

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 11 June 2015

**TRIAL CHAMBER VII**

**Before:** Judge Chile Eboe-Osuji, Presiding Judge  
Judge Olga Herrera Carbuccion  
Judge Bertram Schmitt

**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 Redacted Document**

**Public redacted version of "Prosecution's Response to the Kilolo Defence's  
Request «aux fins d'obtenir la communication des coordonnées des témoins D-2 et  
D-3»", 10 June 2015, ICC-01/05-01/13-993-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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**The Office of Public Counsel for Victims**      **The Office of Public Counsel for the Defence**

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**REGISTRY**

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**Victims Participation and Reparations Section**      **Others**

## I. Introduction

1. The Office of the Prosecutor (“Prosecution”) defers to the discretion of Trial Chamber VII (“Chamber”) regarding the Kilolo Defence’s request to obtain Witnesses [REDACTED] contact information from the Victims and Witnesses Unit (“VWU”) (“Request”).<sup>1</sup> Although [REDACTED] testified in the Main Case<sup>2</sup> and are the basis of confirmed charges in this case,<sup>3</sup> the Prosecution makes two points in respect of the Request:

2. *First*, [REDACTED] have previously refused to be contacted by members of the Kilolo Defence.<sup>4</sup>

3. *Second*, as there is presently no protocol on witness’ contacts, the Prosecution refers to the Chamber’s prior decision setting down a procedure for the VWU regarding contacts with witnesses.<sup>5</sup>

## II. Confidentiality

4. This filing is classified as Confidential as it responds to a filing of the same designation. A public redacted version will be filed subsequently.

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<sup>1</sup> ICC-01/05-01/13-987-Conf.

<sup>2</sup> ICC-01/05-01/08.

<sup>3</sup> ICC-01/05-01/13-749.

<sup>4</sup> See, ICC-01/05-01/13-852-Conf-Red.

<sup>5</sup> ICC-01/05-01/13-924.

### III. Submissions

#### A. [REDACTED] have previously refused contact with the Kilolo Defence

5. [REDACTED].<sup>6</sup>

#### B. The VWU should contact the witnesses and conduct a security assessment before disclosing any contact details

6. The procedure previously set down by the Chamber regarding Accused Fidèle Babala Wandu's request for the VWU to provide witness contact details<sup>7</sup> should be followed here. As such, VWU should be directed to, (i) "enquire with the Witnesses whether they consent to providing their contact information [...] for the purpose of an interview" by the Defence<sup>8</sup> – while explaining to the witnesses that the decision whether to consent is solely for the witness to make;<sup>9</sup> and (ii) in the event of the witness' consent to the provision of their contact details, that the VWU "conduct an assessment of any security impact that such disclosure would have on this witness."<sup>10</sup>

7. Were a security assessment required as a result of the witnesses consenting to providing their contact details, the Chamber noted that in evaluating possible security risks, "[a] prior refusal of any of the Witnesses regarding contact with another defence is only to be included in the assessment if it has an implication on the security situation."<sup>11</sup> Here, the previous refusal of [REDACTED] to be in contact with the Kilolo Defence — the *same* Defence regarding whom they refused contact —

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<sup>6</sup> [REDACTED].

<sup>7</sup> ICC-01/05-01/13-835-Conf.

<sup>8</sup> ICC-01/05-01/13-924, para.7.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*, para.8.

should therefore be included, amongst other relevant factors, in any VWU assessment of their security situation.

#### **IV. Conclusion**

8. Based upon the foregoing, the Prosecution defers to the Chamber's discretion, noting [REDACTED] prior refusal to meet with the Kilolo Defence, and in view of the Chamber's prior direction to the VWU, as set out above.



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**Fatou Bensouda, Prosecutor**

Dated this 11<sup>th</sup> Day of June 2015  
At The Hague, The Netherlands