

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-01/05-01/13
Date: 8 February 2016

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***

Public

**Decision on the ‘Kilolo Defence Request to Replace an Item on its list of Evidence
and for Various Orders’**

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Kweku Vanderpuye

Counsel for Jean-Pierre Bemba Gombo

Ms Melinda Taylor

Counsel for Aimé Kilolo Musamba

Mr Paul Djunga Mudimbi

Counsel for Jean-Jacques Mangenda Kabongo

Mr Christopher Gosnell

Counsel for Fidèle Babala Wandu

Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Charles Achaleke Taku

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

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Others

Judge Bertram Schmitt, acting as Single Judge 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 ('Statute') and Regulation 23 *bis* of the Regulations of the Court ('Regulations'), issues the following 'Decision on the "Kilolo Defence Request to Replace an Item on its list of Evidence and for Various Orders"'.

1. On 21 January 2016, the Defence for Mr Kilolo ('Defence') submitted its list of evidence to the Chamber¹ and thereafter submitted an amended list of evidence to the Chamber on 27 January 2016.²
2. On 4 February 2016, the Defence requested authorisation from the Chamber to: replace CAR-D21-0014-0302 with CAR-OTP-0072-0504-R01 on its list of evidence; to thereafter reclassify the confidential *ex parte* version of its list of evidence to confidential; and to add three items to its list of evidence ('Application').³
3. The Single Judge does not see any need for the responses from the parties on this Application, having sufficient information before him.
4. The Single Judge authorises the Defence to replace CAR-D21-0014-0302 with CAR-OTP-0072-0504-R01 on its list of evidence, the latter being a lesser redacted version of the former (an *ex parte* document).⁴ Consequently, there is no need to retain the *ex parte* classification of ICC-01/05-01/13-1581-Conf-Exp-AnxB which was tied purely to the *ex parte* disclosure of CAR-D21-0014-0302,⁵ and the reclassification of that document from confidential *ex parte* to confidential is also authorised.

¹ ICC-01/05-01/13-1562-Conf-AnxC and ICC-01/05-01/13-1562-Conf-Exp-AnxD.

² ICC-01/05-01/13-1581-Conf-AnxA and ICC-01/05-01/13-1581-Conf-Exp-AnxB.

³ Kilolo Defence Request to Replace an Item on its list of Evidence and for Various Orders, ICC-01/05-01/13-1598-Conf.

⁴ Application, ICC-01/05-01/13-1598-Conf, paras 8-10.

⁵ ICC-01/05-01/13-1581-Conf-Exp-AnxB, pages 23 and 42.

5. Finally, the Single Judge authorises the addition of the three requested items (CAR-OTP-0072-0508-R01, CAR-OTP-0083-1212-R01 and CAR-OTP-0083-1303-R01) to the Defence's list of evidence. Noting that those items were disclosed to the defence teams by the Prosecution⁶ after the deadline of 21 January 2016 by which the defence teams were to disclose their evidence⁷ and are limited in number, the Single Judge finds there to be little or no prejudice caused to the parties by their addition to the Defence's list of evidence.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Application;

ORDERS the Registry to reclassify ICC-01/05-01/13-1581-Conf-Exp-AnxB and ICC-01/05-01/13-1562-Conf-Exp-AnxD as confidential; and

ORDERS the Registry to reclassify the Application (ICC-01/05-01/13-1598-Conf) as public.

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



Judge Bertram Schmitt, Single Judge

Dated 8 February 2016

At The Hague, The Netherlands

⁶ ICC-01/05-01/13-1569-Conf-AnxB.

⁷ Further Directions on the Conduct of the Proceedings in 2016, ICC-01/05-01/13-1518, para. 12.