



Original: English

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

Date: 11 July 2016

THE APPEALS CHAMBER

Before: Judge Christine Van den Wyngaert, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Howard Morrison
Judge Chile Eboe-Osuji
Judge Piotr Hofmański

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO

Public document

**Decision on Mr Bemba's request for an extension of page limit for his document
in support of the appeal**

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

The Office of the Prosecutor

Ms Fatou Bensouda

Ms Helen Brady

Counsel for the Defence

Mr Peter Haynes

Ms Kate Gibson

Legal Representative of Victims

Ms Marie-Edith Douzima-Lawson

REGISTRY

Registrar

Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III entitled “Judgment pursuant to Article 74 of the Statute” of 21 March 2016 (ICC-01/05-01/08-3343),

Having before it the “Request for an extension of the page limit” of 28 June 2016 (ICC-01/05-01/08-3400),

Renders the following

DECISION

1. The page limit for the document in support of the appeal of Mr Jean-Pierre Bemba Gombo is extended by 100 pages.
2. The page limit for the Prosecutor’s response is also extended by 100 pages.

REASONS

I. PROCEDURAL HISTORY

1. On 21 March 2016, Trial Chamber III (“Trial Chamber”) delivered the “Judgment pursuant to Article 74 of the Statute”¹ (“Conviction Decision”).
2. On 4 April 2016, Mr Jean-Pierre Bemba Gombo (“Mr Bemba”) filed an appeal against the Conviction Decision.²
3. On 15 April 2016, the Appeals Chamber granted Mr Bemba’s request for an extension of time for the filing of the document in support of the appeal³ and invited

¹ [ICC-01/05-01/08-3343](#).

² “Defence Notice of Appeal against the Judgment pursuant to Article 74 of the Statute, ICC-01/05-01/08-3343”, [ICC-01/05-01/08-3348](#) (A).

³ “Defence Request for Variation of the Time Limits for the Filing of the Document in Support of Appeal”, [ICC-01/05-01/08-3353](#) (A). *See also* “Prosecution Response to the Defence Request for Variation of the Time Limits for the Filing of the Document in Support of Appeal”, dated 6 April 2016 and registered on 7 April 2016, [ICC-01/05-01/08-3355](#) (A).

Mr Bemba to specify, by 20 June 2016, the legal findings of the Trial Chamber that he intended to challenge on appeal.⁴

4. On 20 June 2016, Mr Bemba filed a “list of the legal, factual and procedural errors which he intends to challenge on appeal”⁵ (“20 June Filing”).

5. On 28 June 2016, Mr Bemba filed a request for an extension of the page limit for his document in support of the appeal⁶ (“Request for Page Limit Extension”).

6. On 1 July 2016, the Prosecutor filed a response to Mr Bemba’s Request for Page Limit Extension⁷ (“Prosecutor’s Response”).

II. MERITS

7. Regulation 58 (5) of the Regulations of the Court provides that the document in support of the appeal shall not exceed 100 pages. Pursuant to regulation 37 (2) of the Regulations of the Court, a Chamber may grant an extension of the page limit “in exceptional circumstances”.

8. Mr Bemba requests that the page limit be extended by 150 pages to a total of 250 pages. In order to justify this request, Mr Bemba points to the anticipated complexity of the appeal,⁸ submitting that “[t]he vast majority of the [Conviction Decision] is being challenged, with the appellant compelled to ventilate issues of evidence, procedure, fact and law”.⁹ Mr Bemba further submits that the Trial Chamber proceedings were devoid of appellate scrutiny because in all but one instance, “the parties were refused leave to appeal the Trial Chamber’s decisions, despite consistent requests throughout the four-year trial”.¹⁰ Finally, Mr Bemba submits that the “parallel Article 70 case gives rise to a plethora of legal and

⁴ “Decision on Mr Bemba’s request for an extension of time for the filing of his document in support of the appeal”, [ICC-01/05-01/08-3370](#) (A) (“Extension of Time Decision”).

⁵ “Filing in compliance with decision ICC-01/05-01/08-3370”, [ICC-01/05-01/08-3398](#) (A), para. 4.

⁶ “Request for an extension of the page limit”, [ICC-01/05-01/08-3400](#) (A).

⁷ “Response to request for an extension of the page limit”, [ICC-01/05-01/08-3401](#) (A).

⁸ [Request for Page Limit Extension](#), para. 6.

