

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 11 August 2015

TRIAL CHAMBER VII

Before: Judge Chile Eboe-Osuji, Presiding
Judge Olga Herrera Carbuccion
Judge Bertram Schmitt

**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 redacted version of

**Victims and Witnesses Unit's Observations on the « Requête aux fins d'obtenir la
communication des coordonnées des témoins P-0201 et P-264 »**

Source: The Registry

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Kweku Vanderpuye

Counsel for Jean-Pierre Bemba Gombo

Counsel for Aimé Kilolo Musamba

Mr Paul Djunga Mudimbi

**Counsel for Jean-Jacques Mangenda
Kabongo**

Counsel for Fidèle Babala Wandu

Counsel for Narcisse Arido

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

Mr Patrick Craig

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the “Decision adopting a Protocol on the Handling of Confidential Information during Investigations and Contact Between a Party and Witnesses of Other Parties”, issued by Trial Chamber VII (the “Chamber”) on 20 July 2015 (the “Protocol”);¹

NOTING the “Requête aux fins d’obtenir la communication des coordonnées des témoins P-0201 et P-0264 ”, submitted by the Defence of Mr Aimé Kilolo Musamba (the “Kilolo Defence”) (the “Request”);²

NOTING the email of the Chamber dated 5 august 2015;³

NOTING articles 43(6) and 68(1) and (4) of the Rome Statute, rules 16 to 19 of the Rules of Procedure and Evidence, regulation 23*bis* (2) of the Regulations of the Court and regulations 79 to 96*bis* of the Regulations of the Registry;

CONSIDERING that in its Request, the Kilolo Defence requested the Chamber to order the Victims and Witnesses Unit (the “VWU” or “Unit”) to contact witnesses of the Prosecution, namely P-0201 and P-0264, to inquire their consent for transmitting their contact details to the Kilolo Defence ;⁴

CONSIDERING that in its email dated 5 August 2015, the Chamber instructed the VWU to provide its observations by 11 August 2015;

RESPECTFULLY SUBMITS the "Victims and Witnesses Unit's Observations on the

¹ ICC-01/05-01/13-1093.

² ICC-01/05-01/13-1120-Conf-Exp.

³ Email from the Chamber received by the VWU at 15:13.

⁴ ICC-01/05-01/13-1120-Conf-Exp.

« Requête aux fins d'obtenir la communication des coordonnées des témoins P-0201 et P-0264 » “ :

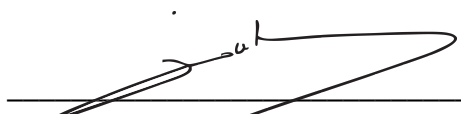
1. The VWU notes that the Protocol stipulates that “If the calling party is unable to contact the witness in question within 5 business days, the investigating party may apply to the Chamber and request it instructs the VWU to attempt to contact the witness for the purpose of the interview”⁵. Nevertheless, the VWU wishes to reiterate that the involvement of the Unit in contacting witnesses for the purpose of party interviews should only be made in exceptional circumstances and upon instruction of the Chamber.⁶ Therefore, the VWU believes that the parties should be able to demonstrate to the Chamber that all efforts have been exhausted to facilitate this *inter partes* request, prior to the intervention of the Unit.
2. For this purpose, the VWU contacted the Prosecution to clarify if any of other contact attempts were made in relation to the two concerned witnesses and to obtain any specific reason of such failure to reach Witnesses P-0201 and P-0264.
3. The Unit subsequently was informed by the Prosecution that in relation to P-0264, the Prosecution was finally able to contact the Witness on [REDACTED] [REDACTED] and transmitted the outcome of the communication to the Kilolo Defence. For this reason, the involvement of the VWU has become redundant.
4. In relation to witness P-0201, the VWU notes that [REDACTED] [REDACTED] The Unit is indeed in possession of a phone number [REDACTED] This phone number was collected by the Unit in its efforts to facilitate his appearance before the Court for the *Prosecutor v. Jean-Pierre Bemba Gombo*

⁵ ICC-01/05-01/13-1093 –Anx p.37.

⁶ ICC-01/05-01/13-1093 at paragraph 18 and 19.

(the "Bemba case"). Consequently, the Unit cannot ascertain if the phone number is updated and this may require consultation with the Prosecution to obtain the updated contact details of the Witness. The Prosecution has informed the Unit that it was not able to reach the Witness P-0201, with last attempt made on 27 July 2015.

5. Considering all of the above, the Unit stands ready to comply with the Protocol and upon instruction of the Chamber, should it be satisfied that the pre-condition mentioned at paragraph 1 above has been fulfilled, to make contact attempts in relation to Witness P-0201 to inquire his consent to providing his contact information to the Kilolo Defence.



Marc Dubuisson, Director, Division of Judicial Services
per delegation of
Herman von Hebel, Registrar

Dated this 11 August 2015

At The Hague, The Netherlands