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THE APPEALS CHAMBER

Before: Judge Sanji Mmasenono Monageng, Presiding Judge
Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF

THE PROSECUTOR

***v. JEAN-PIERRE BEMBA GOMBO, AIME KILOLO MUSAMBA, JEAN-JACQUES
MANGENDA KABONGO, FIDELE BABALA WANDU AND NARCISSE ARIDO***

Public

**Prosecution Appeal against the “Decision on Mr Bemba’s Request for provisional
release”**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor
Mr James Stewart
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 Jean Flamme

Counsel for Fidèle Babala Wandu

Mr Jean Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Mr Göran Sluiter

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Mr Patrick Craig

Victims Participation and Reparations Section Other

Introduction

1. The decision to release Mr Bemba¹ is vitiated by multiple errors which warrant reversal: the Single Judge went well beyond the boundaries of a proper exercise of his discretion and erred in law and fact. The Decision is also fundamentally incompatible with the warrant of arrest for Mr Bemba in this case requiring his detention on all three grounds under article 58(1)(b) of the Rome Statute (“Statute”).²

2. The Single Judge incorrectly and unreasonably analysed article 60(4)—especially by ignoring its express requirement that any unreasonable period of pre-trial detention be due to the inexcusable delay by the Prosecutor—leading him to conclude erroneously that Mr Bemba’s release was “necessary” (Ground One). In addition, having acknowledged that there were continuing risks under article 58(1)(b) associated with Mr Bemba’s release, the Single Judge erred in law by releasing Mr Bemba without imposing conditions to offset these risks. In the alternative, no reasonable Chamber could have concluded that imposing no conditions on Mr Bemba’s release would sufficiently address the associated risks (Ground Two).

3. The Decision largely adopts the Single Judge’s reasoning when he released Mr Bemba’s co-accused in the case ICC-01/05-01/13 on 21 October 2014.³ As a result, this appeal significantly overlaps with the Prosecution’s appeal against that prior decision.⁴ The two appeals should thus be dealt with jointly.

¹ ICC-01/05-01/13-798 (“Decision”).

² ICC-01/05-01/13-1-Red2-tENG, paras. 21-23 (“Arrest Warrant”). Before the request filed on 11 December 2014 (ICC-01/05-01/13-782-Red), which led to the present Decision, Mr Bemba had not sought release in these proceedings under article 60(2) of the Statute, save for a request on 27 November 2014 (ICC-01/05-01/13-770) that was withdrawn on 5 December 2014 (ICC-01/05-01/13-779).

³ Decision, p.4, referring to the reasoning included in ICC-01/05-01/13-703 (“21 October 2014 Decision”).

⁴ ICC-01/05-01/13-727 OA10.

Submissions

Ground One: the Single Judge erred in law and in fact by incorrectly and unreasonably applying article 60(4) to release Mr Bemba

4. The Single Judge found that this Decision is “premised on the paramount need to avoid that the duration of pre-trial detention—as enshrined *inter alia* in article 60(4) of the Statute—becomes unreasonable [...]”⁵ However, the Decision wrongly analyses article 60(4) in two respects. As a result of these errors, jointly or severally, the Decision to release Mr Bemba was unsound.

5. First, the Decision errs in law by disregarding the plain language of the Statute, requiring that an order of release on the basis of article 60(4) be contingent on “inexcusable delay by the Prosecutor”. The Decision cannot reasonably be interpreted as applying any provision other than article 60(4), such as article 60(2), article 60(3)⁶ or any part of article 67(1). Even if it could be so read, its failure to make the necessary findings, to provide adequate reasoning, or to meet the specific requirements of article 60(2) and appellate case law makes it manifestly erroneous.

6. Second, the Decision errs in law and fact in concluding that Mr Bemba has been detained for an unreasonable period.

Release pursuant to article 60(4) is contingent upon a finding of inexcusable delay by the Prosecutor

7. The threshold condition triggering the operation of article 60(4) was misapplied in the Decision, and is not met on the facts of this case. Accordingly, the Single Judge erred in law in applying article 60(4) as a basis to order the release of Mr Bemba. This materially affected the Decision and requires its reversal.

⁵ Decision, p.3.

⁶ The Decision notes article 60(3) and not article 60(2) (see Decision, p.3), even though the Defence request for provisional release was filed pursuant to article 60(2) (see ICC-01/05-01/13-782-Red).

