



Original: English

No: **ICC-01/05-01/13**
Date: **16 October 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

**Kilolo Defence Response to 'Prosecution Request for a Judicial Notice,
Pursuant to Article 69(6) of the Rome Statute (ICC-01/05-01/13-1339)'.**

Source: Defence for Mr. Aimé Kilolo Musamba

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

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Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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 and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

I. Introduction

1. On 24 September 2015, the Prosecution filed a request asking Trial Chamber to take judicial notice of **(i)** the existence and authenticity of trial transcripts in the Main Case and their audio-visual equivalents; and **(ii)** the happenings in the courtroom as shown therein pursuant to article 69(6) of the Rome Statute and the “Decision on Prosecution Motion for Clarification of Rule 68(3) Direction in Conduct of Proceedings Decision”¹.
2. On 6 October 2015, pursuant to Regulation 34 of the Regulations of the Courts (hereinafter “RoC”), the Trial Chamber shortened the deadline for the filing of responses to the Prosecution’s Request to Wednesday 14 October 2015.
3. On 12 October 2015, the Trial Chamber extended the deadline upon an oral request of the Arido Defence until Friday 16 October 2015.²
4. The Kilolo Defence (‘Defence’) hereby submits its response.

II. Submissions

5. The Defence for Mr. Kilolo respectfully defers to the Trial Chamber’s discretion. The Trial Chamber has already emphasised in its 15 September 2015 Decision³ that its ruling should be limited to taking judicial of “the

¹ ICC-01/05-01/13-1339, 28 September 2015; ICC-01/05-01/13-1339-AnxA, 28 September 2015.

² ICC-01/05-01/13-T-18-CONF-ENG ET 12-10-2015 50/77, Ins. 3 to 6.

³ ICC-01/05-01/13-1249, 15 September 2015.

dates and content of relevant witnesses' Main case testimony and not the truth or falsity of the testimony itself."⁴

6. The Defence notes, however, that the Prosecution request goes beyond the scope of the Pre Trial Chamber's Decision on the confirmation of charges⁵. Indeed, the Prosecution seeks the judicial noticing of the transcripts of 27 defence witnesses in the Main case while the Decision on the confirmation of charges is only related to 14 witnesses⁶. In addition, the Decision of the 15th September 2015 also specifies that the Trial Chamber could take judicial notice of transcripts related to relevant Main case witnesses⁷. Therefore the Defence submits that the Prosecution's request should be partially dismissed in this regard.

III. Relief Sought

7. The Defence respectfully requests the Trial Chamber to partially dismiss the Prosecution's request.

Respectfully submitted,

⁴ ICC-01/05-01/13-1249, para. 6.

⁵ ICC-01/05-01/13-749, 11 November 2015.

⁶ Idem.

⁷ ICC-01/05-01/13-1249, para. 6.

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Mr. Steven Powles
Associate Counsel for Mr. Aimé Kilolo Musamba



Dated this 16 October 2015,
At The Hague, The Netherlands.