

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No. **ICC-01/05-01/08**
Date: **1 October 2020**

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

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

Public

**Decision on the request for leave to appeal the
'Decision on Mr Bemba's claim for compensation and damages'**

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

The Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor
Helen Brady

Counsel for the Defence

Peter Haynes, QC
Kate Gibson

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER II of the International Criminal Court issues this Decision on the request for leave to appeal the ‘Decision on Mr Bemba’s claim for compensation and damages’ (the ‘Compensation Decision’),¹ submitted by Counsel for Mr Jean-Pierre Bemba Gombo (‘Mr Bemba’) on 25 May 2020 (the ‘Request’).²

I. PROCEDURAL BACKGROUND AND SUBMISSIONS

1. On 8 March 2019, Mr Bemba submitted a claim for compensation and damages (the ‘Claim’),³ consisting of two alternative requests: first, a request for compensation under article 85(3) of the Rome Statute (the ‘Statute’), based on the allegation that a grave and manifest miscarriage of justice to the detriment of Mr Bemba occurred in the *Bemba* case (the ‘First Component of the Claim’);⁴ second, a request to be awarded compensation as a remedy to the damage resulting from the alleged Court’s failure in properly managing and preserving Mr Bemba’s property and assets frozen and seized pursuant to the Court’s orders (the ‘Second Component of the Claim’).⁵

2. On 18 May 2020, the Chamber issued the Compensation Decision, thereby (i) rejecting the First Component of the Claim, ‘[h]aving found that Mr Bemba failed to establish that he suffered a grave and manifest miscarriage of justice’ within the meaning and for the purposes of article 85(3) of the Statute (the ‘Decision on the First Component of the Claim’);⁶ and (ii) dismissing the Second Component of the Claim based on the Chamber’s lack of jurisdiction, ‘since damages to the assets and property of an acquitted person allegedly brought about by mismanagement of those assets are to be considered as falling outside the scope of article 85 of the Statute and hence outside of the Chamber’s mandate’ (the ‘Decision on the Second Component of the Claim’).⁷

¹ Decision on Mr. Bemba’s claim for compensation and damages, 18 May 2020, ICC-01/05-01/08-3694.

² Request for leave to appeal the ‘Decision on Mr Bemba’s claim for compensation and damages’, ICC-01/05-01/08-3695.

³ Mr. Bemba’s claim for compensation and damages, ICC-01/05-01/08-3673-Conf, with public Annexes A, B, C, D and E, and confidential Annexes F, G, H and I (first public redacted version notified 11 March 2019, with public Annexes A, B, C, D and E, and public redacted Annexes F, G, H and I, later reclassified as confidential following Pre-Trial Chamber II’s instructions dated 25 March 2019 (ICC-01/05-01/08-3673-Red-Conf); second public redacted version notified 19 March 2019, with public Annexes A, B, C, D and E, second public redacted Annex F, public redacted Annexes G, H and I, and confidential Annex J (ICC-01/05-01/08-3673-Red2)).

⁴ Claim, para. 169(1).

⁵ Claim, para. 169(2).

⁶ Compensation Decision, paras 25-52.

⁷ Compensation Decision, paras 53-64.

3. On 25 May 2020, Mr Bemba requested leave to appeal the Compensation Decision, submitting that both ‘decisions arising from both components [of the Claim] are appealable’⁸ and give rise to twelve issues that would meet the requirements of article 82(1)(d) of the Statute. With regard to the appealability of the Decision on the First Component of the Claim, Mr Bemba affirms that ‘the Appeals Chamber has held that appeals from decisions under article 85(1) of the Statute fall within the ambit of article 82(1)(d), [following a] reasoning that applies equally to claims under article 85(3)’, since both ‘involve the same two-step process that requires at least two distinct decisions on the part of the first instance Chamber’. In the view of Mr Bemba, the ‘decision on whether a defendant has been the victim of a grave and manifest miscarriage of justice is the first of a two-step process, and as such “may be considered an interlocutory decision within the meaning of article 82(1)(d) of the Statute”’.⁹ In relation to the appealability of the Decision on the Second Component of the Claim, Mr Bemba avers that ‘in litigation concerning the seizure of an accused’s assets’ the Appeals Chamber previously held that “‘the proper avenue’ to bring issues before it relating to the seizing of assets “is by requesting leave to appeal from the relevant first-instance Chamber pursuant to article 82(1)(d) of the Statute”” and that ‘a first instance Chamber should interpret the two prongs of article 82(1)(d) “broadly” if it considers this necessary to ensure that the application of the Statute is consistent with internationally recognized human rights’.¹⁰