8. Article 60(4) states that the “Pre-Trial Chamber shall ensure that a person is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor”. Only “[i]f such delay occurs” shall the Court “consider” releasing the person.⁷ Yet in this case, the Single Judge made no finding that the duration of the detention of Mr Bemba is due to the Prosecutor’s inexcusable delay.⁸

9. The Single Judge’s conclusion that article 60(4) may be applied absent inexcusable delay by the Prosecutor contradicts the Appeals Chamber’s established jurisprudence, which has repeatedly held that article 60(4) provides a remedy for an unreasonable period of pre-trial detention “due to inexcusable delay by the Prosecutor”.⁹ Article 60(4) is not a catchall provision designed to ensure against any unreasonable period of pre-trial detention. Thus, contrary to the Decision, article 60(4) does not permit an accused’s release based on an assessment of the “reasonableness of the duration of the detention [by balancing it] against the statutory penalties applicable to the offences at stake [...]”.¹⁰ Further, such a determination is not properly reasoned on any basis, given that the Statute does not preclude the imposition of consecutive sentences for the multiple counts of the offences confirmed in this case.¹¹ A correct view of the law under article 60(4) is further supported by the Single Judge’s previous decisions in this case, in which he has repeatedly rejected requests to order release under article 60(4) because the pace of the proceedings was “certainly not ascribable to the Prosecutor”.¹²

⁷ Statute, Art.60(4).

⁸ Note that in the 21 October 2014 Decision, whose reasoning the present Decision adopted, the Single Judge expressly found that “the duration of the detention of Mr Bemba is not due to the Prosecutor’s inexcusable delay” 21 October 2014 Decision, p.5.

⁹ ICC-01/04-01/06-824 OA7, paras.118-120, 122, 124.

¹⁰ Decision, p.4.

¹¹ ICC-01/05-01/13-749, pp.47-48 (confirming multiple charges against Mr Bemba).

¹² See *e.g.* ICC-01/05-01/13-612, para.26; ICC-01/05-01/13-588, para.17. The 21 October 2014 Decision constitutes an exception.

The Decision can only be read as applying article 60(4), and not any other provision of the Statute

10. The Decision is economically worded and makes passing reference to various provisions of the Statute.¹³ However, it can only reasonably be understood to apply article 60(4), and not article 67, article 60(2), article 60(3) or any other provision of the Statute.

11. The Prosecution acknowledges that, in addition to article 60(4), the Appeals Chamber has suggested that “other provisions of the Statute” may “also have a bearing upon the obligation to ensure that a person [...] is not detained for an unreasonable period,” such as article 67(1)(c)’s right to “a fair trial without undue delay”.¹⁴

12. The Decision cannot be read to order Mr Bemba’s release on the independent basis of article 67(1)(c) since it does not make the necessary finding, nor engage in any underlying reasoning, that Mr Bemba’s right to trial without undue delay is threatened. Article 60(4) is the only basis for which the Decision arguably provides any reasoning at all. Broad reference to the right to a fair trial does not justify disregarding the plain words of the Statute in a particular provision, even if other statutory provisions may separately be applicable to the question of detention. Nor can distinct powers and duties in the Statute be merged to create new, hybrid powers. Accordingly, in seeking to apply article 60(4), its requirements must strictly be applied.

13. Likewise, any view that the Single Judge actually sought to apply article 60(2) or article 60(3) only further underscores the errors of law in the Decision. This is so because the Single Judge failed to find that the conditions set forth in article 58(1) are no longer met. Moreover, in the absence of a decision under article 60(2) in this

¹³ Decision, p.3 (“Noting articles 21, 58(1), 60(3), 60(4) and 67(1) of the Statute”). The Decision does not note article 60(2), which was the basis of the Defence’s request for provisional release.

¹⁴ ICC-01/04-01/06-824 OA7, para.98.

case, a determination as to a material change in circumstances under article 60(3) would be premature. Contrary to this Decision, in his previous decisions applying article 60(2)¹⁵ or article 60(3)¹⁶ in relation to Mr Bemba's co-accused, the Single Judge has expressly stressed judicial guidance as to how such determinations of continued detention or reviews of detention should properly be conducted.

