01/05-01/13-2150-Red](#)).

⁷⁷ “Prosecution’s Response to Bemba’s ‘Request for Judicial Notice’”, [ICC-01/05-01/13-2152](#). This document was originally filed confidentially but was reclassified as public pursuant to the “Decision on Mr Bemba’s ‘Request for Judicial Notice’”, 17 May 2017, [ICC-01/05-01/13-2159](#).

⁷⁸ “Request for Leave to Reply to the ‘Prosecution’s Response to Bemba’s ‘Request for Judicial Notice’””, [ICC-01/05-01/13-2156](#).

⁷⁹ “Decision on Mr Bemba’s ‘Request for Judicial Notice’”, [ICC-01/05-01/13-2159](#).

witness D-6.⁸⁰ The Prosecutor responded on 17 March 2017.⁸¹ On 18 May 2017, the Appeals Chamber decided that it would rule on the admissibility of this additional evidence on appeal jointly with other issues raised in Mr Arido's appeal.⁸² It also directed the Prosecutor to set out her arguments concerning Mr Arido's application for the admission of additional evidence to adduce any evidence in response in her Response to the appeal briefs.⁸³

23. Pursuant to this decision, the Prosecutor responded to Mr Arido's application for additional evidence.⁸⁴ She also requested admission of three items of evidence in response to Mr Arido's proposed additional evidence.⁸⁵ On 24 July 2017, in his request seeking leave to reply to the Prosecutor's Response, Mr Arido also opposed the Prosecutor's request for admission of the three items of evidence⁸⁶ to which the Prosecutor responded on 27 July 2017.⁸⁷ On 18 August 2017, the Appeals Chamber set a time limit for Mr Arido's response to the Prosecutor's request and invited the Prosecutor to either apply for the introduction of the prior recorded testimony of the testimonial evidence sought for admission or to request that the witnesses be heard

⁸⁰ "Narcisse Arido's Application for the Submission of Additional Evidence Before the Appeals Chamber Pursuant to Regulation 62 of the Regulations of the Court", ICC-01/05-01/13-2116-Conf; a public redacted version was registered on 22 May 2017 ([ICC-01/05-01/13-2116-Red](#)).

⁸¹ "Prosecution's response to 'Narcisse Arido's Application for the Submission of Additional Evidence before the Appeals Chamber Pursuant to Regulation 62 of the Regulations of the Court'", ICC-01/05-01/13-2118-Conf.

⁸² "Directions and Decision regarding Mr Arido's applications for additional evidence filed pursuant to regulation 62 of the Regulations of the Court", [ICC-01/05-01/13-2160](#), para. 11.

⁸³ "Directions and Decision regarding Mr Arido's applications for additional evidence filed pursuant to regulation 62 of the Regulations of the Court", [ICC-01/05-01/13-2160](#), para. 12.

⁸⁴ "Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeal", ICC-01/05-01/13-2170-Conf, original version registered on 10 July 2017 and corrigendum registered on 24 August 2017; a public redacted version was registered on 25 August 2017 ([ICC-01/05-01/13-2170-Corr-Red](#)). A further correction was registered on 13 October 2017; a public redacted version was registered on the same day ([ICC-01/05-01/13-2170-Corr2-Red](#)), paras 732-743.

⁸⁵ "Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeal", ICC-01/05-01/13-2170-Conf, original version registered on 10 July 2017 and corrigendum registered on 24 August 2017; a public redacted version was registered on 25 August 2017 ([ICC-01/05-01/13-2170-Corr-Red](#)). A further correction was registered on 13 October 2017; a public redacted version was registered on the same day ([ICC-01/05-01/13-2170-Corr2-Red](#)), paras 741-743.

⁸⁶ "Narcisse Arido's Request for Leave to Reply to the 'Prosecution's Consolidated Response to the Appellants' Documents in Support of Appeals [*sic*]' (ICC-01/05-01/13-2170-Conf)", 31 August 2017, ICC-01/05-01/13-2180-Conf; a public redacted version was registered on 31 August 2017 ([ICC-01/05-01/13-2180-Red](#)).

