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

Date: 18 May 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

**Decision on the Prosecutor's request for an extension of page and time limits for
her consolidated response to the 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

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 “Prosecution’s Request for a Variation of the Time and Page Limits for its Brief in Response to the Appellants’ Documents in Support of Appeal” of 4 May 2017 (ICC-01/05-01/13-2154-Conf),

Renders, pursuant to regulations 35 (2) and 37 (2) of the Regulations of the Court, the following

DECISION

1. The page limit for the Prosecutor’s consolidated response to the documents in support of the appeals is extended by 101 pages to a total of 400 pages.
2. The time limit for filing the Prosecutor’s consolidated response to the documents in support of the appeals is extended to 16h00 on Monday, 10 July 2017.
3. Mr Aimé Kilolo Musamba, Mr Fidèle Babala Wandu and Mr Narcisse Arido are directed to file public redacted versions of their documents in support of the appeals by 16h00 on Wednesday, 31 May 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”).

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. 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 Gombo,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 23 March 2017, the Appeals Chamber, *inter alia*, extended the page limit of the Prosecutor’s consolidated response to the documents in support of the appeals by 39 pages.⁸
5. On 10 April 2017, the Appeals Chamber extended the time limit for the filing of the appellants’ documents in support of the appeals from 18 April to 24 April 2017.⁹
6. Mr Bemba,¹⁰ Mr Mangenda,¹¹ Mr Arido,¹² and Mr Babala¹³ filed their documents in support of the appeals on 24 April 2017 and Mr Kilolo filed his document in support of the appeal on 25 April 2017.¹⁴

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 \(A3\)](#).

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 \(A A2 A3 A4 A5\)](#), para. 18.

⁸ “Decision on Mr Babala’s request for an extension of page limit for his document in support of the appeal”, [ICC-01/05-01/13-2124 \(A A2 A3 A4 A5\)](#) (“Decision of 23 March 2017”), para. 9.

⁹ “Decision on extension of time limits for documents in support of the appeals”, [ICC-01/05-01/13-2136 \(A A2 A3 A4 A5\)](#), para. 10.

¹⁰ “Defence Document in Support of the Appeal”, ICC-01/05-01/13-2144-Conf with annexes; a public redacted version of the document in support of the appeal was registered on 4 May 2017 ([ICC-01/05-01/13-2144-Red](#)).

¹¹ “Appeal Brief”, ICC-01/05-01/13-2143-Conf with annexes; a public redacted version of the document in support of the appeal was registered on 15 May 2017 ([ICC-01/05-01/13-2143-Red](#)).

¹² “Narcisse Arido’s Document in Support of Appeal Pursuant to Article 81”, original version registered on 24 April 2017 and corrigendum registered on 8 May 2017, ICC-01/05-01/13-2145-Conf-Corr, with annexes.

7. On 4 May 2017, the Prosecutor filed a request seeking extension of the time and page limits for filing her consolidated response to the appellants' documents in support of the appeals¹⁵ ("Request"). Specifically, the Prosecutor requests that she be granted an extension of four weeks, that is, from 27 June to 24 July 2017, as well as an extension of the page limit by 201 pages to a total of 500 pages.¹⁶

II. MERITS

A. Preliminary matter

8. The Appeals Chamber notes that the Request was filed confidentially on the ground that "it refers, albeit in general terms, to the content of the Defence appeals briefs, which are still confidential", but the Prosecutor indicates that she does not object to its reclassification as public, once the appellants have filed public versions of their documents in support of the appeals.¹⁷ In that regard, the Appeals Chamber directs Mr Kilolo, Mr Babala, and Mr Arido to file public redacted versions of their documents in support of the appeals by 16h00 on Wednesday, 31 May 2017. The Appeals Chamber considers that, as this decision does not contain nor reveal any confidential information, it is appropriate to issue it publicly.

B. The Request

9. The Prosecutor submits that good cause for the requested extension of the time limit has been demonstrated in view of the size of the Conviction Decision, the appellants' documents in support of the appeals, along with their annexes, and the procedural decisions challenged by the appellants.¹⁸ The Prosecutor avers that beyond the volume of these documents, the complexity of the issues raised by the appellants also justifies the requested extension to the time limit.¹⁹ As for the possibility to address the arguments commonly raised by different appellants, the Prosecutor argues

¹³ "Mémoire d'appel de la Défense de M. Fidèle Babala Wandu sur le verdict de culpabilité", ICC-01/05-01/13-2147-Conf, with annexes.

