

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/05-01/13**
Date: **12 November 2015**

TRIAL CHAMBER VII

Before: Judge Bertram 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

**Decision on 'Prosecution's Fourth Request for the Admission of Evidence from the
Bar Table'**

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Kweku Vanderpuye

Counsel for Jean-Pierre Bemba Gombo

Ms Melinda Taylor

Counsel for Aimé Kilolo Musamba

Mr Paul Djunga Mudimbi

Counsel for Jean-Jacques Mangenda Kabongo

Mr Cristopher Gosnell

Counsel for Fidèle Babala Wandu

Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Mr Charles Achaleke Taku

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Trial Chamber VII ('Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, having regard to Articles 64(2), 64(9), 69 and 74(2) of the Rome Statute ('Statute') and Rules 63 and 64 of the Rules of Procedure and Evidence issues the following 'Decision on Prosecution's Fourth Request for the Admission of Evidence from the Bar Table'.

I. PROCEDURAL HISTORY

1. On 28 September 2015, the Office of the Prosecutor ('Prosecution') filed its fourth bar table request ('Request') seeking to admit 57 items of evidence (collectively 'Materials'), namely: (i) call logs from the Court's Detention Centre; (ii) invoices, emails and letters containing contact information for Mr Kilolo, Mr Mangenda and Mr Arido; (iii) call data records ('CDRs'); (iv) intercepted communications; and (v) other materials.¹ The Prosecution argues that the Materials are relevant and probative.
2. On 20 October 2015, the defence teams for Mr Bemba ('Bemba Defence'), Mr Babala ('Babala Defence'), Mr Mangenda ('Mangenda Defence'), Mr Kilolo ('Kilolo Defence') and Mr Arido ('Arido Defence') filed their responses, requesting the Chamber to reject the Request.² The Mangenda Defence generally submits that the Request should be dismissed as premature in light of the ruling of the Chamber in its Decision of 24 September 2015.³

¹ Prosecution's Fourth Request for the Admission of Evidence from the Bar Table, ICC-01/05-01/13-1310-Conf, (public redacted version notified on 2 October 2015, ICC-01/05-01/13-1310-Red).

² Response to Public Redacted Version of "Prosecution's Fourth Request for the Admission of Evidence from the Bar Table", ICC-01/05-01/13-1398; Narcisse Arido's Response to the Prosecution's Fourth Bar Table Motion (ICC-01/05-01/13-1310-Conf), ICC-01/05-01/13-1403-Conf; Kilolo Defence Response to "Prosecution's Fourth Request for the Admission of Evidence from the Bar Table", ICC-01/05-01/13-1404-Conf; Defence Response to Prosecution's Fourth Request for the Admission of Evidence from the Bar Table (ICC-01/05-01/13-1310-Conf), ICC-01/05-01/13-1402-Conf; Réponse de la Défense de Fidèle Babala Wandu à « Prosecution's Fourth Request for the Admission of Evidence from the Bar Table » (ICC-01/05-01/13-1170-Conf), ICC-01/05-01/13-1401-Conf.

³ Decision on Prosecution Requests for Admission of Documentary Evidence (ICC-01/05-01/13-1013-Red, ICC-01/05-01/13-1113-Red, ICC-01/05-01/13-1170-Conf) ICC-01/05-01/13-1285 ('Decision of 24 September 2015').

II. ANALYSIS

3. The Chamber recalls its Decision of 24 September 2015 taken pursuant to Article 69 of the Statute on the admissibility of evidence, wherein it found that questions of admissibility will only be considered by the Chamber during deliberation of its judgement pursuant to Article 74(2) of the Statute.⁴ That decision, however, required the parties to formally submit to the Chamber documents that it wished to have considered in the trial judgment.⁵ The objection raised by the Mangenda Defence that the Request is premature is therefore dismissed.
4. The Chamber also recalls the reasoning provided in the above decision for deferring the assessment of the admissibility of evidence until the deliberation stage⁶ and considers that these reasons hold true in relation to the present Request. As such, the Chamber decides that it will not, at this time, consider the relevance and/or admissibility of the 57 items presented in the Request beyond the scope of its previous decision and thereby defers its ruling on the Material to the deliberation of its judgment pursuant to Article 74(2) of the Statute.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

RECOGNISES the Materials as ‘submitted’;

ORDERS the Registry to ensure that the e-court metadata reflects that the Materials have been formally submitted to the Chamber;

DEFERS any ruling upon the Materials to its Decision under Article 74(2) of the Statute, in accordance with its Decision of 24 September 2015; and

⁴ Decision of 24 September 2015, ICC-01/05-01/13-1285, paras 9 and 16.

⁵ Decision of 24 September 2015, ICC-01/05-01/13-1285, paras 5-6 and 17.

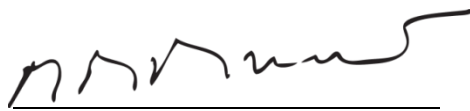
⁶ Decision of 24 September 2015, ICC-01/05-01/13-1285, paras 10-13.

ORDERS the parties to prepare and submit public redacted versions of their respective filings (excluding annexes) if they have not already done so, or request reclassification thereof, within fourteen days of notification of the present decision.

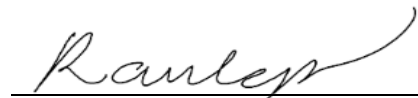
Done in both English and French, the English version being authoritative.



Judge Bertram Schmitt, Presiding Judge



Judge Marc Perrin de Brichambaut



Judge Raul C. Pangalangan

Dated 12 November 2015

At The Hague, The Netherlands