

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 12 July 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 Urgent Request for Measures to Ensure Narcisse Arido's [REDACTED] from Improper Interference upon Transfer to the ICC Detention Centre", 17 March 2014, ICC-01/05-01/13-264-Conf-Exp

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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I. Introduction

1. Pursuant to Regulation 101(2) of the Regulations of the Court (“RoC”), the Office of the Prosecutor (“Prosecution”) requests the Single Judge to restrict the conditions of Narcisse Arido’s contacts in the ICC Detention Centre upon his transfer to the facility. These measures are necessary to [REDACTED] and minimise the risk of his coercion by or collusion with the other suspects. The Prosecution requests the implementation of these measures for two weeks, subject to extension upon the Single Judge’s periodic review (“Request”).

II. Confidentiality

2. This Request is classified as “*Confidential* and *Ex Parte*, only available to the Registrar, Prosecution and Arido Defence”, as it concerns a matter in which the other suspects in this case have no standing to intervene and, if revealed to them, would defeat the purpose of the Request. [REDACTED].

III. Submissions

3. Narcisse Arido is scheduled to be transferred to The Netherlands by French authorities on 18 March 2014. Immediate steps are thus necessary to preserve [REDACTED] and to minimise the risk to the integrity of the proceedings that his exposure to the other suspects in this case poses. The Prosecution incorporates by reference the applicable law set out in its 27 November 2013 Urgent Request to Extend the Prohibition of Contacts between the Suspects and with Third Parties.¹

¹ ICC-01/05-01/13-18-Conf, para. 13.

A. [REDACTED]

4. [REDACTED]²

5. *First*, Arido has previously expressed [REDACTED] in the context of his planned testimony in *The Prosecutor v. Jean-Pierre Bemba Gombo* (“*Bemba case*”). On 17 January 2014, Arido stated to Prosecution investigators that [REDACTED].³ Although [REDACTED] occurred in different periods, he believes they are linked and case related.⁴

6. On 23 November 2013, following his arrest, Arido told Prosecution investigators that he did not appear before the Court to testify in the *Bemba case* [REDACTED].⁵ [REDACTED].⁶

7. *Second*, Arido’s 23 November 2013 statement incriminates other suspects in this case and warrants consideration regarding [REDACTED] while in detention. Although the statement has yet to be disclosed to the other suspects, it is unknown whether they are aware of its substance. The statement provides, *inter alia*, that in or around February 2012:

- Kilolo presented Arido with purported former CAR soldiers who were not in fact.⁷ These individuals included [REDACTED] (D-04), [REDACTED] (D-02), [REDACTED] (D-03).⁸
- Kilolo requested Arido to assist in briefing these false witnesses;⁹ and
- The Bemba Defence further presented Arido with the false documents at

² See, Regulation 101(2)(c) of the RoC (Emphasis added).

³ CAR-OTP-0077-0169, Statement of Narcisse Arido, 17 January 2014, p.6.

⁴ CAR-OTP-0077-0169, p.6.

⁵ [REDACTED].

⁶ CAR-OTP-0074-1065, p. 6.

⁷ CAR-OTP-0074-1065, p. 2.

⁸ CAR-OTP-0074-1065, p. 4.

⁹ CAR-OTP-0074-1065, p. 2.

issue in this case, which they wanted him to defend before the Court.¹⁰

8. The Prosecution is prepared to provide the Chamber with copies of Arido's January 2014 and November 2013 statements, should the Chamber consider it necessary and appropriate in the premises.

9. The highly incriminatory nature of Arido's November 2013 statement concerning other suspects will present [REDACTED]. Segregating Arido from the other four suspects upon his arrival at the ICC Detention Centre will best ensure [REDACTED], given [REDACTED].

B. The risk of coercion and/or collusion is substantial

10. A Chamber may reasonably restrict the contacts of a detained person where there are reasonable grounds to believe that such contact "*could* prejudice or otherwise affect" the outcome of the proceedings.¹¹

11. The nature of this case and the charges against the suspects portend Arido's subjection to improper interference or contact, directly or indirectly while in detention. There is also an equally powerful incentive for his collusion with the other suspects. In either case, such conduct would jeopardize the Court's administration of justice, undermine the integrity of the proceedings, and potentially affect their outcome.

12. Requiring the Registry to house and administer Arido's detention separately from Bemba, Kilolo, Mangenda, and Babala would best ensure [REDACTED] and better preserve the integrity of the proceedings. The Prosecution further requests that

¹⁰ CAR-OTP-0074-1065, pp. 4-5.

¹¹ See, Regulation 101(2)(b) of the RoC (Emphasis added).

the Registry be instructed to prohibit any exchange or contact between Arido and the above-mentioned suspects.

13. Although the requested order would restrict the activities to which Arido may otherwise be entitled while in detention,¹² they are reasonably proportionate to the goals pursued both, in scope and duration. They further advance the interests of justice and do not unfairly prejudice Arido's ability adequately to prepare for trial.

C. Implementation of the contact restrictions

14. Although the Prosecution defers to the Chamber's determination of the measures necessary to implement the requested contact restrictions, the Prosecution considers the following appropriate, in the circumstances: [REDACTED].

IV. Requested Relief

15. For the foregoing reasons, the Prosecution respectfully requests, pursuant to Regulation 101(2) of the RoC, that the Single Judge direct the Registrar to implement such measures as are necessary to ensure Narcisse Arido's [REDACTED] from interference by the other suspects in this case at the ICC Detention Centre for an initial period of two weeks, subject to extension upon the Chamber's periodic review.



Fatou Bensouda, Prosecutor

Dated this 12th Day of July 2014⁶
At The Hague, The Netherlands

¹² Regulation 99(2) of the RoC.