14. This Decision undertakes no such process. Moreover, the only circumstances to which the Decision makes specific reference—in the context of considering whether the risks under article 58(1)(b)(ii) and (iii) have reduced¹⁷—are immaterial. For example:

- Although time has elapsed since the arrest warrant decision, the Single Judge has previously correctly ruled that the mere passage of time does not amount to a changed circumstance.¹⁸
- The proceedings are advanced in the sense that the Pre-Trial Chamber has confirmed the charges—but of itself this may enhance the flight risk and not lessen it.¹⁹
- Although much of the evidence is documentary, it is not yet admitted into the record of the Trial Chamber. Nor does it account for the fact that

¹⁵ See *e.g.* ICC-01/05-01/13-588, paras.1-2, 5 (citing ICC-02/11-01/11-278-Red, para.23, 27, 49; ICC-01/04-01/06-824, para.124; ICC-01/05-01/13-559, para.46; also ICC-01/05-01/13-558, para.60.).

¹⁶ See *e.g.* ICC-01/05-01/13-612, para.3 (citing ICC-01/05-01/08-631-Red, para.60; ICC-01/05-01/08-2151-Red, paras.1, 31; ICC-02/11-01/11-548-Red, para.1).

¹⁷ Decision, p.4 (noting the “stage reached by these proceedings, the documentary nature of the relevant evidence and the fact that such evidence has now been acquired in the record”).

¹⁸ See *e.g.* ICC-01/05-01/13-611, para.11 (rejecting “the mere elapsing of time and the prolongation of detention” as a possible changed circumstance for the purpose of Article 60(3)).

¹⁹ See *also e.g.* ICC-01/05-01/13-611, para.14 (“As regards the fact that the Prosecutor’s investigation is now completed, the Single Judge [...] reiterates that, whilst many pieces of evidence might by this stage be beyond the suspects’ reach, it cannot yet be excluded that action be taken in respect of other evidentiary items which might still be outstanding. The seriousness and concreteness of this risk should also be appreciated in light of article 83(1) and (2) of the Statute, vesting in the Appeals Chamber ‘all the powers of the Trial Chamber’, including, most critically, the power to ‘call evidence’.”).

Prosecution witnesses will be vital to contextualising and explaining this evidence at trial.²⁰

15. The Decision does not elaborate—much less provide sufficient reasoning—upon any other basis upon which the Statute would require the release of Mr Bemba.

16. The preceding arguments demonstrate that the Decision finds no support in the Statute at all. But in addition, and as demonstrated below, regardless of the proper legal basis under the Statute, it cannot be concluded in law or in fact that Mr Bemba has been detained for an unreasonable time in the case ICC-01/05-01/13.

The Single Judge erred in law and fact in concluding that Mr Bemba has been detained for an unreasonable period of time

17. The first error alone warrants a reversal of the Decision and a return to the *status quo ante*. But in addition, the Decision also errs in law and fact in determining that the second requirement of article 60(4)—detention for an unreasonable period prior to trial—has been established in this case. The Decision errs in law because it is predicated on an arbitrary assessment of the proportionality of the period of pre-trial detention relative to a hypothetical future sentence. Further, or in the alternative, it errs in fact because it unreasonably concludes, in the context of all the relevant circumstances of this case, that Mr Bemba has been detained for an unreasonable period prior to trial.

18. First, the Decision errs in law because it relies on the Single Judge's view that Mr Bemba's pre-trial detention is now "disproportionate" to "the statutory penalties applicable to the offences at stake in these proceedings".²¹ This constitutes

²⁰ See also e.g. ICC-01/05-01/13-588, para.20 ("Furthermore, article 58(1)(b)(ii) explicitly states that detention might be necessary with a view to ensuring that the person does not obstruct or endanger not only the investigation, but also the 'court proceedings'").

²¹ Decision, p.4.

a reversible error because it pre-judges two questions on a matter of sentencing—namely, (a) the quantum of the sentence which may be imposed by the Trial Chamber, if Mr Bemba is tried and convicted; and (b) whether the five-year cap on sentencing upon conviction of a single article 70 offence, pursuant to article 70(3), precludes cumulative sentencing upon the conviction of multiple article 70 offences.

19. These are issues for the Trial Chamber under article 76 of the Statute and upon which the parties have not yet been heard. Without forming a conclusion on these issues, the Single Judge could not have concluded that the period of pre-trial detention served thus far is disproportionate. As such, the error materially affects the Decision.

