

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No: ICC-01/05-01/13

Date: 8 April 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**

**Confidential
with
Confidential Annex A**

Kilolo Defence Request for Admission of Evidence from the Bar Table

Source: Defence for Mr. Aimé Kilolo Musamba

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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Ms. Beth Lyons

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

I. PROCEDURAL BACKGROUND

1. On 21 January 2016, the Defense filed its list of evidence¹ pursuant to Decision ICC-01/05-01/13-1518.
2. On 9 March 2016, the Trial Chamber issued an oral decision ordering Defense teams to formally submit any evidence through the Bar Table by 8 April 2016.²
3. The defense for Mr. Kilolo hereby submits its 'Bar Table motion'.

II. APPLICABLE LAW

4. According to Article 69(4) of the Rome Statute (hereinafter 'the Statute'):

The Court may rule on the relevance or admissibility of any evidence, taking into account, inter alia, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence.
5. According to the jurisprudence of the International Criminal Court and other *ad hoc* tribunals³ the following criteria derive from article 69(4) of the Statute:
 - (i) The prima facie relevance
 - (ii) The probative value
 - (iii) Any potential prejudice to the fairness of the trial.

¹ ICC-01/05-01/13-1562-Conf-AnxC.

² ICC-01/05-01/13-T-42-CONF-ENG ET 09-03-2016, pp. 42-43.

³ ICC-01/04-01/06-2595-red, 17 November 2010; ICC-01/04-01/07-2635, 17 December 2010. See also Prosecutor v. Karadzic, Case No. 95-5/18-T, Decision on prosecution's Motion for Admission of Evidence from Bar Table, 1 May 2012, para. 4.

III. DEFENCE SUBMISSIONS

6. The Defence seeks the admission of 177 items divided into 11 categories.⁴
7. The Defence respectfully refers the Chamber and the parties to confidential annex A which contains information related to the relevance and probative value of each item.
8. Regarding the third criteria, the Defence submits that the admission of the 178 items will not cause any prejudice to the fairness of the trial.

IV. RELIEF REQUESTED

9. The Defence respectfully requests the Trial Chamber to admit the evidence identified in confidential annex A from the Bar table.

Respectfully submitted,



Maître Paul Djunga Mudimbi
Lead Counsel of Mr. Aimé Kilolo Musamba



Mr. Steven Powles
Associate Counsel of Mr. Aimé Kilolo Musamba

Dated this 8 April 2016,
The Hague, The Netherlands.

⁴ See confidential annex A.