4. On 1 June 2020, the Prosecutor responded to the Request (the ‘Prosecutor’s Response’),¹¹ submitting that, (i) although the proposed issues for appeal relating to the Decision on the First Component of the Claim may be examined under article 82(1)(d) of the Statute, they fail to meet the criteria under that provision and should therefore be rejected;¹² and (ii) the issues regarding the Decision on the Second Component of the Claim should be dismissed *in limine* since they may not be appealed under article 82(1)(d) of the Statute; were the Chamber to find otherwise, they would not meet the criteria enshrined in that provision.¹³

II. DETERMINATION OF THE CHAMBER

5. The Chamber considers it pivotal to preliminarily address the question of whether the Compensation Decision is appealable within the legal framework of the Court. Only in the event that this question is answered in the affirmative would it be necessary to analyse each of

⁸ Request, para. 2.

⁹ Request, paras 3, 18-20.

¹⁰ Request, paras 3, 21-23.

¹¹ Prosecution response to Mr. Bemba’s request for leave to appeal the ‘Decision on Mr. Bemba’s claim on compensation and damages’, ICC-01/05-01/08-3696.

¹² Prosecutor’s Response, paras 2, 5-17.

¹³ Prosecutor’s Response, paras 3-4, 18-38.

the proposed issues for appeal in order to assess whether they meet the criteria set forth in that provision. Absent any precedent exactly on point, the appealability of the Compensation Decision must be assessed pursuant to the principles of appellate review enshrined in articles 81 and 82 of the Statute.

6. The Appeals Chamber has since long had the opportunity to clarify that ‘decisions that are subject to appeal are enumerated in articles 81 and 82 of the Statute’ and that, accordingly, no ‘right to appeal arises except as provided thereunder’: these provisions constitute limitative lists in which ‘the legislator specified distinctly decisions liable to or subject to appeal’, as also reflected in rules 150, 154 and 155 of the Rules.¹⁴ The Statute therefore ‘defines exhaustively the right to appeal against decisions of first instance courts, namely decisions of the Pre-Trial or Trial Chambers’.¹⁵

7. In accordance with regional and universal human rights treaties and conventions,¹⁶ the Appeals Chamber has also clarified that ‘[o]nly final decisions of a criminal court determinative of its verdict or decisions pertaining to the punishment meted out to the convict are assured as an indispensable [human] right’.¹⁷ A right with those features is enshrined in article 81 of the Statute, providing for a right to appeal against decisions of acquittal or conviction, decisions on sentence and decisions of the Trial Chamber maintaining the detention of the person pending appeal.

¹⁴ Appeals Chamber, *Situation in the Democratic Republic of the Congo*, Judgment on the Prosecutor's Application for Extraordinary Review of Pre-Trial Chamber I's 31 March 2006 Decision Denying Leave to Appeal, 13 July 2006, ICC-01/04-168, para. 35 (the ‘DRC Appeals Judgment’). *See also* Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Decision on the ‘Urgent Request for Directions’ of the Kingdom of the Netherlands of 17 August 2011, 26 August 2011, ICC-01/04-01/06-2799, para. 7 (the ‘Lubanga Appeals Judgment’); Appeals Chamber, *The Prosecutor v. Germain Katanga*, Decision on the admissibility of the appeal against the ‘Decision on the application for the interim release of detained Witnesses DRC-D02-P0236, DRC-D02-P0228 and DRC-D02-P0350’, 20 January 2014, ICC-01/04-01/07-3424, para. 28 (the ‘Katanga Appeals Judgment’).

¹⁵ DRC Appeals Judgment, para. 39.