⁸⁷ "Prosecution's Consolidated Response to the Appellants' Requests for Leave to Reply to 'Prosecution's Consolidated Response to the Appellants' Document in Support of the Appeal'", ICC-01/05-01/13-2187-Conf, with two confidential annexes; a public redacted version was registered on 6 September 2017 ([ICC-01/05-01/13-2187-Red](#)).

orally before the Appeals Chamber.⁸⁸ On 25 August 2017, the Prosecutor requested the admission as additional evidence on appeal the prior recorded testimony of two witnesses and the designation of a person authorised to witness a declaration under rule 68 (2) (b) of the Rules.⁸⁹ Mr Arido responded on 30 August 2017.⁹⁰ On 2 October 2017, the Appeals Chamber dismissed as moot the Prosecutor’s request to designate a person authorised to witness a declaration under rule 68 (2) (b) of the Rules.⁹¹ On 21 December 2017, the Registry transmitted the declaration made by two witnesses pursuant to rule 68 (2) (b) of the Rules.⁹² On 23 January 2018, after the filing of the witnesses’ declarations, the Prosecutor renewed her request to admit their prior recorded testimony as additional evidence on appeal in response to Mr Arido’s proposed additional evidence.⁹³ Mr Arido’s request is rejected in the present judgment, and the Prosecutor’s requests accordingly dismissed as moot.

2. *Mr Arido’s second request*

24. On 24 April 2017, Mr Arido requested the Appeals Chamber to admit as additional evidence on appeal two decisions issued in April and May 2016 by the Higher Regional Court of Vienna.⁹⁴ The Prosecutor responded to this request on 26 April 2017.⁹⁵ The Appeals Chamber dismissed the request as moot on 18 May 2017.⁹⁶

⁸⁸ “Decision on Mr Arido’s request to respond to evidence adduced by the Prosecutor”, [ICC-01/05-01/13-2198](#), paras 10, 12-13. This document was originally filed confidentially but was reclassified as public pursuant to the “Order on reclassification of decision ICC-01/05-01/13-2198-Conf”, 2 October 2017, [ICC-01/05-01/13-2232](#).

⁸⁹ “Prosecution’s Request to Admit Prior Recorded Testimonies and to Designate a Person Authorised to Witness a Declaration under Rule 68(2)(b)”, ICC-01/05-01/13-2205-Conf; a public redacted version was registered on 14 February 2018 (ICC-01/05-01/13-2205-Red).

⁹⁰ “Narcisse Arido’s Response to ‘Prosecution’s Request to Admit Prior Recorded Testimonies and to Designate a Person Authorised to Witness a Declaration under Rule 68(2)(b)’ (ICC-01/05-01/13-2205-Conf)”, ICC-01/05-01/13-2212-Conf; a public redacted version was registered on 6 September 2017 ([ICC-01/05-01/13-2212-Red](#))

⁹¹ “Decision concerning the Prosecutor’s request for introduction of two witness statements under rule 68 (2) (b) of the Rules of Procedure and Evidence”, [ICC-01/05-01/13-2234](#).

⁹² “Registry Transmission of the Declarations made by Two Witnesses pursuant to rule 68(2)(b) of the Rules of Procedure and Evidence”, ICC-01/05-01/13-2251-Conf, with two confidential annexes.

⁹³ “Prosecution’s Renewed Request to Admit Prior Recorded Testimonies under Rule 68(2)(b)”, ICC-01/05-01/13-2256-Conf.

⁹⁴ “Narcisse Arido’s Application for the Submission of Additional Evidence Before the Appeals Chamber Pursuant to Regulation 62 of the Regulations of the Court”, dated 19 April 2017, ICC-01/05-01/13-2140-Conf; corrigendum dated 21 April 2017 and registered on 24 April 2017, (ICC-01/05-01/13-2140-Conf-Corr), with one public annex.

⁹⁵ “Prosecution’s Response to Arido’s Second Application for the Submission of Additional Evidence before the Appeals Chamber pursuant to Regulation 62 of the Regulations of the Court”, ICC-01/05-01/13-2149-Conf.

3. *Mr Arido's third request*

25. On 2 August 2017, Mr Arido filed an application in which he requested that the Appeals Chamber admit as additional evidence on appeal two transcripts of the sentencing hearing in the present case or, in the alternative, to take judicial notice thereof.⁹⁷ On 14 August 2017, the Prosecutor filed her response to Mr Arido's request, opposing it and requesting its rejection.⁹⁸ On 18 August 2017, Mr Arido filed a request for leave to reply to the Prosecutor's response.⁹⁹ On 25 August 2017, the Appeals Chamber rejected both requests.¹⁰⁰

4. *Mr Bemba's first request*

26. On 12 July 2017, Mr Bemba filed an application requesting the Appeals Chamber to admit as additional evidence on appeal two Dutch District Court decisions.¹⁰¹ On 18 July 2017, the Appeals Chamber decided that it will rule on the admissibility of Mr Bemba's application jointly with the other issues raised in his appeal and directed the Prosecutor to respond to this application and adduce evidence in response, if any.¹⁰² On 14 August 2017, the Prosecutor filed her response opposing Mr Bemba's application.¹⁰³ On 18 August 2017, Mr Bemba filed a request seeking leave to reply to the Prosecutor's response,¹⁰⁴ which was rejected by the Appeals

⁹⁶ "Directions and Decision regarding Mr Arido's applications for additional evidence filed pursuant to regulation 62 of the Regulations of the Court", ICC-01/05-01/13-2160.

