



Original: English

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

Date: 03/12/2015

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 with Confidential Annexes A, B, C and D

Response to Directions on Defense Presentation of Evidence

Source: Defence for Mr. Jean-Pierre Bemba Gombo

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Kweku Vanderpuye

Counsel for the Defence of Mr Jean-Pierre Bemba Gombo

Melinda Taylor

Counsel for the Defence of Mr Aimé Kilolo Musamba

Paul Djunga Mudimbi

Steve Powles

Counsel for the Defence of Jean-Jacques Mangenda Kabongo

Christopher Gosnell

Arthur Vercken

Counsel for the Defence of Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Roland Azama Shalie Rodoma

Counsel for the Defence of Mr Narcisse Arido

Charles Achaleke Taku

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section Other

Introduction

1. In accordance with the 'Directions on Defence Presentation of Evidence',¹ the Defence for Mr. Jean-Pierre Bemba submits information concerning:
 - a. the status of Defence disclosure;
 - b. the length and timing of the Defence presentation of evidence; and
 - c. witnesses who may be called by the Defence.

The Status of Defence Disclosure

2. On 3 December 2015, the Defence disclosed copies of documents, which are in the present custody of the Defence, and which the Defence intends to rely on as evidence during the trial.²
3. The Defence has implemented redactions in accordance with the redaction protocol, and the Trial Chamber's instructions concerning information emanating from the Independent Counsel, which is subject to protective measures in the Main Case and which is not relevant to the charges in this case.³
4. In terms of the latter aspect the following information has been redacted pursuant to 'B.3' of the redaction protocol:
 - i. information which identifies Main Case witnesses (other than the 'fourteen' or Mr. Arido), who are subject to ongoing protective measures in the Main Case;⁴ and

¹ ICC-01/05-01/13-1450.

² Annex A.

³ ICC-01/05-01/13-1046-Conf-Exp, ICC-01/05-01/13-1094-Conf, para. 14.

⁴ Trial Chamber III issued several decisions regarding in-court protective measures for main case witnesses: ICC-01/05-01/08-2476-Conf, ICC-01/05-01/08-2496-Conf-Exp, ICC-01/05-01/08-2514-Conf, ICC-01/05-01/08-2532-Conf, ICC-01/05-01/08-2663-Conf, ICC-01/05-01/08-2746-Conf, ICC-01/05-01/08-2770-Conf, ICC-01/05-01/08-2852-Conf, ICC-01/05-01/08-2873-Conf, ICC-01/05-01/08-2663-Conf, ICC-01/05-01/08-2694-Conf, ICC-01/05-01/08-2701-Conf.

- ii. information concerning potential Defence witnesses who were never called, and who are not referred to in the charges.
 - iii. These persons have neither consented to being involved in the Article 70 case, nor consented to any modification of their protective measures (in particular, as concerns information which was provided to VWU). As such, they are “innocent third parties” for the purposes of this case.
5. The Defence is not in a position to disclose filings, which are subject to existing confidentiality orders in the Main Case. The Defence also notes that it does not possess the capacity to open certain files on the laptop, which contains materials provided to the Independent Counsel.⁵ This information cannot be considered as being in the ‘custody’ of the Defence at this stage.

The length and timing of the Defence presentation of evidence, and witnesses who may be called by the Defence

6. As previously notified to the Trial Chamber, the Defence for Mr. Bemba was not permitted to travel on mission to meet potential witnesses, due to Counsel’s *pro bono* status.⁶ Through the support and assistance of the Registry, this issue was resolved on 2 December 2015,⁷ and the Defence was informed on 3 December 2015.⁸
7. Since the investigative efforts of the Defence are in a very preliminary phase, the Defence is not yet in a position to provide specific information concerning the nature and content of witness testimony.

⁵ The Defence requested FTK training in relation to specific aspects, but was informed that the Registry was not in a position to provide such training (Annex B). The Defence is attempting to receive FTK training from other sources.

⁶ ICC-01/05-01/13-1333-Conf, paras.4, 31.

⁷ Annex C.

⁸ Annex D.

8. The Defence, nonetheless, does not anticipate calling many witnesses: it envisages calling four witnesses at a maximum, with an estimated time of 4 hours each for direct examination.

Respectfully submitted,



Melinda Taylor
Counsel of Mr. Jean-Pierre Bemba

Dated this third day of December 2015

The Hague, The Netherlands