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No. ICC-01/05-01/13 A6

Date: 12 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 Mr Arido's request for extension of time limits for his potential
notice of appeal and document in support of the appeal against sentence**

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,

Having before it “Narcisse Arido’s Request for a Variation of the Deadline for Giving of a Notice of Appeal Against the Sentencing Decision” of 28 March 2017 (ICC-01/05-01/13-2128 (A6)),

Renders pursuant to rule 150 (2) of the Rules of Procedure and Evidence and regulation 35 (2) of the Regulations of the Court the following

DECISION

The request for extension of the time limits for filing a notice of appeal against the sentence and the document in support of any such appeal is rejected.

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. On 22 March 2017, the Trial Chamber rendered its “Decision on Sentence pursuant to Article 76 of the Statute”² (“Sentencing Decision”).
3. On 28 March 2017, Narcisse Arido (“Mr Arido”) filed a request seeking that the time limit for giving notice of an appeal against the Sentencing Decision be extended by 30 days to 22 May 2017, and that the time limit for his potential document in support of the appeal against the Sentencing Decision be correspondingly extended to 20 July 2017³ (“Request”).

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 *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, [ICC-01/05-01/13-2123-Corr](#).

³ “Narcisse Arido’s Request for a Variation of the Deadline for Giving of a Notice of Appeal Against the Sentencing Decision”, [ICC-01/05-01/13-2128 \(A6\)](#), para. 13.

4. On 30 March 2017, the Prosecutor filed her response in which she supports the Request, provided that equal extensions are ordered for all parties with a synchronised briefing schedule for all appeals against the sentence and that the appellants be ordered to provide further details of their anticipated grounds of appeal, in advance of filing the documents in support of the appeals⁴ (“Prosecutor’s Response”).

5. On 31 March 2017, Mr Fidèle Babala Wandu (“Mr Babala”) filed a response in which he supports the Request and seeks a similar extension of the time limits for filing a notice of appeal and his potential document in support of the appeal against the Sentencing Decision⁵ (“Mr Babala’s Response”).

II. MERITS

6. Rule 150 (1) of the Rules of Procedure and Evidence (“Rules”) provides that an appeal against a sentence “may be filed not later than 30 days from the date on which the party filing the appeal is notified of [...] the sentence”. Pursuant to regulation 58 (1) of the Regulations of the Court (“Regulations”), the document in support of the appeal against a sentence shall then be filed within 90 days of notification of the sentence. Accordingly, any notice of appeal against the Sentencing Decision must be filed by 24 April 2017⁶ and any document in support of such appeal by 21 June 2017. Mr Arido requests that these time limits be extended to 22 May 2017 and 20 July 2017 respectively.⁷

7. In accordance with rule 150 (2) of the Rules, the time limit for filing a notice of appeal may be extended “for good cause”. Regarding the requested extension of the time limit for the document in support of the appeal, regulation 35 (2) of the Regulations similarly provides that a Chamber may extend a time limit “if good cause is shown”.

⁴ “Prosecution’s Response to ‘Narcisse Arido’s Request for a Variation of the Deadline for Giving of a Notice of Appeal Against the Sentencing Decision’”, [ICC-01/05-01/13-2130 \(A6\)](#), paras 1, 5, 10-11.

⁵ “Adjonction de la Défense de M. Babala à « *Narcisse Arido’s Request for a Variation of the Deadline for Giving of a Notice of Appeal Against the Sentencing Decision* » (ICC-01/05-01/13-2128)”, [ICC-01/05-01/13-2132 \(A6\)](#), paras 1, 10-15, p. 6.

⁶ Mr Arido submits that the deadline for filing the notice of appeal under rule 150 (1) of the Rules is on Friday, 21 April 2017. *See* Mr Arido’s Request, para. 6. However, the Appeals Chamber notes that pursuant to regulation 33 (1) (d) of the Regulations, a document shall be filed on the first working day of the Court following the expiry of the time limit. Hence, any notice of appeal against the Sentencing Decision must be filed by Monday, 24 April 2017.

⁷ Request, para. 13.

8. Mr Arido's arguments in support of the requested extension of the time limits concern the interaction between any prospective appeal against the Sentencing Decision and his parallel ongoing appeal against the Conviction Decision.⁸ The Appeals Chamber recalls in this regard that Mr Arido's document in support of the appeal against the Conviction Decision is due on 24 April 2017.⁹ Mr Arido argues that there are "overlapping time-lines of work for the appeal against conviction and appeal on sentence" and that complex legal and factual issues raised by any appeal against the Sentencing Decision "may be impacted or interact with the appeal against conviction".¹⁰

9. In light of the current calendar of the proceedings on the appeals against the Conviction Decision, the Appeals Chamber is not persuaded that Mr Arido has demonstrated the existence of "good cause" for the requested extension of time limits for his prospective appeal against the Sentencing Decision. The Appeals Chamber is of the view that the concurrent finalisation of the document in support of the appeal against the Conviction Decision does not preclude a determination, within the regular 30 days, on whether to appeal the Sentencing Decision. The required notice of appeal under rule 150 of the Rules, as clarified by regulation 57 of the Regulations, is limited to the identification of the decision appealed against, a statement of whether such decision is appealed in its entirety or only in part, and an indication of the relief sought. Likewise, the current finalisation of the document in support of the appeal against the Conviction Decision, which is due on 24 April 2017, does not interfere or impact with the preparation by 21 June 2017 of any document in support of the appeal against the Sentencing Decision by Mr Arido. The Appeals Chamber is of the view that the different time limits do not give rise to unmanageable competing priorities to Mr Arido's detriment.

