Cour Pénale Internationale

International Criminal Court

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No.: **ICC-01/05-01/13**
Date: **14 September 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 Document

Prosecution's Response to "Joint Defence Request pursuant to Regulation 35 of the Regulations of the Court to defer notification concerning expert witnesses" ICC-01/05-01/13-1235

Source: **The Office of the Prosecutor**

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

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I. Introduction

1. The joint Defence request pursuant to regulation 35 of the Regulations of the Court ("RoC") to defer notification concerning expert witnesses should be dismissed.[1] The Defence's request concerning P-0443 is moot, while its request in relation to P-0361 has no merit.

II. Submissions

2. On 11 September 2015, the Office of the Prosecutor ("Prosecution") notified the Defence that P-0433 is being called as an evidence summary witness and not as an expert witness. The Prosecution further clarified the scope of P-0433's testimony and transmitted the *curriculum vitae* to the Defence.[2] Considering that P-0433 will not be called as an expert witness, the request concerning this witness is moot.

3. Further, the Defence request in relation to P-0361 has no merit. The Defence has been aware of P-0361's status as an "expert witness" since at least May 2015, when they were consulted in relation to his joint instruction. At the latest, once his name was placed on the Prosecution's list of witnesses, the Prosecution's reliance on his expertise was confirmed.[3]

4. The approximate date of P-0361's testimony can be extrapolated from the Prosecution's order of witnesses, filed on 7 September 2015.[4] The Prosecution has also previously indicated the approximate expected time of its examination per witness.[5] The total length of the witnesses examination will effectively also depend

[1] ICC-01/05-01/13-1235 ("Request").
[2] E-mail correspondence of 11 September 2015.
[3] ICC-01/05-01/13-1048-Conf-AnxA-Red.
[4] Icc-01/05-01/13-1219 and ICC-01/05-01/13-1219-Conf-AnxA-Corr.
[5] ICC-01/05-01/13-T-8-Red-ENG, 24 April 2015, p.35, lns.12-17 ("I don't expect that any given fact witness should be on the stand for the Prosecution for more than a day, a day meaning 9 to 5. It depends on how the

on the cross-examination, which, to date, the Defence has given no indication thereof. Notwithstanding the above, on 11 September 2015, the Prosecution clarified that it intends to call Witness P-0361 "in the second half of October 2015". The scheduling of his evidence however, is inherently dependent on the Defence estimates for the examination of the preceding Prosecution witnesses.

5. Finally, on 14 September, the Defence was provided with a pdf version of P-0361's expert report, as apparently hyperlinked footnotes in the copy provided *via* eCourt to the Parties on 21 July 2015 were rendered non-functional as a result of the upload process.[6] However, the Prosecution notes that the expert report only contains seven hyperlinked footnotes, and that the referenced material was accessible even in the absence of functioning hyperlinks, by simply copying and pasting the footnoted references into an internet search engine.

III. Relief Requested

6. For all the reasons above, the Request should be dismissed.

Fatou Bensouda, Prosecutor

Dated this 14th day of September 2015
At The Hague, The Netherlands

Chamber decides to sit. If it's half a day it will be longer. But I don't anticipate that any given fact witness should take much longer than that.")
[6] Trial INCRIM Package 30, 21 July 2015.