

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 7 October 2015

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*

CONFIDENTIAL

Ex Parte only available to the Registry and the Mangenda Defence

Registry's Observations on the "Defence Motion for Directions to Registry",
ICC-01/05-01/13-1336-Conf-Exp

Source: The Registry

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

The Office of the Prosecutor

Counsel for Jean-Pierre Bemba Gombo

Counsel for Aimé Kilolo Musamba

Counsel for Jean-Jacques Mangenda Kabongo

Mr Christopher Gosnell

Mr Arthur Vercken

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

Detention Section

Victims Participation and Reparations Section

Other

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

NOTING the “*Defence Motion for Directions to Registry*” submitted by Counsel for Jean-Jacques Mangenda Kabongo (the “Mangenda Defence”) on 5 October 2015 (the “Motion”);¹

NOTING the instruction of Trial Chamber VII (the “Chamber”) requesting the Registry to provide its observations on the Motion by Wednesday 7 October 2015;²

NOTING Article 43 (6) of the Rome Statute and Regulation 23*bis* of the Regulations of the Court;

CONSIDERING that the trial in the present case has commenced on 29 September 2015;

CONSIDERING that the Accused in the present case, who are not under the custody of the Court, have been declared provisionally indigent;

RESPECTFULLY SUBMITS the Registry’s Observations on the Motion as follows:

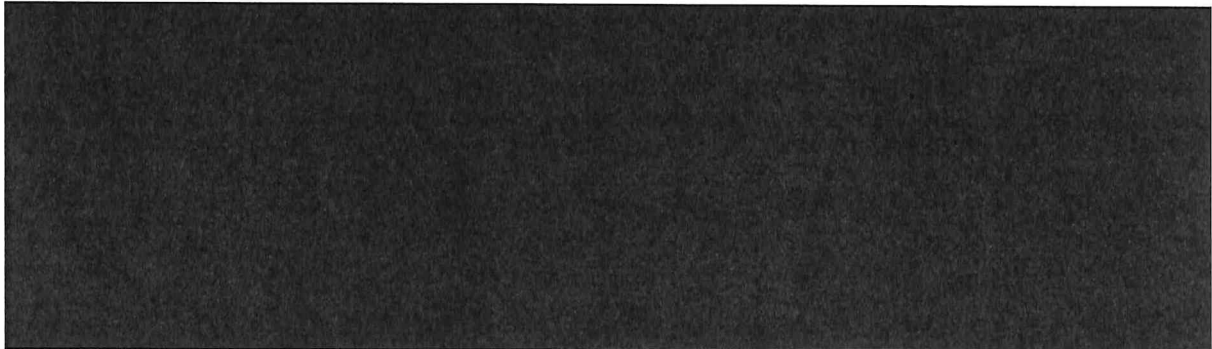
1. Firstly, the Registry would like to point out that the legal texts of the Court do not refer to any legal obligation, on the part of the Registry, to provide assistance to any accused appearing before the Court who is not in the custody of the Court. The Registry notes that this position³ was not challenged in the Motion submitted by the Defence for Mr Mangenda nor does the Motion itself provide for such legal basis. The only obligation for the Registrar to provide certain measures and assistance relates to witnesses, victims who appear before the Court and others who are at risk

¹ ICC-01/05-01/13-1336-Conf-Exp.

² Email from the Chamber received by the Registry on 5 October 2015 at 14:43.

³ ICC-01/05-01/13-1336-Conf-Exp, Annex B.

on account of testimony given by such witnesses in accordance with article 43(6) of the Rome Statute.



3. As none of the accused who have been released (the "Accused") in the present case is currently placed in the custody of the Court - and hence no legal obligation is at stake -, the Registry would like to re-iterate that its intervention is based on goodwill and solely related to assistance, within reason, with ensuring the presence of the Accused at their trial. The volume of the assistance provided by the Registry is based on a case by case assessment.

4. To this effect and in the absence of any legal obligation on its part, the Registry is providing for (i) the travel of the Accused from their place of residence to the Court (3 round trips/year), (ii) the accommodation of each of the Accused (945 € including utilities) and (iii) provision of a daily allowance (in relation to their physical presence at the Court) for the amount of 8,50 €/day⁴.

5. Should the Registry be instructed to honour Mr Mangenda's request (*i.e.* 50 €/day), Mr Mangenda would be receiving about 1,500 €/month, which is close to an average wage in neighbouring countries, whilst his accommodation and utilities are being catered for as well. Taking into consideration all above-mentioned amounts, Mr Mangenda would, in total, possibly receive 2.700 €/month which is, in the Registry's respectful submission, a considerable and unnecessary amount.

⁴ A total of 255 € and 263.5 € will be provided to Mr Mangenda for the months consist of 30 days and 31 days respectively.

6. The fact that Mr Mangenda is not permitted to work in the United Kingdom can also not be attributed to the Court nor be used as a justification or basis for his request for assistance. The Registry also notes that it did not contribute to the living expenses of Mr Mangenda whilst he was residing in the United Kingdom following his release from the ICC Detention Centre (from 23 December 2014 until 28 September 2015) nor supplied him with [REDACTED]

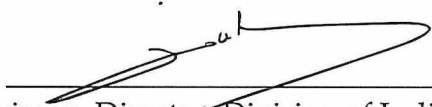
7. Furthermore, the Registry would like to underline the efforts which it has made to facilitate the appearance and stay of the Accused in The Hague. The Registry thus prays for the Chamber's ruling determining that the assistance and facilities nonetheless provided by the Registry are considered as reasonable, taking into consideration the context and amount of the assistance.

Confidentiality

8. In accordance with regulation 23bis(2) of the Regulations of the Court, the Registry submits the present observations with the classification "confidential *ex parte* only available to the Registry and the Mangenda Defence" in order to be in line with the classification of the Motion.

9. The Registry, however, respectfully requests the Chamber to re-classify the present Registry's observations as well as the Motion as confidential, accessible to all Defence teams for the Accused in the present case, taking into consideration possible redaction of private information pertaining to Mr Mangenda which (*i.e.* [REDACTED]), as it is the Registry's view that the justifications provided in the present observations are relevant for all above-mentioned Defence teams since similar

requests for information or clarification have been received from other Defence teams recently.⁵



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

Dated this 07 October 2015

At The Hague, The Netherlands

⁵ Emails from the Defence team for Mr Babala and Mr Arido on 30 September and 6 October respectively.