

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No: **ICC-01/05-01/13**
Date: **20 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

Confidential
With
Confidential Annex A

**Kilolo Defence Response to “Prosecution’s Fourth Request for the
Admission of Evidence from the Bar Table”.**

Source: Defence of 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**

States' Representatives

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REGISTRY

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Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

I. INTRODUCTION

1. On 28 September 2015 the Prosecution filed 'Prosecution's Fourth Request for the Admission of Evidence from the Bar Table'.¹
2. The Prosecution seeks the admission of 57 items of evidence. The material is divided into five categories: (i) call logs from the ICC detention center; (ii) Invoices, Emails and letters containing the Accused's contact information; (iii) Call data records; (iv) Intercepted communications; (v) Other materials.²
3. Again the Defence does not propose to repeat the submissions made in response to the Prosecution's First and Second Requests for the Admission of Evidence from the Bar Table on the propriety of the Prosecution's attempt to adduce evidence from the Bar Table.³
4. The Defence maintains like in its 3rd response that it adopts, *mutatis mutandis*, the relevant submissions made in reply in its 'Response de la Défense de M. Aimé Kilolo à la 'Prosecution's First Request for the Admission of Evidence from the Bar Table'⁴ and 'Response to 'Prosecution's Second Request for the Admission of Evidence from the Bar Table'.⁵

¹ ICC-01/05-01/13-1310-Conf and ICC-01/05-01/13-1310-Conf-AnxA, 28 September 2015.

² Ibidem.

³ ICC-01/05-01/13-1075-Conf, 9 July 2015 para. 10-13. We also adopt the relevant submissions made on behalf of other Defendants to the propriety of admitting evidence at trial from the Bar Table rather than seeking to adduce the evidence concerned through a relevant witness: See ICC-01/05-01/13-1073-Conf, ICC-01/05-01/13-1074-Conf, ICC-01/05-01/13-1076-Conf, ICC-01/05-01/13-1077-Conf.

⁴ ICC-01/05-01/13-1075-Conf, 9 July 2015.

⁵ ICC-01/05-01/13-1201-Conf, 24 August 2015.

5. Moreover, we respectfully refer the Trial Chamber to Confidential Annex A in which specific objections are made in relation to each individual items of evidence that the Prosecution seeks to admit.

II. SUBMISSIONS

6. In light of the Decision on Prosecution Requests for Admission of Documentary Evidence of 24 September 2015⁶, the Defence for Mr. Kilolo reserves it right to make further submissions when the Trial Chamber will decide on the admissibility of the material.

7. In summary, the Defence objections are the following:

(i) Call logs from ICC Detention Centre

8. The documents contained in this category are unrelated to Mr. Kilolo.

(ii) Invoices, e-mails and letters containing the Accused's contact information

9. The majority of the documents contained in this category are unrelated to Mr. Kilolo. As regards the other documents, the Defence submits that they are not relevant to the charges or to the scope of the charges.

⁶ ICC-01/05-01/13-1285, 24 September 2015.

(iii) Call data records

10. The Defence reiterates the objections formulated in its three responses to the Bar Table Motions previously submitted by the Prosecution.⁷

11. For this category of document there is an issue with authenticity and the reliability of the documents submitted.

(iv) Intercepted communications

12. The Defence submits likewise that for this category the authenticity of the documents is not proven.

(v) Other materials

13. The Defence submits that the documents should be tendered through a witness. Certain documents submitted in this category are outside the scope of the charges or are not related to the charges confirmed by the Pre-Trial Chamber.

III. RELIEF SOUGHT

14. The Defence respectfully requests the Trial Chamber to reject the 'Prosecution's Fourth Request for the Admission of Evidence from the Bar Table'.

⁷ ICC-01/05-01/13-1075-Conf, 9 July 2015; ICC-01/05-01/13-1201-Conf, 24 August 2015; ICC-01/05-01/13-1246-Conf, 14 September 2015.

Respectfully submitted,

Maître Paul Djunga Mudimbi
Lead Counsel for Mr. Aimé Kilolo Musamba



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



Dated this 20 October 2015,
At The Hague, The Netherlands.