

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 29 March 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 Babala Request for Mr Babala to Be Absent from Trial**

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**

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**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, 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 23 bis(3) of the Regulations of the Court, issues the following 'Decision on Babala Request for Mr Babala to Be Absent for Trial'.

1. On 22 March 2016, the defence for Mr Babala ('Babala Defence') filed an application for Mr Babala to be excused from presence during trial for the afternoon session of Monday, 4 April 2016 and the entirety of 5 April 2016.<sup>1</sup> It submits that Mr Babala should be excused for medical reasons,<sup>2</sup> enclosing a waiver of Mr Babala's right to be present during trial<sup>3</sup> and documents justifying the necessity to be absent.<sup>4</sup>
2. On 24 March 2016, the Office of the Prosecutor filed its response, submitting that it does not object the Request ('Response').<sup>5</sup>
3. As a preliminary matter, the Single Judge notes that the Request and the Response are filed as 'confidential'. He considers that no basis for this classification exists and accordingly instructs the Registry to reclassify the Request, its annex A (ICC-01/05-01/13-1735-Conf-AnxA) and the Response as 'public'.
4. The Single Judge notes that, on 29 April 2016, the defence for Mr Arido indicated that Mr Arido has decided not to testify<sup>6</sup> which, in consequence,

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<sup>1</sup> Requête urgente aux fins d'obtenir une dispense de comparution aux audiences des 4 et 5 avril 2016, ICC-01/05-1735-Conf, with confidential annex A, ICC-01/05-1735-Conf-AnxA and confidential *ex parte* annex B, available only to the Babala Defence and Registry, ICC-01/05-1735-Conf-Exp-AnxB.

<sup>2</sup> Request, ICC-01/05-01/13-1735-Conf, para. 5

<sup>3</sup> ICC-01/05-1735-Conf-AnxA.

<sup>4</sup> ICC-01/05-1735-Conf-Exp-AnxB.

<sup>5</sup> Prosecution's Response Babala's « Requête aux fins d'obtenir une dispense de comparution aux audiences des 4 et 5 avril 2016 » – ICC-01/05-01/13-1735-Conf, ICC-01/05-01/13-1746-Conf.

means that there will be no hearings on 4 and 5 April 2016. Accordingly, the Single Judge finds that the Request is moot.

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

**INSTRUCTS** the Registry to reclassify the Request, its annex A (ICC-01/05-01/13-1735-Conf-AnxA) and the Response as 'public'; and

**DISMISSES** the Request as moot.

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

A handwritten signature in black ink, appearing to read 'Bertram Schmitt', is written over a horizontal line.

**Judge Bertram Schmitt, Single Judge**

Dated 29 March 2016

At The Hague, The Netherlands

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<sup>6</sup> Email from the Arido Defence to Trial Chamber VII Communications, 29 March 2016, at 10:42.