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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 “Request for Leave to Reply to the ‘Prosecution’s
Confidential Redacted version of “Prosecution’s Response to the Bemba
Defence’s Request for Admission of Documents through a Bar Table Motion
(ICC-01/05-01/13-1794-Conf), dated 25 April 2016”**

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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Introduction

1. The Defence for Mr. Jean-Pierre Bemba respectfully requests the leave of the Trial Chamber to reply to the 'Prosecution's Confidential Redacted version of "Prosecution's Response to the Bemba Defence's Request for Admission of Documents through a Bar Table Motion (ICC-01/05-01/13-1794-Conf), dated 25 April 2016, ICC-01/05-01/13-1841-Conf-Exp"' to clarify submissions relating to the code "l'Ambassadeur",¹ and to correct erroneous assumptions on the part of the Prosecution.

2. This response has been filed on a confidential basis, as the specific identity of the person referred to by the Prosecution has not been addressed.

Submissions

3. In its response, the Prosecution has argued that the articles tendered by the Defence are irrelevant to the meaning of 'l'Ambassadeur'. The basis of this claim is their assertion that the term "l'Ambassadeur" refers to a specific individual.²

4. There is good cause for the Defence to be granted leave to reply to this aspect of the Prosecution case. This interpretation of the code 'l'Ambassadeur' has been raised for the first time in a response (after the close of the Defence case). It is also predicated on the erroneous assumption that the code is used in the same sense by both participants in the conversation.

5. In particular, it is apparent from Mr. Bemba's interventions that he is confused about the identity of the person referred to as "l'Ambassadeur". For example, during the course of the conversation, Mr. Bemba inquires whether it is

¹ICC-01/05-01/13-1841-Conf-Exp, para.6

² Para.6

the [REDACTED] [REDACTED],³ [REDACTED],⁴ [REDACTED],⁵ [REDACTED] [REDACTED];⁶ [REDACTED],⁷ *et cetera*. As reflected in the articles cited in the Bar Table Motion,⁸ these descriptions refer to a variety of political persons, whom Mr. Bemba apparently believed could have been the possible subject of the conversation.

6. The purpose of tendering the articles in question was to illustrate the cognitive dissonance between the two speakers as concerns the meaning of a specific code. When read in combination with the conversation, the articles illustrate the difficulty of ascertaining shared *men rea* from intercepts, which apart from being completely out of sync, are peppered with coded language which the participants themselves conflated and confused.

Relief sought

7. For the reasons set out above, the Defence for Mr. Bemba requests Honourable Trial Chamber to grant the Defence leave to reply to the discrete issue identified above.



Melinda Taylor

Counsel of Mr. Jean-Pierre Bemba

Dated this 17th day of June 2016

The Hague, The Netherlands

³ CAR-OTP-0086-0921 at 0926, line 157

⁴ CAR-OTP-0086-0921 at 0926, lines 158 and 159

⁵ CAR-OTP-0086-0921 at 0926, line 160

⁶ CAR-OTP-0086-0921 at 0926, line 161

⁷ CAR-OTP-0086-0921 at 0627, line 162

⁸CAR-D20-0006-0689 and CAR-D20-0006-0696 are two open source articles, which refer to [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]. CAR-D20-0006-0696 and CAR-D20-0006-0700 are two open source articles, which are relevant to the identity of [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED].