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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 Urgent Defence Request for Extension of Time

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 Gombo hereby requests a discrete extension of time for the deadline for its submissions concerning the exclusion of evidence collected by the authorities of The Netherlands.

Submissions

2. The present request is filed on a confidential basis due to the citation of the [REDACTED] number. A public redacted version will be filed forthwith.

3. The Defence for Mr. Bemba has consistently and repeatedly made efforts to obtain access to relevant documents concerning the collection of evidence in The Netherlands.

4. However, since Mr. Bemba was not a direct target in this process, neither he nor his lawyer had direct *locus standi* in the domestic proceedings, and was thus not notified of the case file.

5. The Defence has therefore been compelled to seek information from the Dutch authorities, the ICC Prosecution, and the Defence teams for Mr. Mangenda and Me. Kilolo.

6. In terms of the latter, the Defence teams for Mr. Mangenda and Me. Kilolo have no disclosure obligations *vis-à-vis* Mr. Bemba. Throughout the course of 2015, the Defence for Mr. Bemba nonetheless repeatedly inquired as to whether other Defence teams were in a position to obtain either the entire case file, or specific documents referenced in Requests for Assistance (RFAs).

7. On 1 February 2016, the Mangenda Defence permitted, as a matter of courtesy, the Bemba Defence to inspect the documents in its possession from the

Dutch proceedings. The Bemba Defence was unable to identify the materials requested amongst those documents.

8. As a matter of courtesy, the Defence for Me. Kilolo informed the Defence for Mr. Bemba on 1 April 2016 that it had received elements of the Dutch case file from Me. Kilolo's Dutch lawyer. Then, at about 3pm on 4 April 2016, the Defence for Me. Kilolo provided copies to the Defence for Mr. Bemba.

9. Although most of the documents are in Dutch, the Defence has identified that the case file includes documents, which were the subject of the Second Request for Disclosure of Information from the Dutch Authorities, which was submitted by the Defence for Mr. Mangenda.

10. At the same time, it is apparent that the documents are of crucial importance to any Article 69(7) filing submitted by the Defence for Mr. Bemba.

11. The Defence envisages that an additional four days, such that the deadline falls on the 15 April 2016, would afford the Defence sufficient time to review and analyse these elements of the case file.

12. The Defence notes that in its Decision dated 4 April 2016,¹ the Trial Chamber indicated that it would not contemplate extending the deadline for the Defence for Mr. Mangenda to submit their arguments regarding the applicability of Article 69(7) due to a lack of diligence in seizing the Chamber earlier. The Chamber did, however, envisage that the Defence could potentially adduce additional submissions upon receipt of the requested information.

13. The Defence respectfully submits that it would be consistent with this ruling to afford the Defence a very discrete extension of time to file its submissions concerning the collection of evidence in The Netherlands, on the grounds that it

¹ ICC-01/05-01/13-1768

would be more effective and efficient for the Defence to incorporate the recently received documentation in its submissions, rather than filing staggered submissions.

14. It would, indeed, be improper for the Defence to put forward submissions on this point without first verifying the content of the specific requests and orders which led to the collection of evidence. If it were to do so, there would be a risk that the Defence might advance submissions, which would need to be withdrawn or modified at a later juncture if they turn out to be unsupported or contradicted by unanalysed elements of the case file.

15. The Defence further notes that a significant focus of its submissions will turn on the interception of the [REDACTED] number. The existence of potential flaws in this process could only be ascertained and verified through the disclosure of email correspondence, which should have been disclosed by the Prosecution in July 2015.

Relief sought

16. For the reasons set out above, the Defence for Mr. Bemba respectfully requests the Honourable Trial Chamber to extend the deadline for filing submissions on the exclusion of evidence, by four additional days.



Melinda Taylor
Counsel of Mr. Jean-Pierre Bemba

Dated this 6th day of April 2016

The Hague, The Netherlands