

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 07/03/2016

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***

Confidential

**Defence Response to 'Narcisse Arido's Urgent Request to Preclude the
Prosecution from Using Private Communications' (ICC-01/05-01/13-1671-Conf)**

Source: Counsel for Jean-Pierre Bemba Gombo

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

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Victims Participation and Reparations Section Other

Introduction

1. The Defence for Mr. Jean-Pierre Bemba hereby files its response to the 'Narcisse Arido's Urgent Request to Preclude the Prosecution from Using Private Communications' (the Request).¹
2. The Defence supports the relief requested by the Defence for Mr. Arido.
3. The Defence was concerned and dismayed by the obvious incompatibility of the disclosure of the materials in question, with fundamental privacy rights protected by Article 21(3) of the Statute, and the Court's duty to protect the "dignity" of witnesses pursuant to Article 68(1) of the Statute.
4. The content of these materials appears to have no relevance to any disputed issues in the case. Their use in trial would be likely to engender unnecessary and unfair embarrassment or emotional harm to participants in the case –which is clearly not a legitimate trial tactic.²
5. Finally, the Defence notes that the fact that firstly, the Prosecution has apparently read and reviewed every single email in Mr. Arido's account, and secondly, failed to adopt any protocols to protect his privacy and dignity, underscores the illegal and disproportionate nature of its collection of evidence in this case.

¹ ICC-01/05-01/13-1671-Conf.

² Article 66 of the Prosecution Code of Conduct specifies that "Members of the Office shall conduct themselves in a manner that limits risks to witnesses, victims and others who are at risk on account of testimony given by such witnesses, respect their confidentiality and privacy and minimise the potential for harm."



Melinda Taylor
Counsel of Mr. Jean-Pierre Bemba

Dated this 7th day of March 2016

The Hague, The Netherlands