⁹ [Request for Page Limit Extension](#), para. 7.

¹⁰ [Request for Page Limit Extension](#), para. 8.

procedural issues” which, similarly, have not been considered by the Appeals Chamber.¹¹

9. The Prosecutor opposes Mr Bemba’s request on the basis that no exceptional circumstances exist.¹² The Prosecutor further submits that the fact that the Trial Chamber refused the majority of Mr Bemba’s applications for leave to appeal “allows no inference of any kind to be drawn concerning the legal correctness of the impugned decisions, or the scope of the necessary review under article 81”.¹³ The Prosecutor also contends that the argument is “speculative in its implication that every procedural decision for which leave to appeal was denied must, or even can, necessarily be raised in this appeal under article 81”.¹⁴ The Prosecutor submits that arguments regarding the article 70 proceedings are “irrelevant and speculative” and should not justify an extension of the page limit.¹⁵ In this regard, she relies on the Appeals Chamber’s refusal to grant an extension of time for the filing of the document in support of the appeal based on the circumstances of the separate article 70 proceedings.¹⁶ However, the Prosecutor indicates that she would not object to an *ex gratia* extension of no more than 20 pages and requests that any extension of page limit be equally granted for her own brief in response.¹⁷

10. The Appeals Chamber notes that, in the 20 June Filing, Mr Bemba identified a broad range of purported legal, procedural, and factual errors that are likely to form the basis of his appeal. The Appeals Chamber further observes that the present appeal is the first directed at a decision on criminal responsibility under article 28 of the Statute, which may raise both complex and novel issues. The Appeal Chamber considers that these factors justify an extension of the applicable page limit.

11. Regarding the article 70 proceedings, the Appeals Chamber recalls that, although it granted an extension of time for filing Mr Bemba’s document in support of the appeal, it found that it would be speculative and premature to base the extension

¹¹ [Request for Page Limit Extension](#), paras 12-13.

¹² [Prosecutor’s Response](#), para. 1.

¹³ [Prosecutor’s Response](#), para. 11.

¹⁴ [Prosecutor’s Response](#), para. 12.

¹⁵ [Prosecutor’s Response](#), paras 14-16.

¹⁶ [Prosecutor’s Response](#), para. 14, referring to [Extension of Time Decision](#), para. 7.

¹⁷ [Prosecutor’s Response](#), paras 1-2.

of time on the *outcome* of the article 70 proceedings in circumstances where the Conviction Decision had already been rendered and “the date of conclusion of the article 70 proceedings ha[d] not been specified”.¹⁸ By contrast, the existence of article 70 proceedings and Mr Bemba’s stated intention to argue, on the basis of facts already known, that these proceedings impacted on the fairness of his trial, are relevant factors in assessing whether exceptional circumstances exist justifying an increase in the page limit. The Appeals Chamber considers that, given the number and complexity of the filings associated with the article 70 proceedings, an extension of the page limit is justified in order to allow Mr Bemba to elaborate these arguments. This is without prejudice to the ultimate merit of such arguments.

12. The Appeals Chamber also notes Mr Bemba’s submissions that only one decision during the course of the trial proceedings was appealed to the Appeals Chamber. Mr Bemba fails to indicate whether he now intends to raise the issues for which leave to appeal was denied, and, if so, how many of those issues will be addressed. In addition, the Appeals Chamber notes that many of the requests for leave to appeal identified by Mr Bemba relate to the article 70 proceedings, one is a request for leave to reply and one relates to the sentencing proceedings. In the absence of more specific information, the Appeals Chamber does not consider this claim to be a relevant factor in assessing whether exceptional circumstances exist justifying an increase in the page limit.

13. For the foregoing reasons, the Appeals Chamber is persuaded that Mr Bemba has demonstrated the existence of “exceptional circumstances” for the purposes of regulation 37 (2) of the Regulations of the Court. However, the Appeals Chamber considers that a page extension of 100 pages, as opposed to the 150 requested by Mr Bemba, is adequate in the circumstances and, accordingly, grants Mr Bemba’s Request for Page Limit Extension in part.

14. Consequently, the Appeals Chamber deems it appropriate to also extend the page limit for the Prosecutor’s response by 100 pages.

¹⁸ [Extension of Time Decision](#), para. 7.

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



Judge Christine Van den Wyngaert
Presiding Judge

Dated this 11th day of July 2016

At The Hague, The Netherlands