



Prosecutor's Opening Remarks at Trial | Art. 70 of the Rome Statute: Offences against the administration of Justice

Prosecutor v. Jean-Pierre Bemba Gombo, Kilolo, Mangenda et al. (ICC-01/05-01/13)

29 September 2015

Mr President, Your Honours,

This is a case about shielding the integrity of the Court's proceedings from offences against the administration of justice. It is about ensuring that public confidence, and the expectations of those who look to it to establish the truth and to dispense justice, are preserved and strengthened. It is about ensuring that *no one* – present or future – can pervert the cause of justice in ICC proceedings or to bring the administration of justice before this Court into disrepute.

Mr President, Your Honours,

On 14 June 2012, the Prosecution received an anonymous tip that individuals associated with Jean-Pierre Bemba Gombo's defence were providing benefits to witnesses in exchange for false testimony and false documents. That tip sparked an exhaustive, disciplined and judicially authorised investigation spanning over a year.

The investigation, conducted by experienced investigators and prosecutors with the supervision of the Court and the cooperation of national judicial and police authorities, set upon gathering the facts.

On the resulting evidence, on 11 November 2013, the Pre-Trial Chamber of this Court issued arrest warrants for Mr Bemba, his lead counsel Aimé Kilolo Musamba; his case-manager Jean-Jacques Mangenda Kabongo; his long-time confidant, Fidèle Babala Wandu, and a prospective Defence witness Narcisse Arido, for offences against the administration of justice in violation of Articles 70(1)(a), (b) and (c) of the Rome Statute.

Now, for the first time, this Court and indeed the public, including those victimised by the Accused's crimes, will see the results of the thorough and carefully executed investigation which has led us here today.

Those results — the evidence in this case — will show the Accused's systematic and concerted efforts to thwart the ends of justice in Bemba's trial for war crimes and crimes against humanity.

We will demonstrate, on the strength of our evidence, how the Accused engaged in a scheme to *corruptly influence* witnesses, to bribe them, to encourage or induce their false

testimony, to coach their evidence illicitly, and to present that false evidence to a Chamber of this Court.

The Prosecution's confirmation submissions meticulously detailed the evidence in this case, and its Pre-Trial Brief even more so.

That evidence includes intercepted phone calls between the Accused, phone records and logs from the Court's Detention Centre, call data records from private telecommunications carriers, money transfer agency financial records and statements from witnesses who were *bribed, coached and corruptly influenced*.

That evidence will show how Mr Bemba directed a plan aimed at securing his acquittal through corrupt means. It will show that he issued instructions to Messrs Kilolo, Mangenda and Babala to execute that plan.

It will show that Mr Kilolo, with Mr Mangenda's assistance, planned and scripted witnesses' false evidence, and that he bribed them and presented their false evidence in court.

It will show that Mr Mangenda also relayed the necessary instructions and information between Mr Bemba and Mr Kilolo to carry out their plan.

It will show that Mr Babala ensured that the money for this scheme was made available to Mr Kilolo and others to bribe witnesses, and that he participated in bribing them.

And, it will show that Mr Arido, their man on the ground, recruited false witnesses to testify, and himself corruptly influenced witnesses.

The evidence the Prosecution will present in this case is uncontroversial. It was collected with the Court's authorisation, with the assistance and authorisation of national authorities, and in accordance with the Statute.

Where the evidence potentially implicated attorney-client communications, the Court instituted appropriate safeguards to ensure their proper screening by an independent counsel accountable to the Pre-Trial Chamber.

The Prosecution, the Court, the Independent Counsel, and the national authorities involved, acted, at all times, with integrity, professionalism and due regard for the rights of the Accused throughout this investigation.

Your Honours,

Truth is the foundation of justice. Its pursuit is the guiding principle of my Office — which has defined the investigation of this case throughout. It is the evidence that has guided us throughout and led us here today — nothing more and nothing less.

Whatever the attempts to deflect attention away from the charges in this case, at the end of the day, the hard facts remain: they will not change; they will not fade away; and they will not and must not be ignored.

The evidence – the unassailable facts in this case – are unequivocal, and as the Prosecution will prove – they point singularly to the Accused’s guilt.

Your Honours,

This is a very serious case with ramifications well beyond these immediate proceedings. Its importance cannot be overstated – nor, can the integrity of the Court’s process be undervalued or left to the whims of those who resort to offences against the administration of justice, to escape justice.

The case is not an attack against the Defence bar, much less against the lawyer-client privilege, which is fundamental to due process and the fairness of trials.

Against its abuse however, international criminal justice must live up to its promise, and stand firm. The principles of fairness and justice for which this institution was established have to be protected. The highest standards in the administration of justice which guide the Court’s important work, and are so crucial to this institution’s appeal and credibility, must be preserved.

Our decision to commence these proceedings was to ensure that those who seek to pervert the course of justice before this Court are themselves brought to justice. One should not derive benefits from the commission of his own crimes. And impunity leads to more criminality.

My Office remains firmly committed to investigating and prosecuting these offences, using all the means at our disposal to ensure that our mandate and indeed, the crucial mandate of this Court, can genuinely and effectively be realised.

Mr. President, Your Honours,

Following these remarks, my learned colleague, Mr Kweku Vanderpuye will now present the context in which the crimes in question were allegedly committed in a more detailed outline of the evidence supporting the charges.

Thank you. | OTP