

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 16 March 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 “Victims and Witnesses Unit’s Preliminary Report
Concerning the Appearance of the first three Defence Witnesses”,
ICC-01/05-01/13-1642-Conf, dated 19 February 2016**

Source: The Registry

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

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I. INTRODUCTION

1. The present filing is submitted in accordance with the “Directions Relating to Certain Defence Witnesses and Appearance Order”, issued by Trial Chamber VII (“the Chamber”) on 26 January 2016 (“the Decision”).¹

II. PROCEDURAL HISTORY

2. In the Decision, the Chamber “...set a deadline of 26 February 2016 for all essential arrangements to be completed for the appearance of Defence witnesses before the Court. On this date by 16:00, the Registry must file a submission indicating if these arrangements have not been completed for any witnesses”.²
3. In the Decision, the Chamber also stated that “...The Defence must explore, together with the VWU, the various possibilities for witnesses to either testify at the seat of the Court or via video-link in another location. The Chamber expects that it will hear the witnesses called by the Defence consecutively, without significant gaps and further interruptions”.³
4. Bearing in mind the Decision, the VWU has invited the Defence Teams since 22 January 2016 in order to meet and to start the relevant preparation to facilitate the appearance of their witnesses.
5. On 27 January 2016, the VWU met with the Defence Teams and insisted on the need for valid travel documents to be provided to the Unit in order for the Unit to proceed with the visa requests for timely submission to the Dutch authorities. The need for the witnesses to be introduced to the VWU was also explained.
6. On 9 February 2016, the VWU requested Defence Teams to discuss among them, the possibility to sequence the witnesses by grouping the witnesses

¹ “Directions Relating to Certain Defence Witnesses and Appearance Order”, issued on 26 January 2016, ICC-01/05-01/13-1578.

² Ibid at paragraph 6.

³ Ibid at paragraph 5.

according to the expected locations of testimony. This is particularly relevant for witnesses who would be testifying *via* video-link, in order to ensure that there should be as little interruption and gap as possible in the consecutive appearance of these witnesses.

7. Finally, understanding that the agreement on the order of appearance of the Defence could only be reached by the Defence Teams on 12 February 2016,⁴ the VWU invited the Defence Teams to meet on 15 February 2016. During the meeting, the Unit, following reminders it had sent to the Defence Teams, reiterated the need to obtain all relevant information, documentations, and most importantly, [REDACTED], several of which had not been provided to the Unit at that time.

III. CLASSIFICATION

8. In accordance with regulation 23*bis*(2) of the Regulations of the Court (“the RoC”) the VWU files the present report as “Confidential” as it may contain information containing witnesses of Defence for Mr Kilolo.

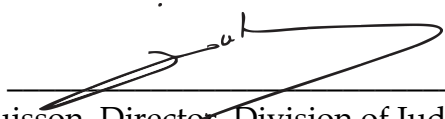
IV. REPORT

9. Considering the imminent appearance of the first three witnesses from the witness list provided jointly by the Defence Teams and the difficulties faced by the Unit in relation to the arrangement of their appearance, the VWU believes that it is important to inform the Chamber as early as possible of the challenging situation the Registry is confronted with.
10. In relation to witness D-21-002, the VWU and the Defence for Kilolo phoned the witness together for introduction purposes on 16 February 2016 and the VWU also received a copy of his passport on the same day.

⁴ “Soumission conjointe des équipes de Défense de MM.Bemba, Kilolo, Mangenda, Babala et arido relative à l’ordre de la Chambre « Directions Relating to Certain Defence Witnesses and Appearance Order »(ICC-01/05-01/13-1578)”, filed by the Defence Teams on 12 February 2016.

The VWU was made aware however that the witness can only be available after [REDACTED]. Up to this moment, the VWU is not aware of any replacement or alternative solution for the first appearance of the Defence witnesses. The VWU suggested to the Kilolo Defence that the second witness, witness D-21-003, could substitute witness D-21-002 in that position.

11. However, in relation to witness D-21-003, considering that he does not have any valid travel document available and the time that would be needed to obtain [REDACTED], a video-link testimony would be needed to ensure his timely appearance, should the above suggestion of substituting witness D-21-002 as the first witness to appear be accepted. The Registry is currently still in communication with the relevant authorities in order to secure the video-link.
12. Lastly, in relation to D21-009, the VWU has neither received the information from the Defence on the preferred mode of testimony nor the confirmation from the Defence that the witness would indeed be available to testify on the expected date(s).



Marc Dubuisson, Director, Division of Judicial Services
per delegation of
Herman von Hebel, Registrar

Dated this 16 March 2016

At The Hague, The Netherlands