



Original: **English**

No.: **ICC-01/05-01/13**

Date: **12 June 2017**

THE PRESIDENCY

Before: Judge Silvia Fernández de Gurmendi, President
Judge Joyce Aluoch, First Vice-President
Judge Kuniko Ozaki, Second Vice-President

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

Order concerning the “Transmission of a document received from Mr Kilolo Musamba pursuant to an order from the Appeals Chamber (ICC-01/05-01/13-2163)”

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

The Office of the Prosecutor
 Ms Fatou Bensouda

Counsel for Mr Jean-Pierre Bemba Gombo
 Ms Melinda Taylor
 Ms Mylène Dimitri

Counsel for Aimé Kilolo Musamba
 Mr Michael G. Karnavas

Counsel for Jean-Jacques Mangenda Kabongo
 Mr Christopher Michael 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

Other
 Appeals Chamber
 Trial Chamber VII

THE PRESIDENCY of the International Criminal Court notes that on 30 May 2017 the Registry transmitted to it a letter received from Mr Aimé Kilolo Musamba,¹ pursuant to an order from the Appeals Chamber of 22 May 2017 in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, concerning the enforcement of the fine of thirty thousand euros imposed by Trial Chamber VII on 22 March 2017.²

The Presidency recalls that, pursuant to applicable provisions of Part 10 of the Rome Statute (“Statute”) and rules 163(3) and 199 of the Rules of Procedure and Evidence (“Rules”), the responsibility with respect to the enforcement of sentences lies with the Presidency.³ This includes responsibility for the enforcement of fines in this case.⁴

The Presidency observes that following the conviction of Mr Kilolo, Trial Chamber VII imposed on him a penalty of imprisonment as well as a fine. In addition, Trial Chamber VII decided that the remaining term of imprisonment of Mr Kilolo – who is not currently in detention – would be suspended on the condition that he pays the fine within three months.⁵

The Presidency notes that although Mr Kilolo has not appealed his sentence, he has appealed against his conviction.⁶ The Presidency considers that in the circumstances of the case and in accordance with article 81(4) of the Statute, the sentence cannot be executed unless and until the conviction is confirmed on appeal. The Presidency notes that the Appeals Chamber has expressed a similar view in the case of *The Prosecutor v. Lubanga*, in which it found that “[g]iven that an order for reparations depends upon there having been a conviction, if the

¹ Registry, *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido* (“*Bemba et al.*”), “Transmission of a document received from Mr Kilolo Musamba pursuant to an order from the Appeals Chamber (ICC-01/05-01/13-2163)”, 30 May 2017 2017, ICC-01/05-01/13-2164-Conf-Exp.

² Trial Chamber VII, *Bemba et al.*, “Decision on Sentence pursuant to Article 76 of the Statute” (“Sentencing Decision”), 22 March 2017, ICC-01/05-01/13-2123-Corr, paras.198-200, p. 99.

³ In addition to Part 10 of the Statute, further details of these responsibilities can be found in chapter 12 of the Rules and section 2 of chapter 7 of the Regulations of the Court.

⁴ For details of the Presidency’s functions in respect of the enforcement of fines, see article 109 of the Statute, section IV of chapter 12 of the Rules, rules 146(5)-(6) and 166(5) of the Rules, regulations 113(1)(b), 116-118 of the Regulations of the Court.

⁵ Sentencing Decision, p. 99.

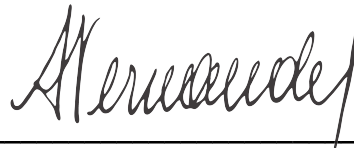
⁶ Defence for Mr Kilolo, *Bemba et al.*, “Public Redacted Version of ‘Second corrected version of Aimé Kilolo Musamba’s Appeal Brief (ICC-01/05-01/13-2148-Conf-Corr2)’”, 24 May 2017, ICC-01/05-01/13-2148-Corr2-Red.

decision on conviction cannot be executed unless and until it is confirmed on appeal, it follows that an order for reparations also cannot be executed until that time”.⁷

For the reasons given, Mr Kilolo’s fine of thirty thousand euros cannot be currently executed. Accordingly, the obligation to pay the fine within three months of conviction is also suspended for the duration of the appeals proceedings. As a result, no action is currently required in this regard.⁸

The Presidency has rendered the present Order publicly because it addresses non confidential legal issues concerning the interaction between article 81(4) of the Statute and the Presidency’s enforcement functions. The Presidency considers that while Mr Kilolo’s letter should maintain its current classification because it contains personal financial details, there is no reason for the Transmission by the Registry to maintain such classification, particularly in view of the fact that a very similar document has been publicly filed before the Appeals Chamber.⁹ The Presidency hereby orders the Registrar to file a public version of the Transmission only (ICC-01/05-01/13-2164-Conf-Exp), with any appropriate redactions to paragraph 3.

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



Judge Silvia Fernández de Gurmendi
President

Dated this 12 June 2017

At The Hague, The Netherlands

⁷ Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, “Decision on the admissibility of the appeals against Trial Chamber I’s ‘Decision establishing the principles and procedures to be applied to reparations’ and directions on the further conduct of proceedings”, 14 December 2012, ICC-01/04-01/06-2953, para. 86.

⁸ The Presidency has only considered the impact of article 81(4) on the fine imposed. The Transmission does not give rise to any further matters requiring consideration.

⁹ Registry, *Bemba et al.*, “Registry Transmission of a Document received from Mr Aimé Kilolo Musamba”, 7 April 2017, ICC-01/05-01/13-2135.