

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **28 March 2017**

THE APPEALS CHAMBER

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Howard Morrison
Judge Geoffrey A. Henderson
Judge Piotr Hofma ski

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

**Narcisse Arido's Request for a Variation of the Deadline for Giving of a Notice of
Appeal Against the Sentencing Decision**

Source: Counsel for Narcisse Arido

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

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I. SUBMISSIONS

1. The Arido Defence hereby requests an extension of 30 days of the deadline¹ for giving notice of appeal of the sentencing decision pursuant to Rule 150(2) of the Rules of Procedure and Evidence ('RPE') and also a commensurate extension of 30 days to the deadline for any ultimate appeal of sentence pursuant to Regulation 35 of the Regulations of the Court ('RoC').

2. Pursuant to Rule 150(2) RPE, the Appeals Chamber, "for good cause, upon the application of the party seeking to file the appeal" may extend the deadline for notice and pursuant to Regulation 35(2) RoC, the Appeals Chamber may "extend [...] a time limit if good cause is shown".

3. There is good cause and a basis for the present requests due to (1) the overlapping time-lines of work for the appeal against conviction and appeal on sentence and (2) the complexity of legal and factual issues raised by the sentencing appeal that may be impacted or interact with the appeal against conviction.

1. The notice of appeal against the Sentencing Decision pursuant to Rule 150(2) RPE

4. As a result of two separate processes – one before the Appeals Chamber and one before the Trial Chamber – the deadlines for submission of the document in support of appeal against conviction and notice for appeal against sentence are close – 3 days apart.

5. On 23 November 2017, The Appeals Chamber issued its 'Decision on requests for an extension of the time limit for the filing of the documents in support of the appeal'² whereby it extended the time limit for the filing of the documents in support of the appeal to 16h00 on *Tuesday, 18 April 2017*.

6. On 22 March 2017, Trial Chamber VII ('Trial Chamber') issued its 'Decision on Sentence pursuant to Article 76 of the Statute'.³ Pursuant to Rule 150(1) of the Rules of Procedure and Evidence ('RPE'), "an appeal against [...] a sentence under article 76 [...] may be filed not later than 30 days from the date on which the party filing the appeal is notified of

¹ Noting that 21 May 2017 is a Sunday, the actual deadline under the regulations falls on 22 May 2017.

² ICC-01/05-01/13-2046.

³ ICC-01/05-01/13-2123-Corr ('Sentencing Decision').

the decision”. The deadline for notice of appeal against the sentence under this rule is *Friday 21 April 2017*.

7. Assessing the Sentencing Decision and the potentially overlapping issues leads to concurrent, essential, yet competing priorities. Over the course of the three days between the submission of the document in support of appeal and the notice deadline, the Arido Defence will need to digest upwards of potentially 495 pages of submissions from the other Co-Appellants concurrently with choosing to give notice of appeal on the sentence.⁴ These filings may – by their nature – impact upon the decision to give notice.

8. It is submitted that both the overlapping demands on the Defence and the hurried review in advance of the notice deadline constitute good cause for the extension of the deadline.

2. Variation of the deadline for any eventual document in support of an appeal against sentencing pursuant to Regulation 35(1) RoC

9. As it stands, any responses to the Co-Appellants will be due 60 days from the 18 April 2017 deadline pursuant to Regulation 59(1) RoC. Similarly, the Prosecution response will also be filed 60 days from the 18 April 2017. Just as with the close proximity of the deadlines for the document in support of appeal and notice of appeal against sentence, any eventual document in support of an appeal against sentence will fall three days following the provision of responses, thus the same overlapping deadlines dynamic will repeat itself.

10. In its decision on the extension of the time limit for documents in support of the appeal, the Appeals Chamber considered that “the ongoing sentencing proceedings before the Trial Chamber, to which the defence teams are currently dedicating time and resources”⁵ and “anticipated factual, legal and procedural complexity of the appeal and the novelty of the legal issues to be addressed”⁶ was a relevant factor in showing good cause for an extension of the deadline.

11. The time periods around both the notice deadline and the deadline for submission of any document in support of an appeal against sentence are analogous to the factors previously described by the Appeals Chamber as the Defence will have its resources thinly-stretched. Also analogous, the interaction of these two separate processes may also raise complex legal

⁴ The Bemba Defence requests 150 pages to make submissions (ICC-01/05-01/13-2126) while the Appeals Chamber has already granted 115 pages to each team (ICC-01/05-01/13-2124).

⁵ ICC-01/05-01/13-2046, para. 18.


⁶ *Ibid.*

and factual questions. One way, it is submitted, to ensure equality of arms in these processes is by providing a variation in deadlines.

12. It is submitted therefore, that these factors constitute good cause for a variation of the deadlines – by 30 days – so as to offset the deadlines in such a manner that the proceedings can unfold in a more orderly, efficient, and focused manner.

II. CONCLUSION

13. In light of the above, the Arido Defence respectfully requests the Appeals Chamber to:
- a. GRANT an extension of the deadline for the notice of appeal by 30 days such that the deadline for the provision of notice is extended to 22 May 2017; and
 - b. GRANT a variation of the deadline for any eventual document in support of an appeal against sentence by 30 days to 20 July 2017.



Chief Charles Achaleke Taku, Counsel for Mr. Arido

Dated this 28th Day of March 2016

The Hague, The Netherlands