

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08

Date: 26 September 2014

TRIAL CHAMBER III

Before: Judge Sylvia Steiner, Presiding Judge
Judge Joyce Aluoch
Judge Kuniko Ozaki

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
*v. JEAN-PIERRE BEMBA GOMBO***

Public

**Decision on “Narcisse Arido’s Request for Leave to Appeal the ‘Decision on
“Registry Transmission of a Submission received from the Defence for Mr
Narcisse Arido dated 18 August 2014”’ (ICC-01/05-01/08-3134-Conf)”**

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Ms Fatou Bensouda

Mr Jean-Jacques Badibanga

Counsel for the Defence

Mr Peter Haynes

Ms Kate Gibson

Ms Melinda Taylor

Legal Representatives of the Victims

Ms Marie Edith Douzima-Lawson

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Pre-Trial Chamber II

Mr Göran Sluiter,

Counsel for Mr Narcisse Arido

Trial Chamber III (“Chamber”) of the International Criminal Court (“Court”) in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (“Bemba case”) issues the following Decision on “Narcisse Arido’s Request for Leave to Appeal the ‘Decision on ‘Registry Transmission of a Submission received from the Defence for Mr Narcisse Arido dated 18 August 2014’” (ICC-01/05-01/08-3134-Conf)” (“Decision”).

I. Background and Submissions

1. On 5 September 2014, the Chamber issued its “Decision on ‘Registry Transmission of a Submission received from the Defence for Mr Narcisse Arido dated 18 August 2014’” (“Decision 3134”).¹ In this decision, the Chamber rejected a request submitted by the defence for Mr Narcisse Arido (“Mr Arido’s defence”) in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda, Fidèle Babala Wandu and Narcisse Arido* (“case ICC-01/05-01/13”) that the Chamber grant it access to the unredacted version of a series of filings and decisions in the *Bemba* case which it considered relevant to its preparation in case ICC-01/05-01/13.²
2. On 15 June 2014, Mr Arido’s defence in case ICC-01/05-01/13, filed its “Narcisse Arido’s Request for Leave to Appeal the ‘Decision on ‘Registry Transmission of a Submission received from the Defence for Mr Narcisse Arido dated 18 August 2014’” (ICC-01/05-01/08-3134-Conf)” (“Request for Leave to Appeal”),³ in which it seeks leave to appeal Decision 3134.

¹ Decision on “Registry Transmission of a Submission received from the Defence for Mr Narcisse Arido dated 18 August 2014”, 5 September 2014, ICC-01/05-01/08-3134-Conf.

² ICC-01/05-01/08-3134-Conf, paragraphs 3 and 13.

³ Narcisse Arido’s Request for Leave to Appeal the “Decision on ‘Registry Transmission of a Submission received from the Defence for Mr Narcisse Arido dated 18 August 2014’ (ICC-01/05-01/08-3134-Conf)”, 15 September 2014, ICC-01/05-01/08-3142-Conf.

3. On 22 September 2014, the Office of the Prosecutor (“prosecution”) filed its response to the Request for Leave to Appeal (“Response”).⁴ The prosecution submits, *inter alia*, that Mr Arido’s Request for Leave to Appeal must fail, as he is not a party to these proceedings and has no standing to appeal a decision of the Chamber pursuant to Article 82(1)(d) of the Rome Statute (“Statute”).⁵ The prosecution argues that the right to appeal under all prongs of Article 82 of the Statute is expressly limited to “either party”, that is, only the parties involved in the proceedings at issue.⁶ Further, the prosecution asserts that the fact that the Chamber chose to entertain Mr Arido’s request does not transform him into a “party” to these proceedings, affording him a right to appeal in this instance.⁷

III. Analysis and Conclusion

4. For the purpose of the present Decision and in accordance with Article 21(1) of the Statute the Chamber has considered Article 82(1)(d) of the Statute and Rule 155 of the Rules of Procedure and Evidence.
5. The Chamber notes that Article 82(1) of the Statute affords the right to appeal to “either party”. The Chamber reiterates that in the *Bemba* case, only the prosecution and the defence for Mr Jean-Pierre Bemba Gombo (“defence”) are “parties” to the proceedings.⁸ Consequently, only the prosecution and the defence possess the right to seek leave to appeal the Chamber’s decisions under Article 82(1) of the Statute. Neither Mr Arido nor his defence team in case ICC-01/05-01/13 have *locus standi* in the *Bemba* case; therefore, they have

⁴ Prosecution’s Response to Narcisse Arido’s Request for Leave to Appeal the “Decision on ‘Registry Transmission of a Submission received from the Defence for Mr Narcisse Arido dated 18 August 2014’”, 22 September 2014, ICC-01/05-01/08-3149-Conf.

⁵ ICC-01/05-01/08-3149-Conf, paragraph 5.

⁶ ICC-01/05-01/08-3149-Conf, paragraph 5.

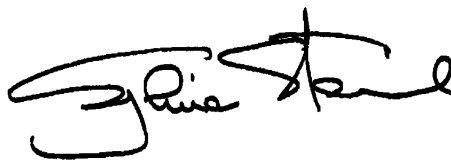
⁷ ICC-01/05-01/08-3149-Conf, paragraph 6.

⁸ Decision on the requests made by Mr Kilenda on behalf of Mr Kilolo, 13 December 2013, ICC-01/05-01/08-2922, paragraph 9.

no right to appeal this Chamber's decisions.

6. Considering the above, the Chamber does not deem it necessary to address the substance of the Request for Leave to Appeal and **REJECTS** it *in limine*.
7. In light of the principle of publicity of the proceedings enshrined in Article 67(1) of the Statute and Regulation 20 of the Regulations of the Court, the Chamber **ORDERS** the parties, the participant and Mr Arido's defence in case ICC-01/05-01/13, to file public redacted versions of documents ICC-01/05-01/08-3116-Conf-Anx, ICC-01/05-01/08-3119-Conf, ICC-01/05-01/08-3120-Conf, ICC-01/05-01/08-3125-Conf, ICC-01/05-01/08-3142-Conf and ICC-01/05-01/08-3149-Conf or inform the Chamber that they may be reclassified as public without redactions, by 2 October 2014.

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 26 September 2014

At The Hague, the Netherlands