

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 2 December 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, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU
AND NARCISSE ARIDO***

Confidential Document

***Prosecution's Response to « Requête conjointe de la Défense de MM. KILOLO,
MANGENDA, BABALA et ARIDO demandant le report des échéances fixées par la
décision ICC-01/05-01/13-1450 »***

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 Office of the Prosecutor ("Prosecution") opposes, in part, the Kilolo, Mangenda, Babala and Arido Defences' 27 November 2015 Joint Request¹ to extend the 7 January 2016 deadlines set down in Trial Chamber VII ("Chamber")'s "Directions on the Defence Presentation of Evidence" ("Decision").² To the extent that the Joint Request is predicated on the Prosecution's alleged conduct, it should be denied. The Prosecution otherwise defers to the discretion of the Chamber.

2. The Prosecution understands that the Chamber has already rejected the Joint Request's applications to postpone the 3 December 2015 deadlines established in the Decision and to hold a status conference.³ To this extent, the Prosecution response does not address the merits of those applications in the Joint Request.

II. Confidentiality

3. This filing is classified as "Confidential", as it responds to a filing of the same designation. A public redacted version will be filed.

III. Submissions

4. In so far as the Joint Request is predicated on the Prosecution's closure of its case-in-chief or the current state of disclosure,⁴ it should be rejected.

¹ ICC-01/05-01/13-1500-Conf ("Joint Request").

² ICC-01/05-01/13-1450, pp. 11-12.

³ See email of Trial Chamber VII to the Parties, 30 November 2015, at 15:32.

⁴ Joint Request, para. 16.

5. *First*, the Prosecution has rested its case-in-chief, rendering moot the corresponding argument.⁵ *Second*, the filing of the "Prosecution's Fifth Request for the Admission of Evidence from the Bar Table"⁶ has no appreciable impact on the Defence's ability to meet the 7 January 2016 deadlines. Based on the Chamber's 13 November Oral Decision,⁷ the Defence are afforded six weeks to take into consideration the Fifth Bar Table Motion in formulating their final lists of witnesses and exhibits — a deadline set by the Chamber fully cognisant of the issues now raised in the Joint Request.⁸ *Third*, the Fifth Bar Table Motion does not add new documents to the Prosecution's list of evidence, filed on 30 June 2015.⁹ One of the main purposes of filing a list of evidence is to provide the Defence with ample notice of the evidence with which they may be confronted at trial, precisely so that they may prepare in good time to rebut this evidence. Thus, the Defence has ample time to frame the presentation of their cases-in-chief in view of the evidence tendered from the bar table.

6. As concerns material transferred to the Netherlands Forensic Institute by the Registry for the extraction and the retrieval of data, pursuant to the "Decision Providing Materials in Two Independent Counsel Reports and Related Matters",¹⁰ the Prosecution does not see -- nor does the Joint Request explain -- how the Independent Counsel's identification and transmittal of such evidence threatens the Defence's ability to comply with the 7 January 2016 deadlines.¹¹ In any event, the issue is premature at this stage.

⁵ ICC-01/05-01/13-1499.

⁶ ICC-01/05-01/13-1498-Conf ("Fifth Bar Table Motion").

⁷ ICC-01/05-01/13-T-37-CONF-FRA ET, p. 57, ls. 25-28.

⁸ ICC-01/05-01/13-T-37-CONF-FRA ET, pp. 57-59.

⁹ As amended; ICC-01/05-01/13-1196.

¹⁰ ICC-01/05-01/13-947, para. 47.

¹¹ See Joint Request, para. 17.

7. As noted above, the Prosecution defers to the considered discretion of the Chamber regarding the disposition of the Joint Request in all other respects.

IV. Conclusion

8. For the foregoing reasons, the Prosecution opposes the Joint Request in part and otherwise defers to the Chamber's discretion.



Fatou Bensouda, Prosecutor

Dated this 2nd Day of December 2015
At The Hague, The Netherlands