



Original: English

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

Date: 04/09/2015

TRIAL CHAMBER VII

Before: Judge Bertram Schmitt (Presiding Judge)
Judge Marc Perrin de Brichambaut
Judge Raul Pangalangan

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

**Request for Leave to reply to the “Prosecution’s Response to the Defence Request
for Leave to Appeal the “Decision on ‘Defence Request for Disclosure and
Judicial Assistance’”**

Source: Defence for Mr. Jean-Pierre Bemba Gombo

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

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Victims Participation and Reparations Section

**Other
Trial Chamber III**

Introduction

1. The Defence for Mr. Jean-Pierre Bemba Gombo respectfully seeks the leave of the Trial Chamber to file a reply to the 'Prosecution's Response to the Defence Request for Leave to Appeal the "Decision on 'Defence Request for Disclosure and Judicial Assistance'",¹ in relation to the Prosecution's arguments that:

- i. The burden does not fall on the Prosecution to justify the continued maintenance of redactions after the confirmation stage; and
- ii. The standard for reconsidering or reviewing a decision concerning redactions is the same as the standard for reviewing legal decisions.

Submissions

2. The Prosecution's response has incorporated arguments, which could not have been foreseen by the Defence, due to the fact that they deviate from the protocol for redactions, which was established by the Trial Chamber in this case.²

3. Given that the parties should be entitled to rely on this protocol, there is good cause to allow the Defence to present discrete submissions as to whether:

- i. The redactions fall within the scope of paragraphs 9 to 10 of the Decision on Disclosure;³ and

¹ ICC-01/05-01/13-1208-Conf.

² ICC-01/05-01/13-959.

³ ICC-01/05-01/13-959. See also ICC-01/09-01/11-458, para. 18, concerning the fact that all redactions must be considered to have an expiration date; there is no such thing as a 'permanent' redaction, and ICC-01/04-01/07-819-tENG, para. 12 regarding the status of pre-confirmation redaction decisions, and ICC-01/04-01/06-1019, para. 27, which required the Prosecution to justify the application of all redactions at the trial phase.

- ii. The test for reviewing the continued necessity of redactions should be governed by paragraph 11 of the Decision on Disclosure, rather than the test adumbrated by the Prosecution.

Relief sought

4. For the reasons set out above, the Defence for Mr. Bemba seeks leave to file a reply in relation to the above-mentioned issues.



Melinda Taylor
Counsel of Mr. Jean-Pierre Bemba

Dated this 4th day of September 2015

The Hague, The Netherlands