

**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

With Confidential *Ex Parte* Annexes 1 to 5 only available to the respective Defence Teams

Public Redacted Version of “Registry’s Report Concerning the Appearance of the Defence Witnesses”, ICC-01/05-01/13-1666-Conf, dated 26 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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Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

Victims Participation and Reparations Section

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I. INTRODUCTION

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

II. PROCEDURAL HISTORY

2. In the Decision dated 26 January 2016, 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 dated 26 January 2016, 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. On 19 February 2016, the Victims and Witnesses Unit (“the VWU”) submitted its preliminary report, informing the Chamber, in advance, of the challenges that the Unit has been encountering in arranging the appearance of Defence witnesses (“the Preliminary Report”) specifically for the first three witnesses D21-2, D21-3 and D21-9.

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.

5. On the same day, the Chamber instructed the parties that any observations to the Preliminary Report must be filed by 22 February 2016.⁴
6. On 22 February 2016, the Prosecution⁵ and the Defence for Mr Kilolo⁶ filed their observations to the Preliminary Report.
7. On 23 February 2016, the Chamber ruled that D21-3 will commence his testimony by video-link on 2 March 2016 and subsequently, the Chamber will hear the testimony of D21-9 ("Decision dated 23 February 2016").⁷

III. CLASSIFICATION

8. In accordance with regulation 23*bis*(2) of the Regulations of the Court ("the RoC") the present report is filed as "Confidential" as it may contain information concerning Defence Witnesses. The Annexes to the present filing are filed as confidential *ex parte* as they may contain information pertaining to witnesses of each of the Defence Teams.

IV. REPORT

A. Current status of defence witness order

9. As mentioned in the Preliminary Report, the Registry has been in communication with the relevant authorities for the preparation of possible video-link testimony. Subsequent to the Decision dated 23 February 2016, the Registry pursued its cooperation with the relevant authorities in its preparation for the video link testimony of witness D21-3 which is scheduled to commence on 2 March 2016.

⁴ Email from the Chamber dated 19 February 2016 at 17:12.

⁵ "Prosecution's Response to Victims and Witnesses Unit's Preliminary Report Concerning the Appearance of the First Three Defence Witnesses", filed on 22 February 2016 ICC-01/05-01/13-1645-Conf.

⁶ "Réponse de la défense de monsieur Aimé Kilolo au "Victims and Witnesses Unit's Preliminary Report Concerning the Appearance of the First Three Defence Witnesses"(ICC-01/05-001-13), filed on 22 February 2015, ICC-01/05-01/13-1649-Conf.

⁷ Email from the Chamber at 10:55.

10. The Registry understands that when the witness list was provided jointly by the Defence Teams (“the Joint Defence Witnesses Order”) on 12 February 2016⁸, the availability of most (if not all) of the witnesses had not yet been verified by the Defence Teams. Up until 25 February 2016, the Defence Teams were still in consultation and making changes to the order of appearance.
11. At this juncture, the Registry understands that the following five witnesses should appear sequentially, subsequent to the appearance of witness D21-3:
 - Witness D23-1
 - Witness D21-9
 - Witness D20-1
 - Witness D21-2 (or)
 - Witness D22-4
12. The Registry is currently making the necessary arrangements, in terms of the travel for these witnesses, in order for them to appear consecutively.
13. The Registry wishes to reiterate to the parties the importance of providing the VWU, as early as possible, with the [REDACTED], copies of a valid travel document and the estimated or expected date of appearance. Without having access to copies of the travel documents, it is impossible for the Unit, and the Registry as a whole, to initiate and complete all of the required procedures that ensure the appearances of these witnesses. Obtaining early access to the full and complete information contained within the travel documents enables the Registry to identify, ahead of time, whether any special authorisations need to be obtained. Receiving this information at an early stage will allow the Registry to make timely

⁸ “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)”, submitted 12 February 2016, ICC-01/05-01/13-1624.

suggestions without causing significant delay. Additionally, as mentioned in the Preliminary Report, the need for the VWU to be introduced to the witnesses at an early stage was also explained to the Defence Teams.

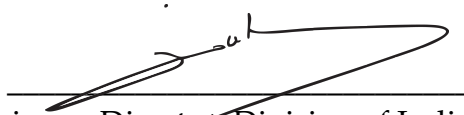
14. The Registry sets out the information, concerning each witness, their available travel documents and other information which may be beneficial for the Chamber, in the respective confidential *ex parte* Annexes 1 to 5.

B. Current status of the remaining Defence witnesses to appear

15. With regards to the remaining witnesses in the Joint Defence Witnesses Order, the Registry is doing its utmost to ensure that the witnesses can appear as outlined in the suggested plan. The VWU took into consideration the suggestions of the Defence Teams for the order of appearance of these witnesses and thus calculated the expected duration of the testimonies of the witnesses in the previous sequence. Based on its calculations, the VWU estimates that the first witness of the Defence for Mr Arido, [REDACTED].
16. Considering the difficulties in arranging the travel documents for witness [REDACTED], as detailed in Annex 5, and the time that would be required to complete the necessary arrangements, the VWU proposes that a video link testimony would be the best option for ensuring that this witness can appear as scheduled.
17. Furthermore, a video-link testimony [REDACTED] and occurring subsequent to the appearance of [REDACTED] would be the best option for ensuring both the timely appearance of witness [REDACTED] and that no significant gap forms in the order of appearance of the witnesses.
18. The Registry would be able to facilitate video-links for the two witnesses and has made preliminary contact with the relevant authorities, who have indicated that a two-week notice would be required in order to conduct a

video-link testimony. Should this proposal be accepted, the Registry would need to take this notice period into consideration.

19. With regards to the remaining witnesses of the Defence for Mr Arido, the preparations for their travel are on-going and the Registry is in close communication with the Defence. Detailed information regarding the available travel documents for these witnesses is reflected in Annex 5.

A handwritten signature in black ink, appearing to read 'M. Dubuisson', is written over a horizontal line.

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

Dated this 16 March 2016

At The Hague, The Netherlands