¹⁶ Article 14(5) of the International Covenant on Civil and Political Rights: ‘Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law’; Article 2(1) of Protocol n. 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms: ‘Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law’; Article 8(2)(h) of the American Convention on Human Rights: ‘Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees: [...] h. the right to appeal the judgment to a higher court’; Principle A(1) and (2)(j) of the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa: ‘In the determination of any criminal charge against a person [...] everyone shall be entitled to a fair and public hearing by a legally constituted competent, independent and impartial judicial body. The essential elements of a fair hearing include: [...] j) an entitlement to an appeal to a higher judicial body’.

¹⁷ DRC Appeals Judgment, para. 38. *See also* Lubanga Appeals Judgment, para. 7; Katanga Appeals Judgment, para. 28.

8. Other decisions may be appealed under article 82 of the Statute: paragraphs 1(a) to (c), (2) and (4) respectively restrict its material scope to specifically identified decisions, namely decisions with respect to jurisdiction or admissibility, decisions granting or denying release of the suspect or accused, decisions of the Pre-Trial Chamber to act on its own initiative under article 56(3) of the Statute, decisions of the Pre-Trial Chamber under article 57(3)(d) of the Statute and orders for reparations under article 75 of the Statute.

9. Neither the Decision on the First Component of the Claim, nor the Decision on the Second Component of the Claim fall within any of these categories: decisions rendered under article 85 of the Statute are not specifically listed either in article 81 or 82 of the Statute as subject to appeal.¹⁸ A study of the *travaux préparatoires* of the Statute reveals that their exclusion from the statutory system of appellate review was the result of a deliberate choice by the drafters. As reported by one commentator, '[e]veryone agreed that the decision on compensation should be final and that no appeal was possible under article 82';¹⁹ nor there seems to be any record as to whether the possibility for article 85(3) decisions to qualify as interlocutory, as such suitable to be appealable pursuant to article 82(1)(d) of the Statute, was considered.

10. Since no right of appeal is specifically provided for a decision issued under article 85(3) of the Statute, the only avenue for the Chamber to consider that a party is allowed to have this type of decision reviewed by the Appeals Chamber would thus be to proceed under article 82(1)(d) of the Statute, which links appealability to the nature and features of the issue to be litigated, and its potential impact on the course of the proceedings, rather than to a particular type of decision. Pursuant to article 82(1)(d) of the Statute, read together with rule 155 of the Rules, the parties can request leave to appeal any decision 'that involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Pre-Trial or Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings'; the application for leave is to be brought before the same Chamber that has issued the decision to be appealed.

11. Mr Bemba's Request is indeed centred on the submission that the Compensation Decision would contain as many as twelve appealable issues, and on the discussion as to how

¹⁸ C. Staker and V. Nerlich, 'Article 85' in O. Triffterer and K. Ambos (eds.) *The Rome Statute of the International Criminal Court: A Commentary* (2016), p. 2001: 'No provision is made for any appeal against such a decision'.

¹⁹ G. Bitti, 'Compensation to an Arrested or Convicted Person' in R. S. Lee (ed.) *The International Criminal Court: The Making of the Rome Statute* (1999), pp. 633-634.

each and every one of them would meet the requirements set forth in article 82(1)(d) of the Statute. However, the Chamber emphasises that it is necessary to determine as a preliminary issue whether the nature of a decision under article 85(3) of the Statute would fall within the scope of article 82(1)(d), in light of both the fundamental purpose and of the restrictive and exceptional nature of this provision, as consistently construed by the Appeals Chamber.

