

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: ICC-01/05-01/13  
Date: 8 February 2016

**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***

**Public**

**Decision on the 'Kilolo Defence Request to Replace an Item on its list of Evidence  
and for Various Orders'**

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**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Section**

**Others**

**Judge Bertram Schmitt**, acting as Single Judge of Trial Chamber VII ('Single Judge' and 'Chamber', respectively) 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 Article 67(1) of the Rome Statute ('Statute') and Regulation 23 *bis* of the Regulations of the Court ('Regulations'), issues the following 'Decision on the "Kilolo Defence Request to Replace an Item on its list of Evidence and for Various Orders"'

1. On 21 January 2016, the Defence for Mr Kilolo ('Defence') submitted its list of evidence to the Chamber<sup>1</sup> and thereafter submitted an amended list of evidence to the Chamber on 27 January 2016.<sup>2</sup>
2. On 4 February 2016, the Defence requested authorisation from the Chamber to: replace CAR-D21-0014-0302 with CAR-OTP-0072-0504-R01 on its list of evidence; to thereafter reclassify the confidential *ex parte* version of its list of evidence to confidential; and to add three items to its list of evidence ('Application').<sup>3</sup>
3. The Single Judge does not see any need for the responses from the parties on this Application, having sufficient information before him.
4. The Single Judge authorises the Defence to replace CAR-D21-0014-0302 with CAR-OTP-0072-0504-R01 on its list of evidence, the latter being a lesser redacted version of the former (an *ex parte* document).<sup>4</sup> Consequently, there is no need to retain the *ex parte* classification of ICC-01/05-01/13-1581-Conf-Exp-AnxB which was tied purely to the *ex parte* disclosure of CAR-D21-0014-0302,<sup>5</sup> and the reclassification of that document from confidential *ex parte* to confidential is also authorised.

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<sup>1</sup> ICC-01/05-01/13-1562-Conf-AnxC and ICC-01/05-01/13-1562-Conf-Exp-AnxD.

<sup>2</sup> ICC-01/05-01/13-1581-Conf-AnxA and ICC-01/05-01/13-1581-Conf-Exp-AnxB.

<sup>3</sup> Kilolo Defence Request to Replace an Item on its list of Evidence and for Various Orders, ICC-01/05-01/13-1598-Conf.

<sup>4</sup> Application, ICC-01/05-01/13-1598-Conf, paras 8-10.

<sup>5</sup> ICC-01/05-01/13-1581-Conf-Exp-AnxB, pages 23 and 42.

5. Finally, the Single Judge authorises the addition of the three requested items (CAR-OTP-0072-0508-R01, CAR-OTP-0083-1212-R01 and CAR-OTP-0083-1303-R01) to the Defence's list of evidence. Noting that those items were disclosed to the defence teams by the Prosecution<sup>6</sup> after the deadline of 21 January 2016 by which the defence teams were to disclose their evidence<sup>7</sup> and are limited in number, the Single Judge finds there to be little or no prejudice caused to the parties by their addition to the Defence's list of evidence.

**FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY**

**GRANTS** the Application;

**ORDERS** the Registry to reclassify ICC-01/05-01/13-1581-Conf-Exp-AnxB and ICC-01/05-01/13-1562-Conf-Exp-AnxD as confidential; and

**ORDERS** the Registry to reclassify the Application (ICC-01/05-01/13-1598-Conf) as public.

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



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**Judge Bertram Schmitt, Single Judge**

Dated 8 February 2016

At The Hague, The Netherlands

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<sup>6</sup> ICC-01/05-01/13-1569-Conf-AnxB.

<sup>7</sup> Further Directions on the Conduct of the Proceedings in 2016, ICC-01/05-01/13-1518, para. 12.