

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 8 June 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 Narcisse Arido's "Request for Inclusion of CAR-D24-0002-0003 on its List of Evidence for the Purposes of Consideration in Trial Chamber VII's Judgement"

Source: The Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the Regulations of the Court to:

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1. The Arido Defence's request to formally submit CAR-D24-0002-0003 ("Request")¹ should be denied. *First*, the Request is procedurally improper. With the submission of evidence in this case now closed, evidence cannot be formally submitted unless the presentation of evidence is re-opened.² The Arido Defence, however, fails to make any such application.

2. *Second*, even if Trial Chamber VII ("Chamber") determines that re-opening the presentation of evidence is implicit in the Request, the Arido Defence fails to demonstrate a "truly exceptional basis"³ to grant it. The Arido Defence omits *any* explanation for its failure to tender the document prior to closing the presentation of its case on 21 April 2016⁴ and prior to the Chamber's 29 April 2016 close of evidence.⁵ The document has been in the Arido Defence's possession since 25 September 2015, and was used with D-0002 during his testimony on 14 October 2015.⁶ The Arido Defence, thus, had ample time to formally submit the document either through a witness or the "bar table". Indeed, when closing its evidence presentation, the Arido Defence's only caveat was that it may present material "within the Kilolo Defence material",⁷ which CAR-D24-0002-0003 is not. Even if the Arido Defence inadvertently omitted to tender this claimed "exculpatory and [...] important"⁸ document, the Request fails to satisfy the requisite threshold of a demonstrated "truly exceptional basis", even for a limited purpose.

3. *Third*, the formal submission of the document does not even marginally advance the proceedings, since upon confrontation with the document on cross-examination by the Arido Defence, D-0002 denied its accuracy both as to his alleged

¹ ICC-01/05-01/13-1923.

² ICC-01/05-01/13-1859, para. 5.

³ ICC-01/05-01/13-1859, para. 5.

⁴ ICC-01/05-01/13-1825.

⁵ ICC-01/05-01/13-1859, para. 5.

⁶ See ICC-01/05-01/13-T-20-Red2-ENG, p. 72, ln. 21-p. 74, ln. 7.

⁷ ICC-01/05-01/13-1825, para. 3.

⁸ ICC-01/05-01/13-1923, para. 3.

participation in the meeting it purports to record and as to his alleged signature.⁹ Thus, it is without probative value, particularly as the Arido Defence failed to adduce any authenticating evidence at trial.

4. *Finally*, granting the Request would unjustifiably undermine the finality in the proceedings, particularly in the absence of any *prima facie* showing of “truly exceptional” circumstances or prejudice.

5. The Request should thus be denied.



Fatou Bensouda, Prosecutor

Dated this 8th Day of June 2016
At The Hague, The Netherlands

⁹ See ICC-01/05-01/13-T-20-Red2-ENG, p. 73, ln. 21-p. 74, ln. 5.