12. The Chamber is well aware that the discretionary character of a decision, strongly emphasised in the Compensation Decision when stating that ‘even upon fulfilment of all relevant requirements, the award of compensation does not ensue as a right but is ultimately left to the discretion of the Court’,²⁰ does not *per se* exclude it from the scope of article 82(1)(d) of the Statute.²¹ Nonetheless, the Chamber recalls the reasoning of the Appeals Chamber, first developed in the DRC Appeals Judgment and reaffirmed and reiterated ever since,²² to the effect that appeals under article 82(1)(d) of the Statute are limited to ‘interlocutory or intermediate decisions of either the Pre-Trial or Trial Chamber’,²³ i.e. decisions intervening between the commencement and the end of criminal proceedings and adjudicating a specific issue without constituting a final decision. Furthermore, interlocutory appeals constitute an exceptional remedy of a ‘restrictive character’:²⁴ far from conferring an unrestricted prerogative to directly challenge before the Appeals Chamber any and all decisions rendered during the proceedings at the time of their issuance, the provision circumscribes this prerogative to only those decisions that, should they be found flawed only in the context of the appeal against the final judgment, would adversely and seriously impact the proceedings and possibly affect their outcome. As consistently held by the Appeals Chamber, ‘the object of paragraph (d) of article 82(1) of the Statute is to pre-empt the repercussions of erroneous decisions on the fairness of the proceedings or the outcome of the trial’.²⁵ When adjudicating a request for leave to appeal submitted under that provision, the competent Chamber must therefore consider whether the prompt reference of an issue to the Appeals Chamber will be the appropriate means for ‘ensuring that the proceedings follow the right course’ and for ‘[r]emoving doubts about the correctness of a decision or mapping a

²⁰ Compensation Decision, para. 40.

²¹ See Appeals Chamber, *The Prosecutor v. Uhuru Muigai Kenyatta*, Judgment on the Prosecutor’s appeal against Trial Chamber V(B)’s “Decision on Prosecution’s application for a finding of non-compliance under Article 87(7) of the Statute”, 19 August 2015, ICC-01/09-02/11-1032, paras 22-25.

²² See among the most recent examples Trial Chamber X. *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Defence request for reconsideration and, in the alternative, leave to appeal the ‘Decision on witness preparation and familiarisation’, 9 April 2020, ICC-01/12-01/18-734, paras 12-14.

²³ DRC Appeals Judgment, para. 36.

²⁴ Pre-Trial Chamber II, *The Prosecutor v. Joseph Kony et al.*, Decision on Prosecutor’s Application for leave to appeal in part Pre-Trial Chamber II’s Decision on the Prosecutor’s applications for warrants of arrest under article 58, 19 August 2005, ICC-02/04-01/05-20, paras 15-16.

²⁵ DRC Appeals Judgment, para. 19.

course of action along the right lines'.²⁶ Only if construed in that sense may article 82(1)(d) of the Statute fulfil its key role as 'safeguard for the integrity of the proceedings'.²⁷ In essence, as explained by Pre-Trial Chamber II in its previous composition:

'[a]rticle 82(1)(d) of the Statute regulates interlocutory appeals. This means that its object and purpose is not to regulate which decisions are as such appealable but rather to create a procedure by which appellate intervention on a certain issue can be anticipated to an intermediate stage of proceedings when it is determined that to have that issue decided only in the final appeal at the conclusion of the said proceedings would mean to risk that large parts or the entire proceedings may be invalidated. This is evidenced most clearly by the requirement of article 82(1)(d) that the Chamber assess whether "an immediate resolution [of the issue proposed for appeal] by the Appeals Chamber may materially advance the *proceedings*", but also by the incorporation of the impact on the fair and expeditious conduct of the *proceedings* or the outcome of the *trial* into the criteria for certifying appeal' (emphasis added).²⁸

13. Article 85(3) decisions are not suitable to adjudicate issues with those features, because of their nature and purpose: they adjudicate requests for compensation emanating from 'a person who has been released from detention following a final decision of acquittal',²⁹ which can only be submitted *after* criminal judicial proceedings have come to an end. As such, they are not susceptible to negatively affect the 'fair and expeditious conduct of the proceedings or the outcome of the trial', nor could appellate intervention in their regard 'materially advance the proceedings': both the accused's 'trial' and any related 'proceedings' have necessarily concluded at the time of their issuance.

