

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/05-01/13
Date: 10 November 2016

TRIAL CHAMBER VII

Before:

Judge Betram Schmitt, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Raul C. 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 Document

**Registry's Observations to "Prosecution's Renewed Request to Obtain Financial
Information from the Registry" (ICC-01/05-01/13-2007)**

Source: Registrar

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

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Other

I. Introduction

1. Pursuant to the instructions of Trial Chamber VII ("Chamber"),¹ the Registry submits its observations on the "Prosecution's Renewed Request to Obtain Financial Information from the Registry" ("Renewed Request").²
2. In the observations below, the Registry confirms its ability to provide an approximate financial assessment on the cost figures generally associated with the trial of *The Prosecutor v. Jean Pierre Bemba Gombo* ("Main Case"), and the costs specifically incurred by the Court in relation to the 14 Main Case Defence Witnesses who are the subject of the charged offences in the present case (14 Main Case Defence Witnesses").

II. Procedural history

3. On 10 August 2016, the Office of the Prosecutor ("Prosecution") submitted its "Prosecution's Request to obtain Financial Information from the Registry" ("Initial Request"),³ in which it seeks to obtain information related to a) the costs associated with the Main Case generally, and b) the costs specifically incurred by the Court in relation to the 14 Main Case Defence Witnesses.
4. On 18 August 2016, the Registry submitted its observations on the Initial Request ("Registry Observations"), specifying that the Registry would be in a position to provide a) a calculation for the additional costs incurred in both the Main Case and the present case not including the general costs that would have been incurred by the Court irrespective of the existence of the two cases, and b) the total costs incurred in relation to the 14 witnesses in the Main Case and in the present case. Accordingly, the Registry anticipated that it could provide this information to the Chamber in as early as three days.⁴

¹ Email from Trial Chamber VII dated Friday 4 November 2016 at 18:35 and e-mail from Trial Chamber VII to the Registry dated 9 November 2016 at 17:22 granting an extension of time-limit for one day.

² ICC-01/05-01/13-2007.

³ ICC-01/05-01/13-1966.

⁴ ICC-01/05-01/13-1973.

5. On 7 September 2016, the Single Judge rejected the relief sought in the Initial Request as premature, citing that the Request was made before the judgement pursuant to article 74 of the Rome Statute had been rendered.⁵
6. On 19 October 2016, Trial Chamber VII issued the "Public Redacted Version of the Judgment pursuant to Article 74 of the Rome Statute".⁶
7. On 4 November 2016, the Prosecution submitted its Renewed Request and, based on the Registry Observations, clarified and elaborated on the Initial Request⁷ with the following:
 - a. With respect to the Main Case, the Prosecution is not seeking information on the expenses that would have been incurred irrespective of the Main Case, confidential information emanating from the Main Case,⁸ or "an item-by-item or witness-by-witness explanation of the costs associated with the Request Information". Instead, the Prosecution clarified that it would be "sufficient if the Registry provides the Requested Information in aggregate form"⁹ from "the beginning of the Main Case to Bemba's conviction by Trial Chamber III";¹⁰
 - b. With respect to the present case, the Prosecution is not seeking information concerning the costs associated with the prosecution of the present case¹¹ nor information on the expenses that would have been incurred irrespective of the 14 Main Case Defence Witnesses;
 - c. With respect to both the Main case and the present case, the Prosecution is seeking the additional costs incurred including *inter alia* "witness transportation to the place of testimony; accommodations; incidental and attendance allowances; video-links with the Court; Rule

⁵ ICC-01/05-01/13-1979, para. 19.

⁶ ICC-01/05-01/13-1989-Red.

⁷ ICC-01/05-01/13-2007.

⁸ *Id.* at para. 9. The Prosecution noted that if confidential information needed to be disclosed, the Registry could disclose such information in redacted form.

⁹ *Id.*

¹⁰ *Id.* at para. 4.

¹¹ *Id.* at para 7.

74 counsel; translation into situation languages; and the costs relating to transport and accommodate Registry staff to the field to assess the witnesses' security and to carry out the familiarisation process, as well as to staff the courtroom during their ostensible 'testimony'".¹²

8. On 9 November 2016, the Defence for Mr Jean-Pierre Bemba Gombo ("Mr Bemba") submitted its response, in which it requested the Chamber to order the Registry to provide information concerning i) the expenses broken down per witness, ii) the date on which the expense was incurred, iii) the particular Registry section that paid the expense; and iv) whether such expenses have been included in the putative legal aid debt attributed to Mr Bemba in the Main Case ("Bemba Defence Request").¹³
9. On 9 November 2016, in order to effectively address the Bemba Defence Request and for reasons of time constraints related to the verification of information amongst the various Registry sections, the Registry requested an extension of time to file its observations on the Renewed Request by 10 November 2016.¹⁴
10. On 9 November 2016, the Chamber granted the Registry's request for extension.¹⁵

III. Submissions

11. The Registry notes at the outset that it has accounting practices and auditing mechanisms in place, with reports available publicly through the Assembly of States Parties, that ensure that all costs associated with the conduct of Court proceedings are effectively spent. However, the typical accounting structures within the Registry are not necessarily tied to specific cases and instead are

¹² *Id.* at para. 6.