10. The Appeals Chamber reaches this conclusion also in light of the fact that the Sentencing Decision addresses separately the individual circumstances of each

⁸ "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 \(A\)](#).

⁹ See "Decision on extension of time limits for documents in support of the appeals", 10 April 2017, [ICC-01/05-01/13-2136 \(A A1 A2 A3 A4 A5\)](#), para. 10 by which the Appeals Chamber extended the time limit for the documents in support of the appeals of all appellants from 18 April to 24 April 2017.

¹⁰ Request, para. 3.

convicted person. While the Sentencing Decision is broad in scope as a whole and may raise multiple issues, not all such issues concern Mr Arido's individual position. To the contrary, besides a certain number of legal considerations applicable to all convicted persons,¹¹ the part of the Sentencing Decision related to Mr Arido is limited in scope.¹² The Appeals Chamber is thus of the view that the prescribed time limit suffices for Mr Arido to decide whether to file an appeal against the Sentencing Decision and, if so, to prepare a document in support of any such appeal.

11. Furthermore, the Appeals Chamber is not persuaded by Mr Arido's argument that any appeal against the Sentencing Decision would require him to "digest" the submissions made in the other appellants' documents in support of the appeals against the Conviction Decision and the Prosecutor's response thereto.¹³ The Conviction Decision and the Sentencing Decision, while obviously linked, are separate decisions which involve different factual and legal considerations, and Mr Arido's right to bring an effective appeal against the Sentencing Decision is not contingent on analysing the arguments made by the other appellants in the separate appeals against the Conviction Decision and the Prosecutor's response thereto. In addition, the Appeals Chamber recalls that "[i]t is inherent in a conviction that a sentence, if not issued simultaneously, would follow shortly"¹⁴ and that it is therefore not exceptional that appeal proceedings against a conviction would run in parallel with appeal proceedings against a sentence.

12. The Appeals Chamber is likewise unpersuaded by Mr Babala's additional argument that an extension of the time limits for his notice of appeal and any document in support of appeal is warranted by the current unavailability of the translation of the Sentencing Decision into French, which is the language that both Mr Babala and his defence team fully understand and speak.¹⁵ The Appeals Chamber has been informed by the Registry that a draft translation of the Sentencing Decision – which Mr Babala's defence team agreed to work with – is planned to be finalised

¹¹ Sentencing Decision, paras 18-43.

¹² Sentencing Decision, paras 69-98.

¹³ Request, paras 7, 9.

¹⁴ "Decision on Mr Bemba's request for extension of the time and page limits for his document in support of the appeal", 29 March 2017, [ICC-01/05-01/13-2129 \(A A2 A3 A4 A5\)](#), para. 10.

¹⁵ Mr Babala's Response, paras 12-15.

before the upcoming Easter recess. The Appeals Chamber also observes that, in accordance with article 76 of the Statute and rule 144 (1) of the Rules, the Sentencing Decision was rendered in open court on 22 March 2017 and that the main considerations underlying the Trial Chamber's decision on Mr Babala's sentence, which were read out in open court were interpreted and are available in French.¹⁶ Furthermore, the Appeals Chamber notes that, similar to Mr Arido's position, the relevant part of the Sentencing Decision specifically related to Mr Babala, in addition to a number of general legal considerations, is limited in scope.¹⁷ In these circumstances, the Appeals Chamber is of the view that the current unavailability of the French version of the Sentencing Decision does not justify an extension of the time limit for Mr Babala to make the determination of whether to file an appeal against the Sentencing Decision and, if so, to prepare a document in support of any such appeal.

13. Finally, the Appeals Chamber is equally unconvinced by the Prosecutor's additional arguments that the time limits for filing a notice of appeal against the Sentencing Decision and any subsequent document in support of the appeal should be extended given that the decision pertains to five persons and is the first one to impose pecuniary fines and suspended sentences, as well as the fact that any document in support of the appeal on her part would closely coincide with her response to the documents in support of the appeals against the Conviction Decision.¹⁸ The Appeals Chamber observes that these considerations do not apply to Mr Arido or Mr Babala but only concern a potential appeal against the Sentencing Decision by the Prosecutor.¹⁹ The Appeals Chamber is however unpersuaded that issues of resources and/or of overlapping time-lines of work on the part of the Office of the Prosecutor justify the requested extension of time limits with respect to a potential appeal by the Prosecutor.

¹⁶ See *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Transcript of hearing of 22 March 2017, [ICC-01/05-01/13-T-56-FRA \(ET WT\)](#), p. 7, line 17 to p. 8, line 17.

¹⁷ Sentencing Decision, paras 44-68.

¹⁸ Prosecutor's Response, paras 3, 5.

¹⁹ See Prosecutor's Response, para. 8.

14. In light of the above, the Appeals Chamber concludes that Mr Arido has not demonstrated "good cause" to extend the time limit for either the notice of appeal against the Sentencing Decision or the document in support of any such appeal, and that such an extension is similarly not justified by the additional arguments raised by Mr Babala and the Prosecutor in their respective responses to the Request. Done in both English and French, the English version being authoritative.

Judge Silvia Fernández de Gurmendi
Presiding Judge



Dated this 12th day of April 2017

At The Hague, The Netherlands