14. The Chamber is aware of the precedent quoted by Mr Bemba in the *Bemba et al.* case,³⁰ where the Trial Chamber, pursuant to article 82(1)(d) of the Statute, granted leave to appeal a decision issued under article 85(1) of the Statute based on (i) the Appeals Chamber's previous finding that the two prongs of article 82(1)(d) of the Statute may be interpreted broadly by the Chamber requested for leave to appeal if, in its discretion, 'it considers it necessary due to human rights considerations under article 21(3) of the Statute';³¹ and (ii) its conclusions that the decision to be appealed constituted 'the final disposition of matters involving Mr Mangenda's fundamental rights', upon which the proposed issue for appeal

²⁶ DRC Appeals Judgment, para. 15.

²⁷ DRC Appeals Judgment, para. 11.

²⁸ Pre-Trial Chamber II, *The Prosecutor v. Walter Barasa*, Decision on the "Defence request for leave to appeal decision ICC-01/0901/13-35", 29 October 2015, ICC-01/09-01/13-41, para. 7 *citing* DRC Appeals Judgment, para. 16.

²⁹ Mr Bemba was acquitted on appeal from all charges on 8 June 2018 and submitted the Claim on 8 March 2019; the Chamber rendered its decision thereon on 18 May 2020.

³⁰ Request, para. 3.

³¹ Appeals Chamber, *The Prosecutor v. Jean Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean Jacques Magenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Decision on the "Requête en appel de la défense de monsieur Aimé Kilolo Musamba contre la décision de la Chambre de première instance VII du 17 novembre 2015", 23 December 2015, ICC-01/05-01/13-1533, para. 16.

bore.³² The Chamber emphasises, however, that on that occasion the Appeals Chamber confirmed the admissibility of the appeal based on the finding that the decision at stake was indeed interlocutory.³³ Accordingly, this Chamber takes the view that, while human rights considerations may well be taken into account to expand the restrictive material scope of the remedy enshrined in article 82(1)(d) of the Statute, leave to appeal under this provision cannot be granted solely on the basis of human rights considerations; the interlocutory nature of the decision for which leave to appeal is sought remains the condition *sine qua non* for article 82(1)(d) of the Statute to be applicable.

15. Furthermore, the Chamber observes that limiting article 82(1)(d) of the Statute to governing appeals of interlocutory decisions, and excluding decisions rendered under article 85(3) from its scope, is consistent with international human rights law. Universal and regional human rights instruments,³⁴ as well as related human rights bodies, are unanimous in limiting the scope of the right to appeal as a fundamental right to criminal judicial proceedings and, more broadly, proceedings which may result in the sanction of the deprivation of liberty.³⁵ The point has been recently reaffirmed by the Inter-American Court of Human Rights,³⁶ when addressing – and denying – the existence of an unfettered right to appeal decisions adjudicating compensation claims: the Court stressed that the fundamental right to appeal as enshrined in article 8(2)(h) of the American Convention on Human Rights constitutes a

³² Trial Chamber VI, *The Prosecutor v. Jean Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean Jacques Magenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Decision on Defence request seeking leave to appeal the ‘Decision on request for compensation for unlawful detention’, 13 May 2016, ICC-01/05-01/13-1893, para. 21.

³³ Appeals Chamber, *The Prosecutor v. Jean Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean Jacques Magenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Judgment on Mr Mangenda’s appeal against the “Decision on request for compensation for unlawful detention”, 8 August 2016, ICC-01/05-01/13-1964, para. 17: ‘On the contrary, the Appeals Chamber notes that, before making its final determination on whether or not to grant compensation under article 85 (1) of the Statute, the Chamber may need to take other decisions that could be considered to be interlocutory to the final outcome of such “stand alone” proceedings. Indeed, compensation proceedings under article 85 (1) of the Statute involve a two-step process that requires at least two distinct decisions. These decisions are the following: (i) a decision on the unlawfulness of the arrest or detention under article 85, paragraph 1 (rule 173 (2) (a) of the Rules); and (ii) a decision on the request for compensation (rule 174 (3) of the Rules of Procedure and Evidence (“Rules”). As set out above, it is the latter decision to grant or reject a request for compensation which concludes or brings to an end the compensation proceedings. The Appeals Chamber considers that the preliminary decision on the unlawfulness of the arrest or detention represents only the first decision in a two-step decision-making process and for that reason it may be considered to be an interlocutory decision within the meaning of article 82 (1) (d) of the Statute. In the Appeals Chamber’s view, this is so even if such a decision has, as in the case at hand, the effect of denying the right to receive compensation and thereby brings the compensation proceedings to an end’.

