

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 30 November 2015

TRIAL CHAMBER VII

Before: Judge Bertram Schmitt, Single Judge

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 *ex parte*, available only to the Babala Defence and Registry

**Decision on Babala Defence Request regarding the Facilitation of Defence
Missions**

To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Counsel for Jean-Pierre Bemba Gombo

Counsel for Aimé Kilolo Musamba

**Counsel for Jean-Jacques Mangenda
Kabongo**

**Counsel for Fidèle Babala Wandu
Mr Jean-Pierre Kilenda Kakengi Basila**

Counsel for Narcisse Arido

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

Others

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Mr Esteban Peralta Losilla

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber VII ('Single Judge' and 'Chamber', respectively) of the International Criminal Court, in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, having regard to Article 67(1) of the Rome Statute and Regulation 23 *bis*(3) of the Regulations of the Court ('Regulations'), issues the following 'Decision on Babala Defence Request regarding the Facilitation of Defence Missions'.

1. On 24 November 2015, the defence team for Mr Babala ('Babala Defence') filed a request regarding its preparation of missions ('Request').¹ The Babala Defence informs the Chamber that it plans two missions to the Democratic Republic of Congo in December 2015. It requests that the Registry be ordered to transfer the money necessary for these missions before their commencement.² It also requests that the Registry be ordered to transfer 100% of the Daily Subsistence Allowance ('DSA'), instead of the 75% which are foreseen by practice of the Registry.³ Lastly, the Babala Defence requests that the Registry be ordered to provide a written confirmation to the Babala Defence that it has transferred the money.⁴
2. On 27 November 2015, the Registry filed its observations ('Observations').⁵ Therein, it informs the Chamber that the two missions have already been approved by the Counsel Support Section and that all administrative

¹ Requête introduite sous le bénéfice de l'extrême urgence par la Défense de M. Fidèle Babala Wandu tendant à obtenir de la chambre de céans l' injonction faite au Greffe de procéder au versement intégral des « DSA » avant les dates de départ des deux prochaines missions de la Défense, ICC-01/05-01/13-1493-Conf-Exp, available only to the Babala Defence and the Registry with six confidential *ex parte* annexes.

² Request, ICC-01/05-01/13-1493-Conf-Exp, para. 10.

³ Request, ICC-01/05-01/13-1493-Conf-Exp, para. 9.

⁴ Request, ICC-01/05-01/13-1493-Conf-Exp, page 8.

⁵ Registry's Observations on the "Requête introduite sous le bénéfice de l'extrême urgence par la Défense de M. Fidèle Babala Wandu tendant à obtenir de la chambre de céans l' injonction faite au Greffe de procéder au versement integral des « DSA » avant les dates de départ des deux prochaines missions de la Défense" (ICC-01/05-01/13-1493-Conf-Exp), ICC-01/05-01/13-1496-Conf-Exp, available only to the Babala Defence and the Registry with one confidential *ex parte* annex.

preparations have been undertaken.⁶ It further explains the Court-wide policy on the allocation of the DSA and informs the Chamber that the Babala Defence receives the same DSA as all the other defence teams in accordance with this policy.⁷ Additionally, the Registry requests the Chamber to re-classify the Request and the Observations as public or confidential in order to allow other defence teams to be informed of the content of the filings.⁸

3. At the outset the Single Judge notes that no redacted versions of the submissions have been filed. Pursuant to Regulation 23 *bis*(3) of the Regulations, the Single Judge hereby directs the Babala Defence and the Registry to either request reclassification of their filings as 'public' or to provide public-redacted versions thereof.
4. In respect of the part of the Request concerning the financing of the mission, the Single Judge notes that the Registry submits that both missions are already approved by the Counsel Support Section and, accordingly, considers this part of the Request to be moot.
5. With regard to the Babala Defence request to receive 100% of the DSA, the Single Judge notes that the DSA is provided in accordance with the Court-wide policy of the Registry, applicable to all persons entitled to compensation for their mission-related costs. The Babala Defence does not present any argument why the Court-wide scheme should not apply to it in this particular case. Further, the Single Judge does not consider the applicable scheme to be manifestly unreasonable or to hamper the Babala Defence's right to have adequate time and facilities for the preparation of its defence. Accordingly, the Single Judge rejects this part of the Request.

⁶ Registry Observations, ICC-01/05-01/13-1496-Conf-Exp, para. 3.

⁷ Registry Observations, ICC-01/05-01/13-1496-Conf-Exp, paras 5-7.

⁸ Registry Observations, ICC-01/05-01/13-1496-Conf-Exp, para. 10.

6. The Single Judge notes that the Babala Defence does not provide any justification as to why the Registry should be ordered to make written money transfer confirmations to the Babala Defence. The Single Judge is not persuaded that this matter requires judicial intervention, and considers that it should be resolved between the Babala Defence and the Registry.

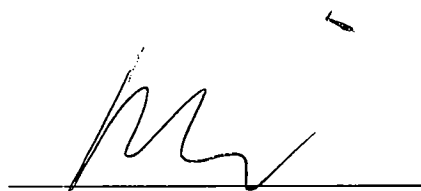
FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Babala Defence and the Registry to either request the reclassification as 'public' of their filings or provide public-redacted versions thereof by 11 December 2015;

DISMISSES the part of the Request concerning the financing of the two Babala Defence missions as moot; and

REJECTS the remainder of the Request.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a checkmark-like flourish, positioned above a horizontal line.

Judge Bertram Schmitt, Single Judge

Dated 30 November 2015

At The Hague, The Netherlands