

CONFIDENTIAL EX PARTE
ANNEX A
(Prosecution, Defence)

Pursuant to Trial Chamber III's oral order dated 18 May 2016, this document is reclassified as 'Public'.

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 18 June 2015

TRIAL CHAMBER VII

Before: Judge Chile Eboe-Osuji, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Bertram Schmitt

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF

***THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU
AND NARCISSE ARIDO***

Confidential Redacted Document

**Confidential redacted version of "Prosecution's Notification pursuant to Rule 74 of
the Rules of Procedure and Evidence", 16 June 2015,
ICC-01/05-01/13-1010-Conf-Exp**

Source: The Office of the Prosecutor

Pursuant to Trial Chamber III's oral order dated 18 May 2016, this document is reclassified as 'Public'.

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

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The Office of Public Counsel for Victims	The Office of Public Counsel for the Defence
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States Representatives**Amicus Curiae****REGISTRY****Registrar**

Mr Herman von Hebel

Counsel Support Section**Victims and Witnesses Unit**

Mr Nigel Verrill

Detention Section

Victims Participation and Reparations Section	Others
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I. Introduction

1. The Office of the Prosecutor ("Prosecution") notifies Trial Chamber VII ("Chamber") and the Victims and Witnesses Unit ("VWU") that issues of self-incrimination may arise in respect of witnesses the Prosecution may call at trial. In such circumstances, rule 74 of the Rules of Procedure and Evidence ("Rules") will apply.

2. In the absence of a protocol on the conduct of trial proceedings, the procedure followed in other cases regarding the potential self-incrimination of witnesses should be applied.

II. Confidentiality

3. This filing is classified as Confidential, *Ex Parte*, only available to the Prosecution and the VWU, as it refers to a witness in respect of whom the Prosecution made an application for delayed disclosure.¹ [REDACTED],² [REDACTED].³ [REDACTED].

III. Submissions

4. The Prosecution expects that the testimony of [REDACTED] potential witnesses may raise issues of self-incrimination.⁴ These are witnesses [REDACTED]. Each witness is the subject of confirmed charges, having allegedly testified falsely in the Main Case.⁵ Their testimony in this case therefore raises possible issues of self-incrimination covered by rule 74 of the Rules.

¹ ICC-01/05-01/13-985-Conf-Exp.

² [REDACTED].

³ [REDACTED].

⁴ See, e.g., ICC-01/09-01/11-847-Corr, para.29; ICC-01/04-02/06-619, para.45.

⁵ ICC-01/05-01/13-749.

5. In line with the Court's practice, it is incumbent on the Registry to make the necessary arrangements to appoint a qualified lawyer to provide independent legal advice to the witnesses, as they may incriminate themselves during their testimony.⁶

6. The Prosecution will provide the rule 74 counsel with the transcripts of the witnesses Main Case testimony and any prior statements, interviews or other relevant material for the witnesses, upon notice of his appointment by the Registry and with the Chamber's leave.

7. The appointed rule 74 counsel should be directed to inform the witnesses of the offence defined in article 70(1)(a) of the Rome Statute, in accordance with rule 66(3) of the Rules.⁷

IV. Conclusion

8. Based on the foregoing, the Prosecution requests that the Chamber direct the Registry to identify and appoint, as necessary, qualified counsel to advise the witnesses on self-incrimination pursuant to rule 74 of the Rules, and to follow the procedure outlined above in the absence of a protocol on the conduct of trial proceedings.



Fatou Bensouda, Prosecutor

Dated this 18th Day of June 2015
At The Hague, The Netherlands

⁶ ICC-01/09-01/11-847-Corr, para.29; ICC-01/04-02/06-619, para.44.

⁷ ICC-01/04-02/06-619, para.46.