20. Implicit in the Single Judge's view that the period of pre-trial detention is "disproportionate" is the unfounded presumption that only a very limited custodial sentence may be imposed upon Mr Bemba if convicted, arguably much less even than the term of five years' imprisonment referred to in article 70(3) for an offence under article 70(1), and notwithstanding the Pre-Trial Chamber's confirmation of 42 such counts.²² There is no basis for such a presumption, given the very serious and organised nature of the article 70 violations alleged, the central role played by Mr Bemba in the alleged scheme to commit these crimes, and the modes by which Mr Bemba is alleged to be liable for these crimes. Alternatively, to the extent that the Single Judge did not presume a very limited custodial sentence (even within a five-year range) then his view as to what constitutes a "disproportionate" relative period of pre-trial detention must be erroneous. In the circumstances of this case, a period of approximately 14 months' pre-trial detention, to date, cannot be disproportionate.

²² ICC-01/05-01/13-749, pp.47-48.

21. The Decision is further erroneous in that the question of cumulative sentencing is not resolved and thus cannot support any reasoned assessment of proportionality. The Single Judge's implicit prediction of what a Trial Chamber may determine to be a justifiable sentence within the bounds of the Statute if it convicts him is at best inappropriate and speculative. Similarly, a ruling on the proper interpretation of article 70(3) cannot cure the absence of a reasoned decision by the Single Judge, and is unnecessary at this stage, as the issue is not before the Appeals Chamber. On previous occasions the Single Judge has correctly declined to rule on the proper interpretation of article 70(3), recognising that "it remain[s] to be decided how the statutory limit" to sentencing under article 70 "may apply in case [of] multiple offences".²³ The Decision does not explain why it was appropriate for the Single Judge to have engaged in such an analysis—and the Prosecution submits that it was not.

22. For the same reasons that the Single Judge of the Pre-Trial Chamber should not pre-judge the Trial Chamber's approach on specific issues, the Appeals Chamber should likewise refrain, in deciding this appeal, from ruling on the proper interpretation of article 70(3) on the merits. The Prosecution brings this appeal only to challenge the *procedural* correctness of the Single Judge's engagement with the merits of the article 70(3) issue at this stage. It does not advance arguments at this time on the correctness or otherwise of the Single Judge's substantive conclusion, which has not yet been argued on the merits by the parties.

23. Second, and further or in the alternative, the Decision erroneously concludes that Mr Bemba has been detained for an unreasonable period prior to trial. This is not reasonable. In particular, the Single Judge erred in the following respects.

²³ ICC-01/05-01/13-538, para.14; ICC-01/05-01/13-259, para.31; ICC-01/05-01/13-258, para.22; ICC-01/05-01/13-588, para.17.

- For the reasons explained above, the Decision gave unreasonable emphasis to the Single Judge's view of the Trial Chamber's ultimate disposition of the legal question associated with article 70(3).²⁴
- The Decision also failed to take into account the necessary domestic procedures applicable to the Dutch authorities in respect of the evidentiary material seized or acquired by them in cooperating with the Court. In particular, the time necessary to address specific challenges raised by Mr Bemba's co-accused Kilolo and Mangenda before the Dutch authorities in relation to their transmittal of the seized evidence to the Court. The time necessary for Mr Bemba's co-accused to exercise procedural rights before the Dutch courts and for the authorities adequately to accommodate and resolve these issues cannot be considered unreasonable or due to any lack of diligence on their part, the Prosecution or the Court. Additionally, the Decision fails to take into consideration the substantial volume of material involved and the complexities in its processing by the Dutch authorities—particularly through a single appointed independent expert, much less the procedural steps necessary to discharge the requests of the Chamber itself.²⁵ The Decision makes no finding of fact dispelling the presumption which should be accorded to a compliant State party to have discharged its obligations to the Court as efficiently and expeditiously as reasonably possible.
- The Decision further fails to provide adequate reasoning on other factors relevant to assessing the reasonableness of the period of pre-trial detention,

²⁴ Decision, p.4.

²⁵ ICC-01/05-01/13-410-Conf-Anx, pp.6-21 (in Dutch).

and which provide a more balanced picture of the proceedings in this case.²⁶ These include, for example—

- o the fact that Mr Bemba is alleged to have committed offences under article 70²⁷ (and therefore already to have broken obligations specifically owed to this Court);²⁸
- o the fact that the parties have acted diligently;
- o the fact that the judicial authorities have acted diligently;
- o the fact that the charges in these proceedings have recently been confirmed;²⁹ and
- o the continuing risk that Mr Bemba will flee if he is released;
- o the continuing risk that Mr Bemba will obstruct or endanger the investigation or the Court proceedings or commit related crimes.

