



Original: **English**

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

Date: **24 November 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

**Narcisse Arido's Response to
"Prosecution's Request to Hear Witness P-0256's Testimony via Video-Link"
(ICC-01/05-01/13-2044)**

Source: Counsel for Narcisse Arido

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

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Reparations Section

I. SUBMISSIONS

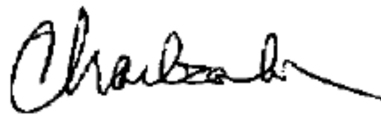
1. On 11 November 2016, Trial Chamber VII ('Trial Chamber') decided that "procedural fairness demands that [P-256] also appear to be examined by the other parties. If the Prosecution does not wish to expose this witness to such an examination, then it must withdraw him."¹ Pursuant to an email order to the Prosecution to file a request in the record, the Prosecution filed a request for testimony of witness P-256 via a video-link on 22 November 2016. Other parties were ordered to respond by 24 November 2016.²

2. The Trial Chamber's order is that P-256 "must testify before the Chamber".³ An implicit missing phrase 'at the seat of the court' as the text of Rule 67(1) of the Rules of Procedure and Evidence confirms that this is the norm by indicating that a video-link option is at the permitted discretion of the Trial Chamber. The Arido Defence notes the wide discretion the Trial Chamber has pursuant to Article 69(2), nevertheless the Prosecution has failed to explain or demonstrate why a departure from in-court testimony is warranted.

3. There are no exceptional circumstances to justify modifying the Trial Chamber's original order. Given the transport costs for Court staff and equipment, a video-link can be potentially more costly than simply bringing a witness to The Hague.

4. It is also unclear what is meant by "[i]t would not only guarantee [P-256's] appearance on the scheduled dates, but also reduce any barriers or risks that his travel to The Hague may entail."⁴ If the Prosecution is casting aspersions about its witness, or there are legitimate suspicions, it should make these clear so that the Trial Chamber is clear about the request.

5. In light of the above, the Arido Defence respectfully requests Trial Chamber VII to reject the Prosecution Request.



Chief Charles Achaleke Taku, Counsel for Mr. Arido

Dated this 24th Day of November 2016

The Hague, The Netherlands

¹ ICC-01/05-01/13-2025, para. 16.

² Email, 21 November 2016 at 17h08, subject 'RE: request pursuant to rule 67'.

³ ICC-01/05-01/13-2025, p. 10.

⁴ ICC-01/05-01/13-2044, para. 4.