

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 29 March 2016

TRIAL CHAMBER VII

Before: Judge Bertram Schmitt, Single Judge

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

Decision on Babala Request for Mr Babala to Be Absent from Trial

To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Kweku Vanderpuye

Counsel for Jean-Pierre Bemba Gombo

Ms Melinda Taylor

Counsel for Aimé Kilolo Musamba

Mr Paul Djunga Mudimbi

Counsel for Jean-Jacques Mangenda Kabongo

Mr Christopher Gosnell

Counsel for Fidèle Babala Wandu

Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Mr Charles Achaleke Taku

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Others

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber VII ('Single Judge' and 'Chamber', respectively) of the International Criminal Court, in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, having regard to Regulation 23 bis(3) of the Regulations of the Court, issues the following 'Decision on Babala Request for Mr Babala to Be Absent for Trial'.

1. On 22 March 2016, the defence for Mr Babala ('Babala Defence') filed an application for Mr Babala to be excused from presence during trial for the afternoon session of Monday, 4 April 2016 and the entirety of 5 April 2016.¹ It submits that Mr Babala should be excused for medical reasons,² enclosing a waiver of Mr Babala's right to be present during trial³ and documents justifying the necessity to be absent.⁴
2. On 24 March 2016, the Office of the Prosecutor filed its response, submitting that it does not object the Request ('Response').⁵
3. As a preliminary matter, the Single Judge notes that the Request and the Response are filed as 'confidential'. He considers that no basis for this classification exists and accordingly instructs the Registry to reclassify the Request, its annex A (ICC-01/05-01/13-1735-Conf-AnxA) and the Response as 'public'.
4. The Single Judge notes that, on 29 April 2016, the defence for Mr Arido indicated that Mr Arido has decided not to testify⁶ which, in consequence,

¹ Requête urgente aux fins d'obtenir une dispense de comparution aux audiences des 4 et 5 avril 2016, ICC-01/05-1735-Conf, with confidential annex A, ICC-01/05-1735-Conf-AnxA and confidential *ex parte* annex B, available only to the Babala Defence and Registry, ICC-01/05-1735-Conf-Exp-AnxB.

² Request, ICC-01/05-01/13-1735-Conf, para. 5

³ ICC-01/05-1735-Conf-AnxA.

⁴ ICC-01/05-1735-Conf-Exp-AnxB.

⁵ Prosecution's Response Babala's « Requête aux fins d'obtenir une dispense de comparution aux audiences des 4 et 5 avril 2016 » – ICC-01/05-01/13-1735-Conf, ICC-01/05-01/13-1746-Conf.

means that there will be no hearings on 4 and 5 April 2016. Accordingly, the Single Judge finds that the Request is moot.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

INSTRUCTS the Registry to reclassify the Request, its annex A (ICC-01/05-01/13-1735-Conf-AnxA) and the Response as 'public'; and

DISMISSES the Request as moot.

Done in both English and French, the English version being authoritative.

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

Judge Bertram Schmitt, Single Judge

Dated 29 March 2016

At The Hague, The Netherlands

⁶ Email from the Arido Defence to Trial Chamber VII Communications, 29 March 2016, at 10:42.