

Confidential

Annex A

**Legal Aid: Decision on Allocation of Resources During Trial Phase, Marc Dubuisson,
10 March 2015**



Case *The Prosecutor v. Jean-Pierre Bemba Gombo et al.* (ICC-01/05-01/13)

Legal aid: decision on allocation of resources during trial phase

1. Following the *Transmission to the Trial Chamber VII of the full record of the proceedings, including the Decision on the Confirmation of Charges* (ICC-01/05-01/13-810), the Counsel Support Section (CSS) proceeded to invite all the defence teams in the case acting in the framework of the legal aid system to meet with the section Chief.
2. The purpose of this series of meetings was to enquire, as was done at the beginning of the pre-trial phase, about the needs felt by defence counsel regarding the work to be undertaken during the trial phase and the resources needed to guarantee an effective and efficient defence of their respective clients.
3. The meetings were held during weeks 7 and 8, at the times proposed by each counsel and in a distended environment. In the case of the defence of Mr. J.J. Mangenda Kabongo, given that Mr. Jean Flamme had requested his withdrawal from the case and that the accused had already appointed a new one, it was Mr. Chris Gosnell who was proactively invited even though his appointment was not formalised yet.¹ In all meetings the Chief of CSS explained that it would be difficult to provide the same level of resources as in an article 5 case, but that he was open to consider their input in the framework of the preparation of a recommendation to the Registrar.
4. All counsel stressed the high degree of work required in the case, its complexity even compared to other cases under article 5, its multi-accused character coupled with the high likelihood that the defendants will enter into conflicting defences. The figures provided in this regard were partial and sometimes contradictory (e.g. one submission indicates that, during the pre-trial phase, there were “a total of 3 527 documents disclosed” at “an average of 20 pages per doc”, while the same document, two pages later, states that “total of 3 692 pages were disclosed”).
5. This workload, even accepting the highest figures proposed, must be weighed against the reduction of the charges operated by the Pre-trial Chamber in its decision of 11 November 2014 (ICC-01/05-01/13-749). A simple comparison between this

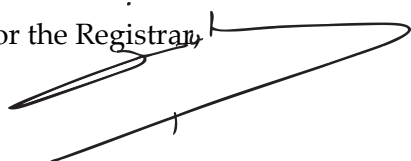
¹ Following the *Decision on Defence counsel request to withdraw according to Regulation 78(1) of the Regulations of the Court* (ICC-01/05-01/13-818) dated 13 February 2015, the Registry proceeded to facilitate Mr. Gosnell's appointment, which was added to the case file on 17 February 2015 (ICC-01/05-01/13-821).

decision and the *Document containing the charges* (ICC-01/05-01/13-526-AnxB1-Red) shows a net decrease for all defendants, excluding several modes of liability proposed by the Prosecutor, for four of them excluding also the charge consisting in “presenting documentary evidence in the Bemba case [they] knew was false or forged” and, for Mr. Narcisse Arido, confirming only twelve of the 43 proposed counts, that is a reduction of more than seventy per cent of the charges.

6. In view of the submissions of the defence and bearing in mind the right of all defendants to an effective and efficient defence, the need of ensuring the expeditiousness of the proceedings and the Registrar’s obligation to judiciously manage the funds placed at his disposal – which, in the present case, will have to be withdrawn from the Contingency Fund –, the Registrar is of the opinion that a monthly budget of €22 000, more than double than the resources allocated during the pre-trial phase, should ensure in principle that these concerns are met at the current stage of the proceedings.
7. The newly allocated resources will be available from the date of the present decision.
8. The monthly budget shall cover all costs of each team, including fees and professional charges of all appointed members, any travel costs and all costs related to investigations required in the framework of the case. Counsel may resort to the principle of flexibility and use this budget in the most appropriate way, not exceeding the total ceilings allowed for each category of team members in the Legal Aid Policy (ICC-ASP/12/3) and applying the current management rules, in particular that all legal assistants appointed must previously be admitted to the relevant list and that all expenses must be previously authorised by the CSS.
9. Should the needs of the case justify the allocation of additional resources to one or several defence teams, counsel can address those needs with the CSS, in order to have them assessed and proceed to such allocation as justified pursuant to regulation 83 (3) of the RoC.
10. Any defence counsel affected by this decision can apply to the Trial Chamber for its review in accordance with regulation 83 (4) of the RoC.

Done in The Hague on 10 March 2015.

For the Registrar,



Marc Dubuisson, Director of Court Services