

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 26 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, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU
AND NARCISSE ARIDO***

Confidential Document

**Prosecution's Response to the Kilolo Defence's "Request to Add Two Items to its
Bar Table Motion" (ICC-01/05-01/13-1828-Conf)**

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

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

Mr Steven Sacha Powles

Counsel for Jean-Jacques Mangenda Kabongo

Mr Christopher Michael Gosnell

Mr Arthur Vercken De Vreuschmen

Counsel for Fidèle Babala Wandu

Mr Jean-Pierre Kilenda Kakengi Basila

Mr Azama Shalie Rodoma

Counsel for Narcisse Arido

Mr Charles Achaleke Taku

Ms Beth Lyons

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section Others

1. As a preliminary matter, Kilolo does not explain why the two items identified in his request¹ were omitted from his Bar Table Motion. He also does not advance any argument justifying an extension of time to file the Request, as required under regulation 35 of the Regulations of the Court. The Office of the Prosecutor ("Prosecution") defers to Trial Chamber VII's ("Chamber") determination as to whether the Request should be denied on this basis.

2. Should the Chamber entertain the merits of the Request, the Prosecution objects to the admission of CAR-D21-0014-0001, but not CAR-D21-0013-0079.² Kilolo fails to draw any discernible link between CAR-D21-0014-0001, a report for the "*Fédération Internationale des Ligues des Droits de l'Homme*" and the issues in this case. The only purported basis for the document's admission is that "it indicates the date of entry of the MLC troops."³ Kilolo does not explain, nor is it evident, why that date has any relevance to the charges against Kilolo, namely that he corruptly influenced witnesses in the Main Case. Kilolo, thus fails to meet his burden to establish the document's *prima facie* relevance and probative value.⁴

3. The document's admission also conflicts with Trial Chamber VII's express and repeated caution that this case is not a platform for re-litigating the merits of the Main Case,⁵ noting that "[s]ubmissions which attempt to do so, or evidence presented solely for this purpose, will not be entertained."⁶ For these reasons the admission of CAR-D21-0014-0001 should be denied.

¹ ICC-01/05-01/13-1828-Conf ("Request").

² Request, paras. 2-3.

³ Request, para. 3.

⁴ The submissions on the applicable law as set out at paragraphs four and five of the "Prosecution's Response to Babala's Request for the Admission of Evidence from the Bar Table Motion (ICC-01/05-01/13-1781-Conf)" are incorporated by reference herein. See ICC-01/05-01/13-1821-Conf, paras. 4-5.

⁵ See e.g. ICC-01/05-01/13-1154, para. 14; ICC-01/05-01/13-T-10-Red-ENG, pp. 4-5, lns. 6-10; ICC-01/05-01/13-T-16-Red2-ENG, p. 39, lns. 18-21.

⁶ ICC-01/05-01/13-1188, para. 12.

Confidentiality

4. This response is filed as "*Confidential*" because it responds to a filing of the same designation. The Prosecution does not object to its reclassification as "*Public*".



Fatou Bensouda, Prosecutor

Dated this 26th Day of April 2016
At The Hague, The Netherlands