

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 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, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU
AND NARCISSE ARIDO***

Public Document

**Prosecution's Response to Kilolo's "*Requête aux fins de reconsidération de la
'Decision on Relevance and Propriety of Certain Kilolo Defence Witnesses'*
(ICC-01/05-01/13-1600)"**

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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1. Kilolo's third attempt¹ to call Michael Karnavas as a witness² ("Motion") should be denied. The Chamber twice denied Mr. Karnavas' prospective participation in this case because it did "not consider that it requires general background on the challenges and practical realities of international defence counsel for purposes of its Article 74 decision",³ and because Mr. Karnavas' testimony would ostensibly "usurp[] the functions of the Chamber to decide the criminality of Mr Kilolo's acts and conduct for itself."⁴ On these bases, Mr. Karnavas' evidence was deemed "irrelevant and inappropriate".⁵

2. The Motion does not even attempt to address the Chamber's underlying rationale for excluding Mr. Karnavas' evidence. On that basis alone – and irrespective of Kilolo's questionable claim that his VWU expert was called as an ineffective substitute for Mr. Karnavas' anticipated evidence⁶ – the Kilolo Defence fails to demonstrate a "clear error of reasoning" in the Chamber's prior decisions or that reconsideration is necessary "to prevent an injustice".⁷ The Motion should be denied.



Fatou Bensouda, Prosecutor

Dated this 17th Day of March 2016
At The Hague, The Netherlands

¹ See generally ICC-01/05-01/13-1600 and ICC-01/05-01/13-1635.

² ICC-01/05-01/13-1719-Conf.

³ ICC-01/05-01/13-1600, para. 9.

⁴ ICC-01/05-01/13-1600, para. 10.

⁵ ICC-01/05-01/13-1600, para. 11. See also ICC-01/05-01/13-1635, para. 10 ("the Chamber in this particular instance found that the specialised testimony of D21-0001 would be irrelevant and comparable to improper expert testimony and for this reason ordered the Defence to strike D21-0001 from its list of witnesses.").

⁶ ICC-01/05-01/13-1719-Conf, paras. 9-18.

⁷ ICC-01/05-01/13-1552, para. 6.