Ground Two: the Single Judge erred in law and in fact by releasing Mr Bemba without imposing any conditions to address the continuing risks associated with his release

24. The Decision acknowledges the continuing (although purportedly reduced), risk that Mr Bemba might obstruct or endanger the investigations and that he might continue to commit the crimes that he is charged with or related crimes.³⁰ In addition the Decision does not depart from the Single Judge's previous finding in the Arrest Warrant that Mr Bemba might abscond if released.³¹ In fact, nothing in the Decision suggests that the Single Judge's concern as to Mr Bemba's flight risk is in any way diminished.

²⁶ Although the Decision may make passing reference to some factors, their role is insufficiently explained to ascertain whether sufficient or any weight was attributed to them: see Decision, pp.3-4.

²⁷ ICC-01/05-01/13-749.

²⁸ See e.g. ICC-01/05-01/13-261, para.25.

²⁹ ICC-01/05-01/13-749.

³⁰ Decision, p.4.

³¹ Arrest Warrant, paras.21-22.

25. By releasing Mr Bemba without imposing any conditions, notwithstanding his assessed risks under article 58(1)(b), the Single Judge erred both in law and in fact. The Single Judge has an independent duty to ensure that any release of Mr Bemba is done in a manner which effectively mitigates the risks set out in article 58(1)(b). He cannot abandon his duty to do so simply by noting that the Decision does not presently “result in Mr Bemba actually being released absent a decision to the same effect to be taken by Trial Chamber III”,³² thereby entrusting the Trial Chamber III, if it were to release Mr Bemba, to put in place appropriate conditions.³³

The Single Judge erred in law by releasing Mr Bemba without imposing any conditions to offset the risks under article 58(1)(b)

26. The Single Judge erred in law because although he acknowledged, expressly or at least implicitly, that Mr Bemba’s release would entail all three risks under article 58(1)(b), he ordered his release without imposing any appropriate and enforceable conditions that could offset these risks.

27. The Appeals Chamber has found that “[the] examination of conditions of release is discretionary [...] where the risks enumerated in article 58(1)(b) exist, but the chamber considers that these can be mitigated by the imposition of certain conditions of release”.³⁴ However, if a chamber determines that the risks under article 58(1)(b) exist but nevertheless decides it is appropriate to release a person, then it should have no discretion in relation to the imposition of conditions. It must impose appropriate and enforceable conditions³⁵ to offset those risks. The Appeals Chamber has expressly and repeatedly found that “in such circumstances, release is

³² Decision, para.4.

³³ The Single Judge emphasised that the Decision “is obviously without prejudice to any determination which might be made by Trial Chamber III in respect to proceedings in case 01/05-01/08” (Decision, p.5).

³⁴ ICC-01/05-01/08-1626-Red OA7, para.55; ICC-02/11-01/11-278-Red OA, para.77.

³⁵ ICC-01/05-01/08-631-Red OA2, para.104, 108-109; ICC-01/05-01/08-1626-Red OA7, para.54.

only possible if specific conditions are imposed.”³⁶ This principle equally applies to all grounds of release under article 60.³⁷

28. A proper exercise of the Court’s jurisdiction and the integrity of its proceedings demands that a Chamber impose appropriate conditions to offset the risks associated with a person’s release. A Chamber cannot simply release an accused person without conditions despite knowing that such release might result in him evading justice, interfering with the investigations or continuing to commit crimes.

The Single Judge erred in fact by releasing Mr Bemba without imposing any conditions to offset the risks under article 58(1)(b)

29. In any event, given the circumstances of this case, and the continuing risks under article 58(1)(b), as acknowledged by the Single Judge, Mr Bemba’s release without conditions to offset these risks was inappropriate and unreasonable. As the Single Judge has previously correctly stated:

A decision granting conditional release cannot be regarded as a gamble, whereby a Chamber ‘tests’ whether a suspect is or not worth[y] of the trust reposed in him or her by granting such release. It has to be strictly justified and supported by objective elements enabling a Chamber to estimate that the conditions assisting the release are suitable to effectively neutralise the risks listed in paragraph 58(1)(b) of the Statute.³⁸

30. The absence of *any* condition to manage these continuing risks was unreasonable in two ways.

31. First, given the seriousness of the offences alleged against Mr Bemba, the recent decision confirming the charges against him for these crimes,³⁹ the continued

³⁶ ICC-01/05-01/08-631-Red OA2, para.105; ICC-01/05-01/08-1626-Red OA7, para.47; ICC-02/11-01/11-278-Red OA, para.76.

