

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **13 March 2015**

TRIAL CHAMBER VII

Before: Judge Chile Eboe-Osuji, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Robert Fremr

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***

Confidential Document

**Consolidated Prosecution Request for Leave to Reply to ICC-01/05-01/13-836-Conf,
ICC-01/05-01/13-838-Conf and ICC-01/05-01/13-840-Conf**

Source: The 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

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Amicus Curiae

REGISTRY

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Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section Others

I. Introduction

1. Pursuant to regulation 24(5) of the Regulations of the Court ("RoC"), the Office of the Prosecutor ("Prosecution") requests Trial Chamber VII ("Chamber")'s leave to reply jointly to the Bemba Defence's "Defence Response to Prosecution's Request for the Production of Evidence",¹ Arido Defence's "Narcisse Arido's Response to the 'Prosecution's Request for the Production of Evidence'"² and Kilolo Defence's "Adjonction de la Défense de Monsieur Kilolo à la 'Defence response to Prosecution's Request for the Production of Evidence'"³ ("Responses").

2. In view of the major legal and factual issues involved, a limited and focused reply may benefit the Chamber and assist in the proper determination of the Prosecution's Request for the Production of Evidence⁴ ("Request").

II. Confidentiality

3. This filing is classified as "Confidential" because it relates to filings of the same designation.

III. Submissions

4. The Prosecution seeks to reply to the following arguments advanced in the Responses:

- a) whether the notion of a witness statement is limited to or coextensive with formal signed records of witness questioning;

¹ ICC-01/05-01/13-836-Conf.

² ICC-01/05-01/13-838-Conf.

³ ICC-01/05-01/13-840-Conf.

⁴ ICC-01/05-01/13-820-Conf.

- b) whether a witness's narrative of events, however recorded, is work product attracting privilege under rule 81(1) of the Rules of Procedure and Evidence;
- c) whether the Chamber's authority to order production of evidence from the Defence is coextensive with the Defence's disclosure obligations;
- d) whether the privilege against self-incrimination precludes the Chamber's ability to order the production of evidence that has been presented as exonerating by the Kilolo Defence, in view of Kilolo's qualification as counsel before the Court, his previous role as lead counsel, and his representation in this case by a counsel similarly qualified;
- e) whether potentially exonerating material, affirmatively placed at issue by an accused, bears on the trial proceedings in this case.

IV. Relief Requested

5. For the foregoing reasons, the Prosecution requests the Chamber to grant it leave to reply to the Bemba, Arido and Kilolo Defence Responses, pursuant to regulation 24(5) of the RoC.



Fatou Bensouda, Prosecutor

Dated this 13th Day of March 2015
At The Hague, The Netherlands