

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 24 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

**Victims and Witnesses Unit's Submissions in relation to the implementation of
the
Unified Protocol on the practices used to prepare and familiarise witnesses for
giving testimony before the Court
(ICC-01/05-01/13-1252-Anx)**

Source: The Registry

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Kweku Vanderpuye

Counsel for Jean-Pierre Bemba Gombo

Ms Melinda Taylor

Counsel for Aimé Kilolo Musamba

Mr Paul Djunga Mudimbi

Counsel for Jean-Jacques Mangenda Kabongo

Mr Christopher Michael Gosnell

Counsel for Fidèle Babala Wandu

Ms Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Mr Charles Achaleke Taku

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

Victims Participation and Reparations Section

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the “Decision on Witness Preparation and Familiarisation”, issued by Trial Chamber VII (the “Chamber”) on 15 September 2015 (the “Decision”);¹

NOTING the email from the Victims and Witnesses Unit (the “VWU”) to the Chamber and the Chamber’s email to the VWU, both dated 22 September 2015;²

NOTING articles 43(6) and 68(1) and (4) of the Rome Statute, rules 16 to 19 of the Rules of Procedure and Evidence, regulation 24*bis* of the Regulations of the Court and regulations 79 to 96*bis* of the Regulations of the Registry;

CONSIDERING that in the Decision, the Chamber directed the VWU to facilitate witness familiarisation in accordance with that Decision and the Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony before the Court (the “Protocol”) annexed to it;

CONSIDERING that in its email, the VWU requested the approval of the Chamber to deviate from the Protocol with regard to the location in which certain parts of the familiarisation process are conducted;

CONSIDERING that in its email, the Chamber informed the VWU that its request contains an amendment to the Protocol, and directed the VWU to file the present request with the Chamber;

RESPECTFULLY SUBMITS as follows:

¹ ICC-01/05-01/13-1252 and the annex.

² Email from the VWU sent at 13:23, and email from the Chamber received at 16:08.

1. As laid out in the Protocol, the familiarisation process begins when the witness arrives in the Netherlands or at the location of testimony where different from the seat of the Court.³ Paragraphs 25 to 93 lay out specific activities as part of the familiarisation process to be conducted upon the arrival of witnesses at the location of testimony such as the in-court protective measures and statement reading by the witness.
2. The VWU considers that, depending on logistics and whenever possible, certain parts of the familiarisation process, namely the assessment of in-court protection measures and the reading of the statement by the witness, could be conducted in the field, prior to the arrival of the witnesses at the location of testimony. The VWU assesses that this would be beneficial to the witnesses as the duration of their stay at the location of the testimony would consequently be reduced.
3. In particular, the VWU considers beneficial, whenever possible, that the witness start or complete the statement reading in the field, prior to his or her arrival in the Netherlands or at the location of testimony.
4. Consequently, the VWU would therefore need to deviate from paragraph 73 of the Protocol⁴, namely when the familiarisation process starts outside the Netherlands or the location of testimony, the VWU would need to receive the materials from the calling party prior to the arrival of the witness in the Netherlands or at the location of testimony other than the seat of the Court.
5. The VWU would like to inform the Chamber that arrangements have already been made with a calling party in relation to a witness who is scheduled to

³ The Protocol, para. 26.

⁴ The Protocol para. 73: "Once the witness arrives at the location of testimony, the calling party shall make all previous statement(s) and/or transcript(s) available to the VWU."

appear shortly. The statement reading by the witness could therefore start as soon as possible, pending the Chamber's decision on this request and subject to paragraph 74 of the Protocol.

6. Moreover, the VWU is mindful that once the process of witness familiarisation has commenced, any contact between the calling party and the witness must take place exclusively during the 'courtesy meeting'⁵ and that the VWU will not facilitate any further contact between the witness and the calling party until the witness has finished testifying.⁶
7. Therefore, Should the above mentioned practical solution be agreeable to the Chamber, the VWU would ensure that the limitation of contact between the witness and the calling party foreseen in paragraphs 25 to 31 would occur once the process of witness familiarisation has commenced.
8. The VWU is therefore seeking the approval of the Chamber for the requested suggestions, deviating from the practices set out in the Protocol. The Unit remains at the Chamber's disposal as necessary in relation to the above matter.



Marc Dubuisson, Director/ Division of Judicial Services
per delegation of
 Herman von Hebel, Registrar

Dated this 24 September 2015

At The Hague, The Netherlands

⁵ The Protocol para. 25.

⁶ The Protocol para. 29.