



Original: English

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

Date: 14/07/2015

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

**Defence Submissions on the 'Prosecution's Observations Concerning the Filing of
any Appeals against Judgment'**

Source: Defence for Mr. Jean-Pierre Bemba Gombo

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

Fatou Bensouda, Prosecutor

Jean-Jacques Badibanga

Counsel for the Defence

Peter Haynes QC

Kate Gibson

Melinda Taylor

Legal Representatives of the Victims

Marie-Edith Douzima-Lawson

Legal Representatives of the Applicants**Unrepresented Victims****Unrepresented****(Participation/Reparation)****Applicants****The Office of Public Counsel for the Victims**

Paolina Massidda

The Office of Public Counsel for the Defence

Xavier-Jean Keita

States' Representatives**Amicus Curiae****REGISTRY****Registrar**

Herman von Hebel

Defence Support Section**Deputy Registrar****Victims and Witnesses Unit**

Nigel Verrill

Detention Section**Victims Participation and Reparations Other
Section**

A. SUBMISSSIONS

1. French is not the ‘linguistic preference’ of Mr. Bemba.¹ It is ‘the language that the accused fully understands and speaks’.²

2. The practice of this Trial Chamber has been to ensure that Mr. Bemba is provided with ‘key document[s]’ in French before requiring any Defence response thereto.³ This practice has never previously met with objection from the Prosecution. There can be no dispute that a judgement rendered under Article 74 of the Statute is a key document in the trial.

3. The importance of translation of the judgement into French is heightened in the present case. Mr. Bemba has a statutory right:⁴

[t]o be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks

4. Specifically, the Trial Chamber has given notice to Mr. Bemba under Regulation 55 that it may change the nature of the charges against him, to an alternate form of knowledge under Article 28(a)(i) of the Statute.⁵ The Trial Chamber has emphasized that Mr. Bemba will only be informed of this change in its judgement under Article 74.⁶ This must be notified to him in the language he fully understands and speaks.⁷

¹ ICC-01/05-01/08-3259, para. 3.

² ICC-01/05-01/08-2731, para. 28.

³ ICC-01/05-01/08-2731, para. 29, para. 38(f).

⁴ Article 67(1)(a) of the ICC Statute.

⁵ ICC-01/05-01/08-2324.

⁶ ICC-01/05-01/08-3089, para. 5: ‘In its decision, the Chamber emphasised once again that a change to the legal characterisation of the facts, if any, would ultimately be made by the Chamber in its decision under Article 74 of the Statute’, citing ICC-01/05-01/08-2419, para. 6.

⁷ ICC-01/05-01/08-307, para. 16: ‘Mr Jean-Pierre Bemba should enjoy the right to interpretation throughout the whole proceedings but is only entitled to receive the French translation of such

5. Any argument that filing a 'Notice of Appeal' does not require a French translation of the judgement, given that such documents are 'typically very brief', is misconceived.⁸ The decision to appeal a judgement is a significant one, regardless of the word count of the document which reveals this intention.

6. In the brief period between receiving the judgement and the deadline for filing a Notice of Appeal, a convicted person must take into consideration a wealth of factors, all of which require a thorough reading and complete understanding of the judgement. These include the reliability of the legal and factual basis upon which the conviction is founded; the potential sentence which may result, when reviewed against comparable national and international precedent; the evidential basis of the Trial Chamber's reasoning and conclusions; and other procedural considerations. A convicted person must also consider the potential advantages to leaving the judgement unchallenged, including to the purported victims and those in the region, which also requires a complete understanding of the basis for the conviction.

7. The Prosecution's approach assumes an 'appeal now and work out the details later' approach to appellate proceedings which – given the importance of finality to those for whom justice is being sought – cannot possibly be encouraged.

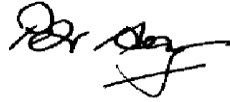
8. The Prosecution's observations are openly grounded in its concern that it may be placed at a disadvantage should the Prosecution and the Defence be placed on different briefing schedules, as a result of the translation of the judgement.⁹ The rights afforded to the accused under the Statute are absolute, and

documents that inform him in detail of the nature, cause and content of the charges brought against him.'

⁸ ICC-01/05-01/08-3259, para. 10.

⁹ ICC-01/05-01/08-3259, para. 18.

derogation should never be justified on the basis that the Prosecution perceives itself to be disadvantaged from the accused being afforded them.



Peter Haynes

Lead Counsel of Mr. Jean-Pierre Bemba

Done at The Hague, the Netherlands

14 July 2015