¹⁴ "Aimé Kilolo Musamba's Appeal Brief", original version dated 24 April 2017 and registered on 25 April 2017 and corrigendum registered on 28 April 2017, ICC-01/05-01/13-2148-Conf-Corr, with annexes.

¹⁵ "Prosecution's Request for a Variation of the Time and Page Limits for its Brief in Response to the Appellants' Documents in Support of Appeal", ICC-01/05-01/13-2154-Conf.

¹⁶ Request, paras 1, 6, 8.

¹⁷ Request, para. 7.

¹⁸ Request, para. 2.

¹⁹ Request, para. 3.

that “[she] has had to spend time identifying which of the numerous issues raised by the appellants can be grouped together, and responded to under broad thematic categories”.²⁰ Moreover, the Prosecutor submits that it is difficult to prepare her consolidated response to the documents in support of the appeals at the same time as her own document in support of her appeal against the Trial Chamber’s sentencing decision of 22 March 2017,²¹ bearing in mind the “limited number of staff that [she] is able to assign to this case”.²²

10. As for the Prosecutor’s request to extend the page limit of her consolidated response to the documents in support of the appeals, the Prosecutor submits that such an extension is warranted on the ground that the 299 pages already granted to her, pursuant to regulation 63 (3) of the Regulations of the Court (“Regulations”), are not sufficient “given the particular features of this case”.²³ The Prosecutor avers that “[t]his is just over half of the 563 pages which the appellants have used for their briefs”.²⁴

11. The Appeals Chamber recalls that the Prosecutor’s consolidated response to the documents in support of the appeals is due on 27 June 2017. Pursuant to regulation 35 (2) of the Regulations, a Chamber “may extend or reduce a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard”. Regulation 37 (2) of the Regulations provides that a Chamber may grant an extension of the page limit “in exceptional circumstances”.

12. The Appeals Chamber considers that, contrary to the Prosecutor’s submission,²⁵ the purpose of her consolidated response to the appellants’ documents in support of the appeals is not to defend the Conviction Decision or the several procedural decisions challenged by the appellants, but rather to respond to the issues raised by the appellants. The Appeals Chamber further notes that several issues are commonly raised by different appellants in their documents in support of the appeals, and that the Prosecutor could present consolidated arguments in response to these common

²⁰ Request, para. 4.

²¹ “Decision on Sentence pursuant to Article 76 of the Statute”, [ICC-01/05-01/13-2123-Corr.](#)

²² Request, para. 5.

²³ Request, para. 6.

²⁴ Request, para. 6.

²⁵ Request, para. 2.

issues.²⁶ It observes, however, that the complexity of the issues and the ability to address them in a comprehensive and consolidated fashion requires time. The Appeals Chamber recalls further that, in its decision on Mr Arido's applications for additional evidence, it has directed the Prosecutor to set out arguments on the first application for additional evidence from Mr Arido²⁷ and to adduce any evidence in response to this request in her consolidated response to the documents in support of the appeals.²⁸

13. The Appeals Chamber is thus persuaded that good cause and exceptional circumstances have been shown for the purposes of regulations 35 (2) and 37 (2) of the Regulations, respectively. However, the Appeals Chamber considers that a page extension of 101 pages, as opposed to the 201 pages requested by the Prosecutor is adequate and sufficient in the circumstances. It recalls in that regard that the Prosecutor was already granted a page extension of 39 pages.²⁹ Thus, the overall page limit for the Prosecutor's consolidated response is 400 pages.

14. Likewise, the Appeals Chamber considers that an extension of time by two weeks, as opposed to the four weeks requested by the Prosecutor, is adequate and sufficient in the circumstances. The time limit for filing the Prosecutor's consolidated response to the documents in support of the appeals is therefore extended to Monday, 10 July 2017.

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



Judge Silvia Fernández de Gurmendi
Presiding Judge

²⁶ See Request, para. 4.

²⁷ "Narcisse Arido's Application for the Submission of Additional Evidence Before the Appeals Chamber Pursuant to Regulation 62 of the Regulations of the Court", 14 March 2017, ICC-01/05-01/13-2116-Conf (A).

²⁸ "Directions and Decision regarding Mr Arido's applications for additional evidence filed pursuant to regulation 62 of the Regulations of the Court", 18 May 2017, ICC-01/05-01/13-2160, para. 12.

²⁹ Decision of 23 March 2017, para. 9.

Dated this 18th day of May 2017

At The Hague, The Netherlands