³⁴ See *supra* note 16.

³⁵ United Nations Human Rights Committee, General Comment No. 32 – Article 14: Right to equality before courts and tribunals and to a fair trial, 23 August 2007, CCPR/C/GC/32, para. 46: ‘Article 14, paragraph 5 does not apply to procedures determining rights and obligations in a suit at law or any other procedure not being part of a criminal appeal process’. See also European Court of Human Rights, Chamber (Third Section), *Saqueti Iglesias v. Spain*, Judgment, 30 June 2020, para. 22 referring to, *inter alia*, Grand Chamber, *A and B v. Norway*, Judgment, 15 November 2016, para. 105).

³⁶ Inter-American Court of Human Rights, *Spoltore v. Argentina*, Judgment, 9 June 2020, *Serie C No. 404*, paras 104-105.

guarantee for every person subject to investigations and criminal proceedings or sanctioned with measures involving deprivation of liberty but cannot be construed as broadly as to including appeal against decisions of compensation. Since the proceedings under scrutiny were neither criminal proceedings nor administrative proceedings of a sanctioning nature susceptible to involve deprivation of liberty, the Inter-American Court of Human Rights concluded that the absence of the remedy of appeal the decision concluding those proceedings would not constitute a violation of article 8(2)(h) of the American Convention on Human Rights.

16. Finally, as regards the issues identified by Mr Bemba as arising from the Chamber's determination on the Second Component of the Claim, the Chamber recalls that this component of the Claim was dismissed because it held that 'damages to the assets and property of an acquitted person allegedly brought about by mismanagement of those assets are to be considered as falling outside the scope of article 85 of the Statute and hence outside of the Chamber's mandate'.³⁷ Contrary to Mr Bemba's submissions, the Chamber has never rendered 'a final determination of the question of whether [Mr Bemba's] fundamental human rights have been violated by the seizure and destruction of his property in a manner inconsistent with international and domestic practice regarding the treatment of seized assets, and the obligation to maintain their value'.³⁸ Rather, it dismissed the Second Component of the Claim based on its conclusion that it lacked jurisdiction over it.³⁹ If anything, such determination, limited as it is to signal that the Second Component of the Claim fell outside the scope of article 85(3) and that, accordingly, the Chamber was not the right venue where this type of claims can or should be brought, entails that, in the view of the Chamber, no proceedings aimed at assessing the alleged mismanagement, and its adverse consequences, could ever be initiated and be pending before it. In this sense, it qualifies even less as an interlocutory decision within the meaning of article 82(1)(d) of the Statute than the determination on the First Component of the Claim and, as such, falls definitely outside the scope of interlocutory appeals within the meaning of that provision.

17. In light of the above, the Chamber finds that neither the Decision on the First Component of the Claim, nor the Decision on the Second Component of the Claim can be regarded as interlocutory within the meaning and for the purposes of article 82(1)(d) of the Statute. Accordingly, the Chamber rejects the Request and there is no need for it to address

³⁷ Compensation Decision, para. 61.

³⁸ Request, para. 23.

³⁹ Compensation Decision, para. 63.

the question whether any of the proposed issues for appeal meets the requirements of that provision.

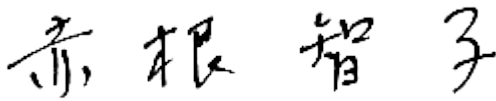
FOR THESE REASONS, THE CHAMBER

REJECTS the Request.

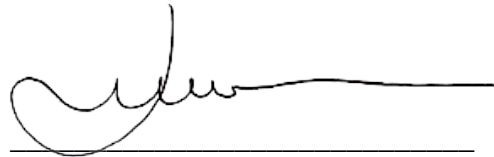
Done in both English and French, the English version being authoritative.



Judge Antoine Kesia-Mbe Mindua
Presiding Judge



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Thursday, 1 October 2020

At The Hague, The Netherlands