



Original: English

No. ICC-01/05-01/13 A A1 A2 A3 A4 A5

Date: 10 April 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 Hofmański

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

Decision on extension of time limits for documents in support of the appeals

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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Ms Helen Brady

Counsel for Jean-Pierre Bemba Gombo
Ms Melinda Taylor
Ms Sarah Codde

Counsel for Aimé Kilolo Musamba
Mr Michael G. Karnavas
Mr Steven Powles

Counsel for Jean-Jacques Mangenda Kabongo
Mr Christopher Gosnell
Mr Peter Robinson

Counsel for Fidèle Babala Wandu
Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido
Mr Charles Achaleke Taku
Ms Beth Lyons

REGISTRY

Registrar
Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

In the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu, and Mr Narcisse Arido against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute” of 19 October 2016 (ICC-01/05-01/13-1989-Red),

Having before it the “Urgent Request for Extension of Time to Submit the Appeal Brief” of 5 April 2017 (ICC-01/05-01/13-2133 (A5)),

Renders pursuant to regulation 35 (2) of the Regulations of the Court the following

DECISION

1. The request for an extension of the time limit for filing the document in support of the appeal by Mr Aimé Kilolo Musamba is granted.
2. The time limit for filing the documents in support of the appeals of Mr Narcisse Arido, Mr Fidèle Babala Wandu, Mr Jean-Jacques Mangenda Kabongo and Mr Jean-Pierre Bemba Gombo is extended to Monday, 24 April 2017.

REASONS

I. PROCEDURAL HISTORY

1. On 19 October 2016, Trial Chamber VII (“Trial Chamber”) rendered its “Judgment pursuant to Article 74 of the Statute”¹ (“Conviction Decision”).
2. Mr Narcisse Arido (“Mr Arido”),² Mr Fidèle Babala Wandu (“Mr Babala”),³ Mr Jean-Jacques Mangenda Kabongo (“Mr Mangenda”),⁴ Mr Jean-Pierre Bemba

¹ *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, [ICC-01/05-01/13-1989-Red](#).

² “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 \(A\)](#).

³ “Notification d’appel de la Défense de M. Fidèle Babala Wandu à l’encontre du jugement rendu en application de l’article 74 du Statut par la Chambre de première instance VII le 19 octobre 2016”, 2 November 2016, [ICC-01/05-01/13-1999 \(A2\)](#).

⁴ “Notice of Appeal”, 4 November 2016, [ICC-01/05-01/13-2006 \(A3\)](#).

Gombo (“Mr Bemba”),⁵ and Mr Aimé Kilolo Musamba (“Mr Kilolo”) ⁶ filed appeals against the Conviction Decision.

3. On 23 November 2016, the Appeals Chamber extended the time limit for the filing of the documents in support of the appeals to 18 April 2017.⁷

4. On 5 April 2017, Mr Kilolo filed a request seeking an extension of the time limit for filing his document in support of the appeal from 18 April to 24 April 2017⁸ (“Request”).

5. On 6 April 2017, Mr Mangenda filed a response in which he supports the Request and requests that the extension of the time limit sought by Mr Kilolo be granted to all appellants⁹ (“Response”).¹⁰

II. MERITS

6. The Appeals Chamber recalls that the documents in support of the appeals are due on 18 April 2017.¹¹ Regulation 35 (2) of the Regulations of the Court provides that a Chamber may extend a time limit “if good cause is shown”.

7. Mr Kilolo requests that the time limit for filing his document in support of the appeal be extended to 24 April 2017 because the TRIM system will be inaccessible between 14 April and 20 April 2017.¹² Mr Kilolo submits that the request is both necessary and reasonable because the document in support of his appeal is due on a day when TRIM will be inaccessible, and in order to finalise the document, it is essential that he has access to the Court records that are stored in TRIM for

⁵ “Notice of Appeal”, 7 November 2016, [ICC-01/05-01/13-2012 \(A4\)](#).

⁶ “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 \(A5\)](#).

⁷ “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 \(A A2 A3 A4 A5\)](#) (“Decision of 23 November 2016”), para. 18.

⁸ “Urgent Request for Extension of Time to Submit the Appeal Brief”, [ICC-01/05-01/13-2133 \(A5\)](#), dated 4 April 2017 and registered on 5 April 2017, p. 3.

⁹ “Response to ‘Urgent Request for Extension of Time to Submit the Appeal Brief’”, [ICC-01/05-01/13-2134 \(A5\)](#) with Annexe A (ICC-01/05-01/13-2134-Conf-AnxA), para. 1.

¹⁰ While this decision is rendered before the filing of a response from the Prosecutor, the Appeals Chamber considers that this is done without prejudice to the Prosecutor.

¹¹ See Decision of 23 November 2016, para. 18.

¹² Request, p. 3.

verification of supporting authorities.¹³ Mr Kilolo further avers that this situation “amounts to a shortening of time for the filing of the appeal brief, imposing a significant burden on the parties, who have no control over the circumstances”.¹⁴

8. In his Response, Mr Mangenda submits that he supports Mr Kilolo’s request for an extension of the time limit and requests that this extension be granted to all appellants.¹⁵ He argues that moving the due date for filing the documents in support of the appeals is necessary, reasonable and appropriate as it is out of the parties’ control.¹⁶ Mr Mangenda avers further that he was informed on 4 April 2017 about the unavailability of TRIM and that it “even raises questions about how the document in support of the appeal is to be filed and distributed on the day of filing.”¹⁷

9. The Appeals Chamber notes that there will be no access to the Court record through TRIM from 14 to 20 April 2017 and that Mr Kilolo and Mr Mangenda were only informed of this on 4 April 2017.¹⁸ The unavailability of TRIM could not have been foreseen and taken into account by Mr Kilolo and Mr Mangenda in the planning of preparation of their documents in support of the appeals. The Appeals Chamber observes further that access to the Court record, via TRIM, is usually necessary to verify the authorities relied on and that there is preference for filing documents via TRIM. In that regard, the Appeals Chamber agrees that all appellants’ inability to file their documents in support of the appeals during the time of TRIM’s disruption would be outside of their control.

10. Consequently, the Appeals Chamber is persuaded that good cause has been shown within the meaning of regulation 35 (2) of the Regulations of the Court and it therefore extends the time limit for the documents in support of the appeals for Mr Kilolo, Mr Mangenda, Mr Arido, Mr Babala, and Mr Bemba to Monday, 24 April 2017.

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

¹³ Request, p. 3.


¹⁴ Request, p. 3.

¹⁵ Response, para. 1.

¹⁶ Response, para. 3.

¹⁷ Response, para. 2.

¹⁸ Request, p. 3; Response, para. 2.


Judge Silvia Fernández de Gurmendi
Presiding Judge

Dated this 10th day of April 2017