

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/05-01/13**
Date: **14 October 2015**

TRIAL CHAMBER VII

Before: Judge Bertram Schmitt, Single Judge

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 redacted version of

Decision on Mangenda Defence Request for Directions to the Registry

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

Mr 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

Others

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber VII ('Single Judge' and 'Chamber', respectively) 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(6)(e) and 67(1)(d) of the Rome Statute ('Statute') and Regulation 24(5) of the Regulations of the Court, issues the following 'Decision on Mangenda Defence Request for Directions to the Registry'.

I. Background and Submissions

1. On 5 October 2015, the defence team for Mr Mangenda ('Mangenda Defence') requested that the Registry be directed to provide a higher daily allowance to Mr Mangenda and [REDACTED] ('Request').¹
2. The Mangenda Defence submits that the daily allowance of €8.50 ('Daily Allowance') granted to Mr Mangenda by the Registry is insufficient to cover his food needs and his travel to the Court. It requests that the allowance is augmented to €50.² The Mangenda Defence further requests that [REDACTED].³
3. On 8 October 2015, the Registry provided its observations ('Observations').⁴ It submits that there is no legal obligation to provide assistance to accused persons appearing before the Court who are not in the custody of the Court.⁵ The assistance it provided to Mr Mangenda on a different occasion was, according to the Registry, under different circumstances, when Mr Mangenda was in the custody of the Court.⁶ The Registry underlines that all assistance it provides to

¹ Defence Motion for Directions to Registry, ICC-01/05-01/1336-Conf-Exp, available only to the Mangenda Defence and Registry with two confidential *ex parte* annexes.

² Request, ICC-01/05-01/13-1336-Conf-Exp, paras 1 and 6.

³ Request, ICC-01/05-01/13-1336-Conf-Exp, paras 1, 4 and 8.

⁴ Registry's Observations on the "Defence Motion for Directions to Registry", ICC-01/05-01/13-1336-Conf-Exp, ICC-01/05-01/13-1347-Conf-Exp, available only to the Mangenda Defence and Registry.

⁵ Observations, ICC-01/05-01/13-1347-Conf-Exp, para.1

⁶ Observations, ICC-01/05-01/13-1347-Conf-Exp, para.2.

the accused is based on goodwill; provided in the absence of any legal obligation; and afforded with the intention of ensuring the presence of the accused at trial.⁷

4. On the same day, the Mangenda Defence requested leave to reply to the Observations ('Request for Leave to Reply').⁸

II. Analysis

5. As a preliminary matter, the Single Judge notes that the Registry requests that its Observations and the Request are re-classified as 'confidential', with redactions if necessary, since other defence teams seek similar clarification or information regarding assistance from the Registry.⁹ The Single Judge considers that the Request, the Observations and this decision indeed contain information useful to the other defence teams. The Registry and the Mangenda Defence are thus instructed to file confidential redacted versions of their submissions and the annexes thereto following the redaction of the private information related to Mr Mangenda.
6. The Single Judge does not find that further submissions on the matter are required to rule on the Request. Accordingly, the Request for Leave to Reply is rejected.
7. The Single Judge emphasises that presence at trial is not only an obligation but also a right of the accused under Article 67(1)(d) of the Statute. The Single Judge understands that the Registry has provided assistance to Mr Mangenda on a discretionary basis with a view to enabling him to exercise this right,¹⁰ for

⁷ Observations, ICC-01/05-01/13-1347-Conf-Exp, paras 3-4.

⁸ Urgent Request for Leave to Reply to the Registry's Observations (ICC-01/05-01/13-1347-Conf-Exp), ICC-01/05-01/13-1352-Conf-Exp, available only to the Registry and the Mangenda Defence.

⁹ Observations, ICC-01/05-01/13-1347-Conf-Exp, para. 9.

¹⁰ This includes financial assistance with regard to flights to the Netherlands to attend hearings, assistance with the accommodation in The Hague for the sole purpose of attending trial and a daily allowance, *see* ICC-01/05-01/13-1336-Conf-Exp-AnxA.

example by providing financial assistance for transportation costs to and from the Court. He was not given a general living allowance.

8. Considering the above, the Single Judge does not find that the amount decided upon by the Registry for the Daily Allowance is manifestly unreasonable. However, he notes the Mangenda Defence submission that Mr Mangenda has not been provided with the Daily Allowance since his arrival.¹¹ The Single Judge orders the Registry to provide Mr Mangenda with any outstanding allocation.
9. With regard to the request for [REDACTED].

¹¹ Request, ICC-01/05-01/13-1336-Conf-Exp, para. 7.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

REJECTS the Request for Leave to Reply;

ORDERS the Registry and the Mangenda Defence to provide confidential redacted versions of the Request and its annexes (ICC-01/05-01/13-1336-Conf-Exp, ICC-01/05-01/13-1336-Conf-Exp-AnxA and ICC-01/05-01/13-1336-Conf-Exp-AnxB), the Observations (ICC-01/05-01/13-1347-Conf-Exp) and the Request for Leave to Reply (ICC-01/05-01/13-1352-Conf-Exp);

ORDERS the Registry to provide Mr Mangenda with any outstanding allocations of his Daily Allowance;

ORDERS [REDACTED]; and

REJECTS the remainder of the Request.

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



Judge Bertram Schmitt, Single Judge

Dated 14 October 2015

At The Hague, The Netherlands