



Original: English

No. ICC-01/05-01/13 A 5

Date: 28 November 2016

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 request for leave to withdraw

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

Counsel for Aimé Kilolo Musamba
Mr Paul Djunga Mudimbi

Counsel for Jean-Jacques Mangenda Kabongo
Mr Christopher Gosnell

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

Counsel for Narcisse Arido
Mr Charles Achaleke Taku

REGISTRY

Registrar
Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Aimé Kilolo Musamba 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 “Demande d’autorisation de retrait en application de la norme 78(1) du Règlement de la Cour” of 23 November 2016 (ICC-01/05-01/13-2053 (A5)),

Renders pursuant to regulation 78 (1) of the Regulations of the Court the following

DECISION

Mr Paul Djunga Mudimbi’s request for leave to withdraw as Lead Counsel for Mr Aimé Kilolo Musamba is granted.

REASONS

1. On 23 October 2016, Trial Chamber VII (“Trial Chamber”) delivered the “Judgment pursuant to Article 74 of the Statute”¹ (“Conviction Decision”) in which Mr Aimé Kilolo Musamba (“Mr Kilolo”) was convicted of various offences against the administration of justice.² On 2 November 2016, Mr Kilolo filed an appeal against the Conviction Decision.³

2. On 18 November 2016, Mr Paul Djunga Mudimbi (“Counsel”) filed a request for leave to withdraw as lead counsel for Mr Kilolo in the present case.⁴ The Trial

¹ ICC-01/05-01/13-1989-Conf; a public redacted version was registered on the same date ([ICC-01/05-01/13-1989-Red](#)).

² [Conviction Decision](#), p. 455.

³ “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 \(A 5\)](#).

⁴ “Demande d’autorisation de retrait en application de la norme 78(1) du Règlement de la Cour”, [ICC-01/05-01/13-2037](#). This document was originally filed confidentially but was reclassified as public on 21 November 2016 ([ICC-01/05-01/13-2039](#), p. 4).

Chamber granted Counsel's request subject to, *inter alia*, Counsel seeking and receiving permission to withdraw from the Appeals Chamber.⁵

3. On 23 November 2016, Counsel filed a request for leave to withdraw as lead counsel for Mr Kilolo in the present case before the Appeals Chamber⁶ ("Counsel's Request"). In his request, Counsel submits that Mr Kilolo has informed the Counsel Support Section of his intention to terminate Counsel's mandate and his choice of counsel to represent him further.⁷ Counsel refers to article 67 (1) (d) of the Statute and article 18 (3) of the Code of Professional Conduct for counsel ("Code of Conduct"), as well as regulation 78 (1) of the Regulations of the Court.⁸ Counsel confirms his intention to comply with the obligations set out in articles 8 (1), 15 (2), 17 (2) and 19 of the Code of Conduct.⁹

4. The Appeals Chamber notes that, in exercising his right to legal assistance of his choosing under article 67 (1) (d) of the Statute, Mr Kilolo has expressed his intention to terminate Counsel's mandate and appoint a new counsel. The Appeals Chamber also takes note of the fact that the Registrar has been seized of the issue of Mr Kilolo's representation. Furthermore, the Appeals Chamber observes that the Trial Chamber has granted Counsel's request to withdraw as lead counsel subject to, *inter alia*, the Appeals Chamber granting permission before the withdrawal can become effective. Finally, the Appeals Chamber has taken note of Counsel's undertaking to fulfill the obligations under the Code of Conduct. In view of the foregoing, the Appeals Chamber considers it appropriate to grant Counsel's Request.

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

Judge Silvia Fernández de Gurmendi
Presiding Judge



⁵ "Decision on Kilolo Defence Counsel's Request to Withdraw", 21 November 2016, ICC-01/05-01/13-2039, p. 4.
⁶ "Demande d'autorisation de retrait en application de la norme 78(1) du Règlement de la Cour", ICC-01/05-01/13-2053 (A.5).
⁷ Counsel's Request, para. 2.
⁸ Counsel's Request, paras 5-7.
⁹ Counsel's Request, para. 9.

Dated this 28th day of November 2016

At The Hague, The Netherlands