

Situation: Central African Republic

ICC-PIOS-Q&A-CAR-01-01/16

*The Prosecutor v. Jean-Pierre Bemba Gombo*

Updated: 21 June 2016

ICC-01/05-01/08

## Questions and answers on the sentence in the case

### *The Prosecutor v. Jean-Pierre Bemba Gombo*

21 June 2016

#### FOR WHICH CRIMES WAS MR BEMBA FOUND GUILTY?

On 21 March 2016, Trial Chamber III **found** Jean-Pierre Bemba Gombo guilty beyond reasonable doubt of two counts of crimes against humanity (murder and rape) and three counts of war crimes (murder, rape, and pillaging). The crimes were committed in the Central African Republic from on or about 26 October 2002 to 15 March 2003 by a contingent of the *Mouvement de Libération du Congo* troops. Mr Bemba was a person effectively acting as a military commander, who knew that the MLC forces under his effective authority and control were committing or about to commit the crimes charged.

#### WHAT DID THE PARTIES AND PARTICIPANTS ASK FOR REGARDING THE SENTENCE?

The Prosecution, the Defence and the Legal representatives of the victims made observations on the sentence to be pronounced for Mr Bemba following his conviction.

The Prosecution submitted that Mr Bemba's sentence should be no less than 25 years of imprisonment.

The Defence submitted that Mr Bemba should receive a sentence in the lower range of sentences previously passed on commanders at international criminal courts. The Defence stressed that a sentence outside the range of 12 to 14 years of imprisonment would infringe Mr Bemba's rights.

The Legal representative of victims submitted that Mr Bemba deserves a sentence beyond the maximum threshold.

#### WHAT SENTENCE DID TRIAL CHAMBER III PRONOUNCE?

In light of his conviction, Mr Bemba was sentenced to the following terms of imprisonment:

- Murder as a war crime: 16 years of imprisonment;
- Murder as a crime against humanity: 16 years of imprisonment;
- Rape as a war crime: 18 years of imprisonment;
- Rape as a crime against humanity: 18 years of imprisonment; and
- Pillaging as a war crime: 16 years of imprisonment.

The Chamber considered that the highest sentence imposed, namely, 18 years for rape, reflected the totality of Mr Bemba's culpability and decided that the sentences imposed shall run concurrently.

The entire time he has spent in detention in accordance with an order of this Court, since 24 May 2008, will be deducted from his sentence.

#### WHICH CRITERIA HAVE BEEN TAKEN INTO ACCOUNT BY THE TRIAL CHAMBER?

In order to determine the appropriate sentence, the Chamber considered (i) the gravity of the crimes; (ii) the gravity of Mr Bemba's culpable conduct; and (iii) Mr Bemba's individual circumstances. The Chamber took into account all relevant evidence and submissions presented throughout the trial, and all relevant factors for its findings on a proportionate sentence and aggravating and mitigating circumstances.

In particular, the Chamber found that, on the facts of this case, the crimes of murder, rape, and pillaging were of serious gravity. The Chamber also found that two aggravating circumstances applied to the crime of rape: it was committed (i) against particularly defenceless victims and (ii) with particular cruelty. The Chamber also found that one aggravating circumstance applied to the crime of pillaging, which the majority of the Chamber considered to be the particular cruelty with which the crime was committed. The Chamber further found that Mr Bemba's culpable conduct was of serious gravity. Lastly, the Chamber was satisfied that no mitigating circumstances existed in this case.

**CAN THIS SENTENCE BE APPEALED OR REVIEWED?**

In accordance with article 81(2)(a) of the Rome Statute, the ICC's founding treaty, the sentence can be appealed by the Prosecutor or the convicted person on the grounds of disproportion between the crime and the sentence.

Additionally, in accordance with article 110(3) of the Statute, "[w]hen the person has served two thirds of the sentence; [...] the Court shall review the sentence to determine whether it should be reduced".

**WHERE WILL MR BEMBA'S SENTENCE BE SERVED?**

When the sentencing decision becomes final, Mr Bemba will not remain in the ICC Detention Centre. According to the Statute and the Rules, the ICC Presidency, having heard the views of the sentenced person, shall designate a State of enforcement from a list of States that have indicated their willingness to accept the sentenced person and have signed an agreement with the Court to that effect.

**WHEN WILL A DECISION ON REPARATIONS BE DELIVERED?**

The issue of reparations to victims under article 75 of the Statute will be addressed in due course.

**IF MR BEMBA IS FOUND GUILTY IN THE ARTICLE 70 CASE, WILL THE TWO SENTENCES EVENTUALLY BE MERGED?**

What, if any, impact the sentence imposed in this case has on the article 70 proceedings is a matter to be determined by Trial Chamber VII.