

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: French

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

Date: 10 June 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***

**Confidential**

**Addendum submitted by the Defence for Mr Fidèle Babala Wandu to “Narcisse Arido’s Request for an Effective Remedy in Light of Two Austrian Decisions”  
(ICC-01/05-01/13-1928-Conf)**

**Source: Defence for Mr Fidèle Babala Wandu**

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

**Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Mr Kweku Venderpuye

**Defence Counsel for Mr Babala**

Mr Jean-Pierre Kilenda Kakengi Basila

**Defence Counsel for Mr Bemba Gombo**

Ms Melinda Taylor

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Mr Paul Djunga Mudimbi

**Defence Counsel for Mr Mangenda**

Mr Christopher Gosnell

**Defence Counsel for Mr Arido**

Mr Charles A. Taku

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**Office of Public Counsel for the Defence**

**REGISTRY**

**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

## **I. BRIEF PROCEDURAL BACKGROUND AND PURPOSE OF THE APPLICATION**

1. On 10 June 2016, the Defence team for Mr Narcisse Arido ("the Arido Defence") submitted its Request, reference ICC-01/05-01/13-1928-Conf, to Trial Chamber VII ("the Chamber") to seek:
  - (a) The taking of judicial notice of the Austrian Decisions and the violations contained therein and factor these violations into the weight which is afforded to the Western Records and any evidence obtained through them within its judgement pursuant to Article 74;
  - (b) An order for the destruction or transfer back to the Austrian authorities of all material obtained on the basis of the decisions that have been invalidated;
  - (c) Re-consideration of decision ICC-01/05-01/13-1854, including granting all the forms of relief that were denied in that decision; and
  - (d) Admission of the items CAR-D24-0005-0001 and CAR-D24-0005-0013 pursuant to Article 69(3).<sup>1</sup>
2. In the opinion of the Defence team for Mr Fidèle Babala Wandu ("the Defence"), the grounds raised by the Arido Defence, both on the variation of time limits under regulation 35(2) of the Regulations of the Court and on the inadmissibility of evidence obtained from Western Union, are very relevant.
3. The Defence therefore approves the Request itself, as well as the grounds and the conclusions contained therein.

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<sup>1</sup> ICC-01/05-01/13-1928-Conf, para. 4.

## II. CONFIDENTIALITY

4. The present submission is filed as confidential pursuant to regulation 23 *bis* of the Regulations of the Registry.

## III. SUBMISSIONS

5. The Defence concurs with the Request of the Arido Defence and endorses the arguments of fact and of law it has presented.
6. The Defence recalls that the ongoing proceedings against the Accused concern their alleged offence against the administration of justice; and that incriminating evidence must therefore be obtained legally and lawfully.
7. Consequently, on the basis of rule 64(1) of the Rules on Procedure and Evidence and of all the statutory and regulatory provisions raised in the Arido Defence Request, the Defence for Mr Babala respectfully moves the Chamber to grant said Request and to:

**DECLARE** the Arido Defence Request and the present submission wholly grounded in law and in fact;

**TAKE JUDICIAL NOTICE** of the two Austrian decisions<sup>2</sup> and admit them as evidence in the record of the case;

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<sup>2</sup> CAR-D24-0005-0001 and CAR-D24-0005-0013.

ORDER the destruction or transfer back to the Austrian authorities of all material obtained from Western Union;

**RECONSIDER** Decision ICC-01/05-01/13-1854.

AND JUSTICE SHALL BE DONE

RESPECTFULLY SUBMITTED,

[signed]

**Mr Jean-Pierre Kilenda Kakengi Basila**  
**Lead Counsel for Mr Fidèle Babala Wandu**

Dated this 10 June 2016

At Brussels