

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 10 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 Redacted Document

**Public redacted version of "Prosecution's Request for Further Information in
relation to the Seized Material," 7 May 2015, ICC-01/05-01/13-938-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**

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I. Introduction

1. The Joint Report of the Registry and the Independent Counsel on the implementation of Decision ICC-01/05-01/13-893-Conf and related to the unsealing and transmission of seized material¹ ("Joint Report") does not appear to reflect certain electronic items seized by the Belgian authorities in relation to the Accused's, Aimé Kilolo Musamba ("Kilolo"), 23 November 2013 arrest. The Office of the Prosecutor ("Prosecution") thus requests Trial Chamber VII ("Chamber") to direct the Registry to ensure that an inventory accounting for each item seized and each item transmitted to the Court is completed promptly.

II. Confidentiality

2. This filing is classified as "Confidential" as it reveals information currently classified as confidential.

III. Submissions

3. Promptly ensuring that a complete inventory is made which accounts for each item seized and the status of its transmittal to the Court will minimise potential disruption to the proceedings, which will inevitably result, should it later emerge, that certain seized material purportedly transmitted to or received by the Court, was in fact not.

4. Kilolo was physically present during the search of his home and office. He confirms the seizure of [REDACTED] in his 25 November 2013 statement given before the Belgian investigative judge in the presence of his then Counsel, Mr

¹ ICC-01/05-01/13-931-Conf.

Kilenda.² By contrast, the Joint Report reflects the transmittal of only one hard drive³ apparently corresponding to a desktop computer. As indicated over a year ago in its 3 March 2014 Regulation 35 filing,⁴ the Prosecution further believes that an additional computer, phone, and an I-pad may have also been seized among other items.⁵

5. The Prosecution recognises that the Joint Report does not specifically detail all the information provided by the Belgian authorities, *inter alia*, because this may involve privilege considerations. However, without a clear inventory of the seized items, there is a risk that gaps in their transmittal to the Court will only be discovered at the end of the vetting process undertaken by the Independent Counsel.⁶ This risk, and the consequential delay or disruption to the proceedings can be minimised, if not eliminated, by taking proactive steps to ensure that each item listed as seized is accounted for now — not later.

6. The Joint Report shows that seized materials received by the Registry on 12 March 2015 were not complete. An additional large capacity hard drive arrived four days after the first status conference.⁷ A contemporaneous inventory of the seized materials would have revealed this omission two months ago.

7. The Prosecution considers that [REDACTED] provided by the Belgian authorities - currently in the Registry's custody⁸ - should contain an inventory of the seized items, the manner in which they were maintained and their disposition. Its prompt review would therefore, substantially assist the Court, the Registry and the Parties to determine what seized items should be among the material transmitted,

² CAR-OTP-0072-0150 at 0154-0155.

³ ICC-01/05-01/13-931-Conf, para.3; ICC-01/05-01/13-931-Conf-Anx1, p.7.

⁴ ICC-01/05-01/13-234-Conf.

⁵ ICC-01/05-01/13-234-Conf, para.19.

⁶ In accordance with his mandate pursuant to the Chamber's decision: ICC-01/05-01/13-893-Conf.

⁷ The 1500 GB hard drive was received on 28 April 2015. See ICC-01/05-01/13-931-Conf-Anx1, p.7.

⁸ [REDACTED] is currently in the Registry's custody and will be provided to the Independent Counsel for review on 11 May 2015. See ICC-01/05-01/13-931-Conf, para.4; ICC-01/05-01/13-931-Conf-Anx1, p.4.

and thus to identify any missing material.

IV. Requested Relief

8. For these reasons, the Prosecution requests that the Registry or the Independent Counsel be directed to prioritise the examination of the dossier and to provide an inventory of the items listed as having been seized by the Belgian authorities and of those transmitted to the Court. In this way, the disposition of *all* evidence seized in connection with Kilolo's arrest can be determined and any appropriate action taken immediately.



Fatou Bensouda, Prosecutor

Dated this 10th Day of June 2016
At The Hague, The Netherlands