

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 11 May 2015

TRIAL CHAMBER VII

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

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 Joint Defence Request to Suspend a Deadline for Responses

Decision 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 Christopher Gosnell

Counsel for Fidèle Babala Wandu

Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Charles Achaleke Taku

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

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

Mr Nigel Verrill

Detention Section

Victims Participation and Reparations Section

Others

Trial Chamber VII (the ‘Chamber’) of the International Criminal 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 Regulation 35(2) of the Regulations of the Court (the ‘Regulations’), issues the following ‘Decision on Joint Defence Request to Suspend a Deadline for Responses’.

I. Procedural history and submissions

1. On 23 April 2015, the Office for the Prosecutor (‘Prosecution’) filed an application for the Chamber to give notice under Regulation 55(2) of the Regulations (‘Request for Notice’).¹ Therein, it requests the Chamber to provide notice of the possibility that the individual criminal responsibility of the five accused may be subject to re-characterisation.²
2. On 1 May 2015, the defence for all five accused (together, the ‘Defence’) filed a joint application to suspend the deadline for responses to the Request for Notice (‘Request’).³ It submits that it would be premature to file a response until the Prosecution has transmitted an updated document containing the charges and the Chamber has ruled on the parties’ submissions concerning the modes of liability and elements of the offence.⁴
3. The Defence argues that, until the Prosecution has submitted an updated document containing the charges, it will lack ‘full clarity’ as to what the precise scope of the charges is.⁵ Similarly, it argues that the nature and scope of the

¹ Prosecution’s Application for Notice to be given under Regulation 55(2) on the Accused’s Individual Criminal Responsibility, ICC-01/05-01/13-922, with public Annex A.

² ICC-01/05-01/13-922, paras. 1 and 51.

³ Joint Defence Request for Suspension of the Deadline for Response to the ‘Prosecution Application for Notice to be given under Regulation 55(2) on the Accused’s Individual Criminal Responsibility’, ICC-01/05-01/13-926

⁴ Request, ICC-01/05-01/13-926, paras 5 and 18.

⁵ Request, ICC-01/05-01/13-926, paras 12.

modes of liability confirmed in the confirmation of the charges decision⁶ must be defined first, before it could submit a response to the Request.⁷

II. Analysis

4. The Chamber considers that it has all the necessary information to rule on the Request. In the interest of expeditiousness it will, exceptionally, rule on the Request before the expiration of the deadline for responses and thus without having received a response from the Prosecution.
5. In the present case, the Defence has all the required information to submit its response. In its Request for Notice, the Prosecution relies on the confirmation of the charges decision for the facts used in support of its application.⁸ Equally, the Prosecution states its understanding of the modes of liability and their elements, which are the subject of the Request for Notice.⁹ Accordingly, there is no ambiguity which would make it impossible for the Defence to effectively respond.¹⁰
6. The Chamber's view of the reasonable ability of the Defence to respond to the Prosecution request is not altered by the outstanding decision(s) of the Chamber as regards the matter of an updated document containing the charges or the elements of the applicable modes of criminal responsibility. Accordingly, the Chamber finds that no good cause is shown.

⁶ Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute, 11 November 2014, ICC-01/05-01/13-749.

⁷ Request, ICC-01/05-01/13-926, paras 14.

⁸ Request for Notice, ICC-01/05-01/13-922, paras 2, 11-24 and 32-50.

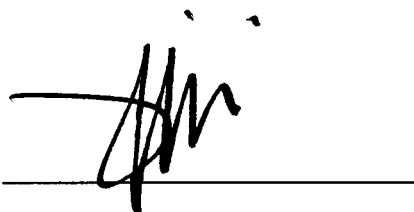
⁹ Request for Notice, ICC-01/05-01/13-922, paras 4-10 and 27-31..

¹⁰ Further, the Chamber notes that the Defence's reference to the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* is misguided. In that case, the defence provided its response to a request to give notice under Regulation 55(2) of the Regulations before a decision on an updated document containing the charges had been issued by the chamber.

FOR THE FOREGOING REASONS THE CHAMBER HEREBY

REJECTS the Request.

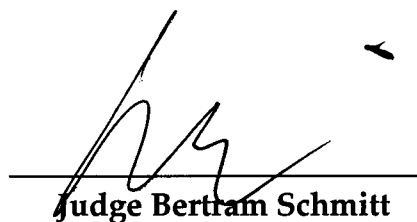
Done in both English and French, the English version being authoritative.



Judge Chile Eboe-Osuji, Presiding



Judge Olga Herrera Carbuccion



Judge Bertram Schmitt

Dated 11 May 2015

At The Hague, The Netherlands