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

Date: 17/06/2016

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***

Public

**Public Redacted Version of “Request from the Defence for Mr Bemba to access
three intercepts”**

Source: Defence for Mr. Jean-Pierre Bemba Gombo

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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REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section Other

1. The Defence for Mr. Jean-Pierre Bemba respectfully requests the Trial Chamber to authorise the Defence to have access to three intercepts bearing the Product ID numbers of 1000078980370, 1000078980738, and 1000078983621 (hereinafter “the Intercepts”).¹
2. According to the metadata, the Intercepts are communications on a phone number that is allegedly attributed to Me. Aimé Kilolo.²
3. On 25 September 2013, the Prosecution alleged that these communications evidenced abuses of Mr. Bemba’s privileged phone line, and cited them as one of grounds for requesting the continued interception of all telecommunications on Me. Kilolo’s and Mr. Mangenda’s telephones.³
4. Shortly after, the Independent Counsel submitted his vetting report to the Dutch magistrate,⁴ in which he averred that these communications were relevant and non-privileged.⁵
5. Upon the authorisation of the Dutch magistrate and on the basis of the Independent Counsel’s assessment, the intercepts were transmitted to the Court in October 2013.⁶
6. Having listened to the intercepts, the Independent Counsel asserted in his report to the Single Judge that,⁷

[REDACTED] [REDACTED] [REDACTED] [REDACTED]
 [REDACTED] [REDACTED] [REDACTED] [REDACTED]
 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

¹ The request is filed on a confidential basis due to the reference to a telephone number and to the content of the Independent Counsel’s report. A public redacted version will be filed forthwith.

² The target number is [REDACTED]. See, ICC-01/05-01/13-6-Conf-AnxA-Red, page 14.

³ CAR-OTP-0090-1937, at 1938-1939.

⁴ ICC-01/05-01/13-6-Conf-AnxA-Red, pp 8-13. The report is dated 2 October 2015.

⁵ ICC-01/05-01/13-6-Conf-AnxA-Red, pp. 8-13.

⁶ ICC-01/05-01/13-6-Conf-AnxA-Red, pp. 3-4.

⁷ ICC-01/05-64-Conf, para 20.

[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED].

7. However, the Independent Counsel reversed his determination on the relevance of these communications, and recommended that the communications not be transmitted to the parties due to their private nature.⁸
8. Any grounds for withholding these communications from parties do not apply to the Defence for Mr. Bemba. The Trial Chamber has recognised that the Bemba Defence, as the information owner and as the privilege holder, has an interest in accessing the complete materials transmitted to the Court.⁹ Access to the Intercepts would also inform the Defence's investigations and preparation for the Defence case.

Relief Sought

9. For the reasons set out above, the Defence for Mr. Bemba respectfully requests the Trial Chamber to grant it access to the audio files of the three intercepts, as well as any transcript or translation of them which might exist.



Melinda Taylor

Counsel of Mr. Jean-Pierre Bemba

Dated this 17th day of June, 2016

The Hague, the Netherlands

⁸ ICC-01/05-64-Conf, para 20.

⁹ ICC-01/05-01/13-893-Red, para. 12; ICC-01/05-01/13-947, paras 40-41; ICC-01/05-01/13-1397, para. 2.