⁹⁷ "Narcisse Arido's Request for Admission of Two Sentencing Hearing Transcripts Pursuant to Regulation 62 of the Regulations of the Court", [ICC-01/05-01/13-2189](#).

⁹⁸ "Prosecution's Response to Arido's 'Request for Admission of Two Sentencing Hearing Transcripts Pursuant to Regulation 62 of the Regulations of the Court'", ICC-01/05-01/13-2195-Conf; a public redacted version was registered on 31 August 2017 ([ICC-01/05-01/13-2195-Red](#)).

⁹⁹ "Narcisse Arido's Request for Leave to Reply to 'Prosecution's Response to Arido's 'Request for Admission of Two Sentencing Hearing Transcripts Pursuant to Regulation 62 of the Regulations of the Court'", ICC-01/05-01/13-2199-Conf.

¹⁰⁰ "Decision on Mr Arido's application for admission of two hearing transcripts as additional evidence", [ICC-01/05-01/13-2206](#).

¹⁰¹ "Request for Additional Evidence on Appeal", ICC-01/05-01/13-2172-Conf, with four confidential annexes; a public redacted version was registered on 14 July 2017 ([ICC-01/05-01/13-2172-Red](#)).

¹⁰² "Directions regarding Mr Bemba's application for additional evidence filed pursuant to regulation 62 of the Regulations of the Court", [ICC-01/05-01/13-2176](#).

¹⁰³ "Prosecution's response to Bemba's 'Request for Additional Evidence on Appeal'", ICC-01/05-01/13-2194-Conf; a public redacted version was registered on 12 September 2017 ([ICC-01/05-01/13-2194-Red](#)).

¹⁰⁴ "Defence Request for Leave to reply to the 'Prosecution's Response to Bemba's 'Request for Additional Evidence on Appeal'", [ICC-01/05-01/13-2200](#).

Chamber on 4 September 2017.¹⁰⁵ This application for admission of additional evidence on appeal is rejected in the present judgment.

5. *Mr Bemba's second request*

27. On 29 November 2017, Mr Bemba submitted an application for the admission of certain email correspondences as additional evidence on appeal.¹⁰⁶ The Prosecutor responded to this application on 11 December 2017.¹⁰⁷ On 15 December 2017, Mr Bemba requested leave to reply to the Prosecutor's response,¹⁰⁸ to which the Prosecutor submitted that this request be summarily dismissed.¹⁰⁹ This application is rejected in the present judgment.

F. Requests for an oral hearing

28. On 11 September 2017, Mr Arido filed a request for an oral hearing on his appeal against the Conviction Decision.¹¹⁰ Mr Babala¹¹¹ and Mr Mangenda¹¹² joined this request on 12 and 22 September 2017, respectively. These requests are rejected in the present judgment.

¹⁰⁵ "Decision on Mr Bemba's request for leave to reply to the 'Prosecution's Response to Bemba's 'Request for Additional Evidence on Appeal'", [ICC-01/05-01/13-2214](#).

¹⁰⁶ "Second Request to Admit Additional Evidence on Appeal", ICC-01/05-01/13-2244-Conf-Exp, with four confidential annexes.

¹⁰⁷ "Prosecution's response to Bemba's Second Request to Admit Additional Evidence on Appeal", ICC-01/05-01/13-2247-Conf-Exp.

¹⁰⁸ "Defence Request for Leave to Reply to the 'Prosecution's Response to Bemba's Second Request to Admit Additional Evidence on Appeal'", ICC-01/05-01/13-2249-Conf, with four confidential annexes.

¹⁰⁹ "Prosecution's request to summarily dismiss Bemba's 'Defence Request for Leave to Reply to the 'Prosecution's Response to Bemba's Second Request to Admit Additional Evidence on Appeal'", 20 December 2017, ICC-01/05-01/13-2250-Conf.

¹¹⁰ "Narcisse Arido's Request for an oral hearing pursuant to Rule 156(3)", [ICC-01/05-01/13-2222](#).

¹¹¹ "Defence Request for an Oral Hearing to Enable the Defence to Make Oral Closing Statements and Mr Fidèle Babala Wandu to Make an Oral Statement", registered on 26 September 2017, [ICC-01/05-01/13-2223-tENG](#); original French version ([ICC-01/05-01/13-2223](#)).

¹¹² "Response to Requests for an Oral Hearing", [ICC-01/05-01/13-2229](#), with one public annex.