

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **24 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, AIMÉ KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDÈLE BABALA
WANDU AND NARCISSE ARIDO**

Public

**Narcisse Arido's Response to Prosecution's Request to Designate a Person Authorised
to Witness a Declaration under Rule 68 (2) (b) of the Rules of Procedure and Evidence
(ICC-01/05-01/13-1011)**

Source: Counsel for Narcisse Arido

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

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I. INTRODUCTION

1. On 16 June 2015, the Prosecution requested the Trial Chamber to designate a person authorised to witness declarations made under rule 68 (2) (b) of the Rules.¹

2. The Arido Defence does not oppose the Prosecution's Request but wishes to make a few observations regarding the process undertaken by the Prosecution. This response is without prejudice to the right of the Arido Defence to be heard when the Prosecution submits its actual Rule 68 application(s).²

II. SUBMISSIONS

3. The Prosecution indicates that "to streamline the presentation of its case", it intends to introduce the prior statements and/or testimony of five of its witnesses in whole or part, under Rule 68 (2) (b) of the Rules of Procedure and Evidence ('RPE').³ The Prosecution argues that this would assist in a more concise and streamlined presentation of evidence for witnesses it intends to call at trial, those whose appearance is not necessary, or those who may not otherwise materialise.⁴

4. The Arido Defence recalls that the Prosecution must disclose all the evidence it intends to rely on at trial and file its witness and exhibit lists by 30 June 2015.⁵ This must include the statements/testimonies which the Prosecution will seek to tender under Rule 68 of the RPE, as well as any declaration taken under Rule 68 (2) (b) (ii).

5. Further, the Arido Defence recalls the Trial Chamber's statement that the parties should seek to first resolve matters *inter partes*.⁶ As a result, the Arido Defence suggests that the Prosecution approaches the Defence teams in advance of its Rule 68 application, with a view to reaching an agreement and therefore expediting the issues coming before the Trial Chamber.

¹ ICC-01/05-01/13-1011 ('Prosecution's Request').

² Rule 68 (1).

³ ICC-01/05-01/13-1011, para. 1.

⁴ ICC-01/05-01/13-1011, para. 3.

⁵ ICC-01/05-01/13-960, paras 11, 13.

⁶ ICC-01/05-01/13-T-8-Red-ENG, p. 4, l. 16-21.

6. As a result, the Arido Defence requests the Trial Chamber to order the Prosecution to indicate to the Defence, in advance of submitting its Rule 68 application:

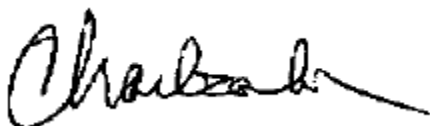
- i. The identity or, in case where delayed disclosure was requested, the pseudonym, of the five witnesses for which the Prosecution will submit applications under Rule 68 RPE;
- ii. Which witness(es) is (are) going to appear for trial, which ones' appearance is "not necessary" and which ones "may not otherwise materialise", together with the underlying justifications.

III. CONCLUSION

7. The Arido Defence thereby requests the Trial Chamber to order that:

- i. The Prosecution discloses any material it intends to submit under Rule 68 of the RPE to the Defence by 30 June 2015;
- ii. The Prosecution approaches the Defence teams and provides them with the identity or, in case where delayed disclosure was requested, the pseudonym, of the five witnesses for which the Prosecution will submit applications under Rule 68 RPE, and indicates which witness(es) is (are) going to appear for trial, which ones' appearance is "not necessary" and which ones "may not otherwise materialise", together with justifications, with a view to reaching an *inter-partes* agreement as to the material the Prosecution intends to submit under Rule 68.

Respectfully submitted,



Charles Achaleke Taku, Counsel for Mr. Arido

Dated this 24th Day of June 2015

In The Hague, The Netherlands.