

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 15 February 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, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU
AND NARCISSE ARIDO

Public Document

**Prosecution's Notice of Intention to Challenge Expert Witnesses, pursuant to the
Directions on the Conduct of the Proceedings (ICC-01/05-01/13-1209)**

Source: The Office of the Prosecutor

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

The Office of the Prosecutor

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Mr Kweku Vanderpuye

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Ms Melinda Taylor

Counsel for Aimé Kilolo Musamba

Mr Paul Djunga Mudimbi

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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

1. Pursuant to Trial Chamber VII's ("Chamber") Directions on the Conduct of the Proceedings ("Directions"),¹ the Office of the Prosecutor ("Prosecution") provides formal notice that it challenges: (1) the qualifications of Witness D22-0004 as an expert; and (2) the relevance of Witnesses D22-0004's and D23-0001's reports in their entirety ("Notice").²

2. The Prosecution acknowledges having previously advanced its position on the relevance of Witnesses D22-0004's and D23-0001's evidence, at least in part, and alluded to its intention to challenge their qualifications as experts.³ The Directions, however, require that "any non-calling party may file a notice indicating whether it (i) challenges the qualifications of the witness as an expert, and/or (ii) challenges the relevance of all, or parts of the report written by the expert, if any".⁴ Thus, the Prosecution provides this formal Notice to ensure compliance with the Directions and to avoid any ambiguity as to its position.

3. As concerns the timing of the Notice, although the Directions require that a non-calling party may file the same "no later than 30 days before the anticipated testimony of an expert witness", the Prosecution notes that the order of Defence witnesses was only provided last Friday, 12 February 2016⁵ — two weeks before the anticipated start of trial. And, in any case, the Prosecution has previously expressed

¹ ICC-01/05-01/13-1209, para. 22.

² The Prosecution maintains its position that Witness D22-0004's testimony and report should be excluded for the reasons articulated in its previous submission. See ICC-01/05-01/13-1594. This notice is filed in the event the Chamber denies the Prosecution's motion to exclude Witness D22-0004's evidence. Further, while the Chamber has previously held that the evidence of D23-0001 is not "so clearly irrelevant as to preclude the Mangenda Defence from presenting this evidence", the Prosecution maintains its position that the evidence is *prima facie* irrelevant. ICC-01/05-01/13-1622, para. 12. See also para. 13. The Prosecution also intends to challenge the relevance of the witness' evidence on grounds other than those at issue in that decision.

³ See generally ICC-01/05-01/13-1594; ICC-01/05-01/13-1605.

⁴ ICC-01/05-01/13-1209, para. 22.

⁵ ICC-01/05-01/13-1624.

its intention to challenge the qualifications of the witnesses and/or the relevance of their proffered evidence.⁶



Fatou Bensouda, Prosecutor

Dated this 15th Day of February 2016
At The Hague, The Netherlands

⁶ ICC-01/05-01/13-1594, fn. 1; ICC-01/05-01/13-1605, fn. 1.