³⁷ According to the Appeals Chamber, article 60(2) and article 60(4) are independent grounds for releasing a person (ICC-01/04-01/06-824 OA7, para.120).

³⁸ Babala Art.60(3) Decision, para.18.

³⁹ ICC-01/05-01/13-749.

existence of a support network, and Mr Bemba's continuous access to extensive financial resources which may facilitate an attempt by him to abscond,⁴⁰ the only reasonable conclusion is that measures were necessary to manage the flight risk caused by his release, and that the Single Judge erred in fact by not imposing such measures to mitigate this risk.

32. Second, the charges in this case involve conduct intended to obstruct the investigations or the Court proceedings in the main case. The Pre-Trial Chamber has recently found that there are substantial grounds to believe that Mr Bemba has committed such offences.⁴¹ Yet, the Decision fails to address the continuing risks under article 58(1)(b)(ii) and (iii) (even if somewhat reduced in the Single Judge's assessment), or to explain the basis upon which any lesser conditions could be necessary. Rather, in the circumstances, even if Mr Bemba's release were deemed appropriate—which it should not be—this would still have to be based on appropriate and enforceable conditions. The Decision fails to require even the most rudimentary conditions that should have been imposed, to apply if and when Mr Bemba were to be released in the case ICC-01/05-01/08,⁴² such as ordering Mr Bemba:

- not to commit new offences within any jurisdiction to which he could be released or under the Statute;
- to refrain from harassing, intimidating, threatening, or otherwise interfering with witnesses in this case, or those in Case ICC-01/05-01/08;
- to report to the Registrar in advance any change of address or contact information from that declared;
- to report to the Registrar in advance any intended overnight travel from the address declared and to give notice of the destination, contact information, and duration of the travel;

⁴⁰ Arrest Warrant, para.22.

⁴¹ ICC-01/05-01/13-749.

⁴² See para.25 above.

- not to contact any witness in this case, or those in Case ICC-01/05-01/08, except through or in the presence of Defence counsel accredited to appear on behalf of Mr Bemba before this Court; and
- to report to the Registrar any such contact with witnesses in this case, or those in Case ICC-01/05-01/08.

33. In addition, the Single Judge should have satisfied himself that a State was available to accept Mr Bemba on its territory and that such a State would be willing and able to enforce appropriate conditions—to be identified by the Single Judge—to ensure Mr Bemba’s appearance at trial, and to prevent the obstruction of the investigations or the Court proceedings or the commission of crimes by Mr Bemba.⁴³ Failure to have made any such enquiries with any relevant State(s) and to have ordered such State(s) to enforce adequate measures (at an appropriate time, if any) further highlights the unreasonableness of the Single Judge’s decision to release Mr Bemba without any conditions.

Relief Sought

34. For the reasons above, the Appeals Chamber should determine that the Single Judge erred in exercising his discretion, and erred in law and fact, invalidating the Decision. As a consequence, it should:

- a. quash the Decision; or, in the alternative,
- b. remand the question of Mr Bemba’s detention to the Trial Chamber for immediate review under article 60(2), including hearing the Parties and relevant State(s) as to whether the conditions under article 58(1) are met

⁴³ ICC-01/05-01/08-1722 OA8, para.39; ICC-01/05-01/08-631-Red OA2, para.104, 108-109; ICC-01/05-01/08-1626-Red OA7, para.54.

and whether suitable conditions may be ordered to address the risks associated with Mr Bemba's release.

Word Count: 4,447⁴⁴



Fatou Bensouda, Prosecutor

Dated this 2nd day of February 2015

At The Hague, The Netherlands

⁴⁴ It is hereby certified that this document contains the number of words specified and complies in all respects with the requirements of Regulation 36 of the Regulations of Court. This statement (58 words), not itself included in the word count, follows the Appeals Chamber's direction to "all parties" appearing before it: ICC-01/11-01/11-565 OA6, para.32; ICC-01/09-01/11 OA7 OA8, para.26.