



**Original: English**

**No. ICC-01/05-01/08 A2 A3**

**Date: 8 June 2018**

**THE APPEALS CHAMBER**

**Before:** Judge Christine Van den Wyngaert, Presiding Judge  
Judge Chile Eboe-Osuji  
Judge Sanji Mmasenono Monageng  
Judge Howard Morrison  
Judge Piotr Hofmański

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC**

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

**Public document**

**Decision**

**on the appeals of the Prosecutor and Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 21 June 2016 entitled “Decision on Sentence pursuant to Article 76 of the Statute”**

**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 the Defence**  
Mr Peter Haynes  
Ms Kate Gibson

**Legal Representatives of Victims**  
Ms Marie-Edith Douzima-Lawson

**REGISTRY**

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**Registrar**  
Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeals of the Prosecutor and Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III entitled “Decision on Sentence pursuant to Article 76 of the Statute” of 21 June 2016 (ICC-01/05-01/08-3399),

After deliberation,

Unanimously,

*Renders* the following

## DECISION

The appeals are dismissed as moot.

### REASONS

1. On 21 March 2016, Trial Chamber III (“Trial Chamber”) convicted Mr Jean-Pierre Bemba Gombo (“Mr Bemba”) under article 28 (a) of the Statute, as a person effectively acting as a military commander, of the crimes of (i) murder as a crime against humanity under article 7 (1) (a) of the Statute; (ii) murder as a war crime under article 8 (2) (c) (i) of the Statute; (iii) rape as a crime against humanity under article 7 (1) (g) of the Statute; (iv) rape as a war crime under article 8 (2) (e) (vi) of the Statute; and (v) pillaging as a war crime under article 8 (2) (e) (v) of the Statute (“Conviction Decision”).<sup>1</sup>
2. On 21 June 2016, the Trial Chamber issued its decision on sentence imposing, *inter alia*, a joint sentence of eighteen years imprisonment<sup>2</sup> (“Sentencing Decision”).
3. On 22 July 2016, the Prosecutor<sup>3</sup> and Mr Bemba<sup>4</sup> filed notices of appeal against the Sentencing Decision.

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<sup>1</sup> “Judgment pursuant to Article 74 of the Statute”, [ICC-01/05-01/08-3343](#), para. 752.

<sup>2</sup> “Decision on Sentence pursuant to Article 76 of the Statute”, [ICC-01/05-01/08-3399](#), para. 95.

<sup>3</sup> “Prosecution’s Notice of Appeal against Trial Chamber III’s ‘Decision on Sentence pursuant to Article 76 of the Statute’”, [ICC-01/05-01/08-3411](#) (A).

4. On 21 October 2016, the Prosecutor<sup>5</sup> and the Mr Bemba<sup>6</sup> filed their appeal briefs against sentence.<sup>7</sup>
5. On 21 December 2016, Mr Bemba filed his response to the Prosecutor's Appeal Brief.<sup>8</sup> On 22 December 2016 the Prosecutor filed her response to the Mr Bemba's Appeal Brief.<sup>9</sup>
6. On 23 January 2017, following an order of the Appeals Chamber,<sup>10</sup> the Victims filed their consolidated observations on the appeals against sentence<sup>11</sup> and, on 23 February 2017, Mr Bemba filed a response to the Victims' Observations.<sup>12</sup>
7. On 8 June 2018, the Appeals Chamber, by majority, Judge Monageng and Judge Hofmański dissenting, reversed the Conviction Decision, declared that certain crimes for which Mr Bemba had been convicted were outside the scope of the facts and circumstances described in the charges and discontinued the proceedings in their

<sup>4</sup> "Defence Notice of Appeal against Decision on Sentence pursuant to Article 76 of the Statute, ICC-01/05-01/08-3399", [ICC-01/05-01/08-3412](#) (A).

<sup>5</sup> "Prosecution's Document in Support of Appeal against Trial Chamber III's 'Decision on Sentence pursuant to Article 76 of the Statute'", [ICC-01/05-01/08-3451](#) (A2), with one public annex ("Prosecutor's Appeal Brief").

<sup>6</sup> "Appellant's document in support of the appeal against sentence", ICC-01/05-01/08-3450-Conf (A3), with two public annexes ("Mr Bemba's Appeal Brief"); a public redacted version dated 26 October 2016 was registered on 27 October 2016 ([ICC-01/05-01/08-3450-Red](#)).

<sup>7</sup> On 1 September 2016, following a request from Mr Bemba ("Appellant's request for an extension of the time limit to file his document in support of appeal against the Decision on Sentence", 16 August 2016, [ICC-01/05-01/08-3424](#) (A3)), the Appeals Chamber granted him an extension of thirty days to file his appeal brief against the Sentencing Decision and deemed it appropriate to grant the same extension to the Prosecutor ("Decision on Mr Jean-Pierre Bemba Gombo's request for an extension of time for the filing of his document in support of the appeal", [ICC-01/05-01/08-3431](#) (A2 A3)).

<sup>8</sup> "Appellant's response to 'Prosecution's Document in Support of Appeal against Trial Chamber III's 'Decision on Sentence pursuant to Article 76 of the Statute'", [ICC-01/05-01/08-3485](#) (A2), with one public annex ("Response to Prosecutor's Appeal Brief").

<sup>9</sup> "Prosecution's response to Bemba's appeal against sentence", ICC-01/05-01/08-3486-Conf-Exp (A3) with one confidential *ex parte* annex ("Response to Mr Bemba's Appeal Brief"); a public redacted version of filing and annex were registered on 2 February 2017 ([ICC-01/05-01/08-3486-Red2](#)).

<sup>10</sup> "Decision on the participation of victims in the appeals against Trial Chamber III's 'Decision on Sentence pursuant to Article 76 of the Statute'", 1 September 2016, [ICC-01/05-01/08-3432](#) (A2 A3).

<sup>11</sup> "Consolidated Observations of the Legal Representative of Victims on 'The Appeals against Trial Chamber III's decision on Sentence pursuant to Article 76 of the Statute'", dated 23 January 2017 and registered on 3 November 2017, [ICC-01/05-01/08-3490-ENG](#) (A2 A3) ("Victims' Observations"); original French version, 23 January 2017, [ICC-01/05-01/08-3490](#) (A2 A3). This document was originally filed confidentially but was reclassified as public pursuant to the Appeals Chamber's "Order for reclassification of document ICC-01/05-01/08-3490-Conf", 5 May 2017, [ICC-01/05-01/08-3524](#) (A2 A3).

<sup>12</sup> "Appellant's response to 'Observations consolidées de la Représentante légale des victimes' sur « The Appeals against Trial Chamber III's decision on Sentence pursuant to Article 76 of the Statute »", with two public annexes, ICC-01/05-01/08-3501-Conf (A2 A3) ("Mr Bemba's Reply to Victims' Observations"); a public redacted version was registered on 8 May 2017 ([ICC-01/05-01/08-3501-Red](#)).

respect and acquitted Mr Bemba of all remaining charges brought against him in this case (“Appeal Judgment on Conviction”).<sup>13</sup>

8. As a result of the Appeal Judgment on Conviction, there is no basis for any sentence to be imposed on Mr Bemba in the present case and the Sentencing Decision therefore ceases to have effect. For that reason, the Appeals Chamber considers the appeals logged against the Sentencing Decision to be moot, and dismisses them as such.

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



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**Judge Christine Van den Wyngaert**  
**Presiding Judge**

Dated this 8<sup>th</sup> day of June 2018

At The Hague, The Netherlands

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<sup>13</sup> [Majority Judgment](#), operative paragraphs 1) to 3).