¹³ ICC-01/05-01/13-2017.

¹⁴ E-mail from the Registry to Trial Chamber VII dated 9 November 2016 at 17:10.

¹⁵ E-mail from Trial Chamber VII to the Registry dated 9 November 2016 at 17:22.

broken down by the relevant sections within the Registry and recorded by situation country.

A. Request related to the disclosure of the general costs in the Main Case

12. In light of the clarifications provided by the Prosecution in the Renewed Request, the Registry considers that while more than three days will be required to satisfy the Renewed Request in whole, it will provide the relevant information “within a reasonable timeframe” as stipulated by the Single Judge.¹⁶
13. However, the Registry considers that clarity from the Chamber on the temporal and substantial scope of the requested information would be of great assistance.
14. As to the scope of requested information, for example, the time needed by the Registry for the compilation of information and calculation exercise will depend on whether the Registry should look into costs related to the detention of Mr Bemba, translation and interpretation, training of situation language interpreters, video link and other operational costs, and staff travel costs.
15. Furthermore, whereas the relevant detention costs could be provided within 3 days it would take more time if the Registry is also instructed to provide costs related to the translation of documents in the Main Case.
16. As a final example, the Registry would also need guidance on whether the calculation should include for instance witness protection costs. For the calculation of such costs, the Registry envisages that a period of 15 days would be required.

¹⁶ ICC-01/05-01/13-1979, para. 18.

B. Request related to the disclosure of costs related to the 14 Main Case Defence Witnesses

17. As indicated in the Registry Observations, the Registry is able to provide the total costs incurred in relation to the 14 Main Case Defence Witnesses. After careful consideration of the approximate calculations already available internally, the Registry confirms that trial costs related to the 14 Main Case Defence witnesses can be made available within a three day timeframe. However, it is important to highlight that these costs do not include staff travel costs, or video link preparation and implementation costs. Should the Chamber wish to have such costs included in the calculation, the Registry would need a minimum of one week to collect the relevant information.
18. The Registry also confirms that the information related to the 14 Main Case Defence Witnesses can be provided in aggregate or redacted form and by way of a report subject to the Chamber's instruction.

C. Other matters

19. In its Renewed Request, the Prosecution highlights that at this stage it is not necessary for a Registry representative to give evidence on the information requested. The Prosecution also indicates that it reserves the right to amend its witness list to include such a representative. Considering the hypothetical nature of the Prosecution's submission, the Registry does not deem it appropriate to make any observations at this stage. However, should this issue arise in the near future, the Registry requests the opportunity to present its views on the matter.

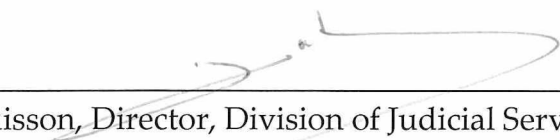
D. Bemba Defence Request

20. In relation to the Bemba Defence Request of 9 November 2016 and on a preliminary basis, the Registry can at this stage only indicate that in relation to items (i) and (iii) as set forth above, the Registry could provide general costs

per witness, including travel costs, accommodation costs and allowances paid to the witness. As regards item (ii), namely the dates on which the expenses were incurred for each witness, the Registry would need additional time to address such a request as retrieving this information will be more challenging. In relation to item (iv), the Registry confirms that all relevant expenses have been included in the putative legal aid debt attributed to Mr Bemba in the Main Case.

E. Conclusion

21. The Registry confirms that it is able to provide approximate figures regarding the costs of the Main Case and the 14 Main Case Defence witnesses. However, following the Prosecution's Renewed Request, the Bemba Defence Request and after further internal consultations, the Registry concludes that the time required to provide the requested information may vary according to the nature of the information sought. The Registry also considers that the Chamber's guidance as to the substantial and temporal scope of the financial information to be provided would greatly facilitate the exercise. Accordingly, the Registry remains available for any further consultations the Chamber may deem appropriate.



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

Dated this 10 November 2016

At The Hague, the Netherlands