



Original: English

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

Date: 06/01/2016

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

**Public Redacted Version of Request for leave to reply to “Prosecution’s Response
to the Bemba Defence’s Request for Correspondence with the Dutch Authorities
(ICC-01/05-01/13-1525)”**

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. The Defence for Mr. Bemba respectfully requests leave to reply to the Prosecution's response to the 'Prosecution's Response to the Bemba Defence's Request for Correspondence with the Dutch Authorities (ICC-01/05-01/13-1525)' ("the Response").¹

2. There is good cause to file a reply in relation to the following issues arising from the Response:

- i. Firstly, whether, in light of the fact that the existence of certain meetings and emails was not known prior to the Defence being granted access to the Dutch RFAs, the issue of access to these meetings notes and emails can be considered to have been addressed by Mangenda litigation initiated prior to the receipt of these RFAs;
- ii. Secondly, whether in light of the specific language of the 28 September 2015 decision,² and the Trial Chamber's subsequent practice of granting further disclosure in relation to issues or documents referred to in the RFAs which appear to be relevant to the Defence,³ the receipt of the RFAs themselves extinguished the right of the Defence to seek and receive further documentation cited in the RFAs, which concerns the legality of the collection of the evidence;
- iii. Thirdly, in the absence of any justification arising from protective measures, whether the Prosecution's disclosure obligations are fulfilled if the Defence is informed through the

¹ ICC-01/05-01/13-1528-Conf. This request has been filed on confidential basis in order to correspond to the Prosecution's response, but can be reclassified as public without any redactions.

² [REDACTED]

³ ICC-01/05-01/13-T-33-ENG, p. 15.

RFAs of the existence of relevant documents, and an extremely truncated, and self-serving description of what they might contain, rather than the contents of the documents in their original form.⁴

3. If leave is granted, the Defence would be in a position to file its reply by Monday 21 December 2015.

Relief sought

4. For the reasons set out above, the Defence for Mr. Bemba respectfully seeks leave to submit a reply in relation to the issues identified herein.

Respectfully submitted,



Melinda Taylor
Counsel of Mr. Jean-Pierre Bemba

Dated this 6th day of January 2016

The Hague, The Netherlands

⁴ Cf *Prosecutor v. Blaskic*, Case No. IT-95-14-A, Decision on the Appellant's Motions for the Production of Material, Suspension or Extension of the Briefing Schedule, and Additional Filings, 26 September 2000, para. 41; *Prosecutor v. Brdjanin and Talic*, Decision On "Motion For Relief From Rule 68 Violations By The Prosecutor And For Sanctions To Be Imposed Pursuant To Rule 68bis and Motion For Adjournment While Matters Affecting Justice And A Fair Trial Can Be Resolved, 30 October 2002, paras. 21-31.