

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **French**

No.: **ICC-01/05-01/13**

Date: **21 March 2017**

**THE APPEALS CHAMBER**

**Before:** Judge Silvia Fernández de Gurmendi, Presiding Judge  
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 Document**

**Request from the Defence for Mr Babala for an extension to the page limit for its  
appeal brief**

**Source: Defence for Mr Fidèle BABALA WANDU**

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

**The Office of the Prosecutor**

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**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants**

**(Participation/Reparation)**

**Office of Public Counsel for Victims**

**Office of Public Counsel for the  
Defence**

Mr Xavier-Jean Keïta

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## PURPOSE OF THE REQUEST

1. The Defence team for Mr Fidèle Babala Wandu (“the Defence” or “the appellant”) hereby respectfully requests the Appeals Chamber (“the Chamber” or “the present Chamber”) to extend the page limit for its appeal brief by fifty (50) pages.

## BRIEF PROCEDURAL BACKGROUND

2. On 19 October 2016, Trial Chamber VII handed down judgment pursuant to article 74 of the Rome Statute (“the Judgment”), finding Mr Babala guilty as an accessory to the corrupt influencing of witnesses under article 70(1)(c) in conjunction with article 25(3)(c) of the Statute.<sup>1</sup>
3. On 2 November 2016, the Defence gave the present Chamber notice of appeal against the Judgment.<sup>2</sup> The other Defence teams followed suit.<sup>3</sup>
4. On 11 November 2016, the Chamber accorded the Defence request for an extension of the applicable time limit for the submission of its appeal brief, ruling that all Defence teams were to file their briefs by 18 April 2017.<sup>4</sup>
5. As directed<sup>5</sup> by the Appeals Chamber, the Defence submitted on 14 February 2017 a list of non-exhaustive points, and subject matters of its brief; it may, if need be, have to flesh out and amend the points and subject matters so as to defend its client fully and efficaciously.

## APPLICABLE LAW

6. Regulation 58(5) of the Regulations of the Court provides: “*The document in support of the appeal shall not exceed 100 pages*”.
7. Regulation 37(2) of said Regulations provides: “*The Chamber may, at the request of a participant, extend the page limit in exceptional circumstances.*”

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<sup>1</sup> ICC-01/05-01/13-1989-Red.

<sup>2</sup> ICC-01/05-01/13-1999-tENG.

<sup>3</sup> Defence for Mr Arido: ICC-01/05-01/13-1995; Defence for Mr Mangenda: ICC-01/05-01/13-2006; Defence for Mr Bemba: ICC-01/05-01/13-2016; Defence for Mr Kilolo: ICC-01/0501/13-2015.

<sup>4</sup> ICC-01/05-01/13-2046.

<sup>5</sup> *Ibidem*.

## SUBMISSIONS

8. Despite striving for succinctness in compliance with the page limits prescribed by the Regulations of the Court, the Defence is struggling greatly to confine its analyses to the number of pages laid down by regulation 58(5) aforesaid. As a matter of fact, the Judgment handed down by the Trial Chamber pursuant to article 74 of the Statute on 19 October 2016 raises a host of complex issues of fact and of law, requiring the Defence to enter into extensive analyses, absent which the full, proper and efficacious defence of Mr Babala could be compromised.
9. Furthermore, the present Chamber has itself acknowledged the complexity of the case and the plethora of issues to be considered on appeal: “(...) *the Appeals Chamber is persuaded by the parties’ submissions regarding : (i) the anticipated factual, legal and procedural complexity of the appeal and the novelty of the legal issues to be addressed (...)*”.<sup>6</sup>
10. The complexity is borne out by the novelty of the factual and legal issues which form the substance of the Judgment and the Defence’s appeal brief.
11. Concision has always been the hallmark of the Defence for Mr Babala’s written submissions. Even when, at the confirmation of charges phase, the Single Judge stated that no page limit applied to the submissions on the charges, the Defence condensed its brief.<sup>7</sup> The Defence undertakes to make judicious use of an extension to the page limit, were the Appeals Chamber to grant its request.
12. An extension to the page limit would allow the Defence to set out its arguments in clear terms and in the round, which would assist the Chamber in its endeavour and increase the efficiency of the proceedings. It would also allow Defence to discharge its duty to do the utmost to defend its client’s interests and contribute to the proper administration of justice. As Trial Chamber II acknowledged in *Katanga and Ngudjolo*, “both the Chamber and the parties and participants will benefit from comprehensive, well argued and clearly presented submissions”.<sup>8</sup>

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<sup>6</sup> ICC-01/05-01/13-2046, para. 18.

<sup>7</sup> See ICC-01/05-01/13-596-Conf-Corr2.

<sup>8</sup> ICC-01/04-01/07-3249-tENG, p. 4.

**FOR THESE REASONS**

**MAY IT PLEASE THE COURT**

TO ACCORD the Defence for Mr Babala a page-limit extension of fifty (50) pages for its appeal brief.

AND JUSTICE SHALL BE DONE.

RESPECTFULLY SUBMITTED.

Word count: 723<sup>9</sup>

[signed]

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Jean-Pierre KILENDA KAKENGI BASILA  
Counsel for Mr Fidèle BABALA WANDU

Dated this 21 March 2017

At The Hague

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<sup>9</sup> The Defence hereby provides the requisite certification: see ICC-01/11-01/11-565 OA6, para. 32.