

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **14 April 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 Bemba Defence Request to Authorise Non-Standard Redactions to
Dutch Case File**

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, 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 64(6)(c) of the Rome Statute and Rules 78 and 81 of the Rules of Procedure and Evidence, issues the following 'Decision on Bemba Defence Request to Authorise Non-Standard Redactions to Dutch Case File'.

1. On 6 April 2016, the Single Judge ordered the defence for Mr Kilolo ('Kilolo Defence') to communicate – on request from any other defence team - the elements from a Dutch national case file ('Case File') which related to a recently granted cooperation request from the defence for Mr Mangenda.¹
2. On 13 April 2016, the defence for Mr Bemba ('Bemba Defence') requested that the Chamber authorise certain non-standard redactions to extracts from the Case File ('Request').²
3. The Bemba Defence reported that it received a copy of the Case File from the Kilolo Defence on condition that no element of it is disclosed to third parties without prior written authorisation from the Kilolo Defence.³ The Bemba Defence wishes to rely on elements of the Case File, arguing that there is a 'benefit of the parties having access to the case file in its entirety' and 'that there does not appear to be any privileged or personal information in the case file which would warrant redaction/non-disclosure'.⁴ Nevertheless, in view of the Kilolo Defence's 'earlier position concerning non-disclosure', the Bemba

¹ Decision on Bemba Defence Request for Extension of Time, ICC-01/05-01/13-1774, *referencing* Decision on Second Mangenda Request for Cooperation, 5 April 2016, ICC-01/05-01/13-1768.

² Defence Application for non-standard redactions, ICC-01/05-01/13-1804 (with two annexes).

³ Request, ICC-01/05-01/13-1804, paras 3 and 5.

⁴ Request, ICC-01/05-01/13-1804, para. 7.

Defence submits proposals for non-standard redactions which fall ‘potentially outside of the Dutch cooperation request’.⁵

4. The Single Judge recalls the applicable law on disputed and non-standard redactions as set out in previous decisions of the Single Judge and Chamber.⁶ The Bemba Defence makes no effort to substantiate any of its non-standard redactions, and in fact suggests that its Request should not be granted. Further, many of the proposed redactions in the annexes of the Request are not in either of the Court’s working languages, making it impossible for the Single Judge to evaluate them.
5. The Single Judge has no choice but to summarily dismiss the relief sought. Unless a properly motivated non-standard redactions request is made by one of the parties within five days of notification of the present decision, the Bemba Defence may lift its proposed redactions to the Case File.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

DISMISSES the Request, subject to paragraph 5 above.

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



Judge Bertram Schmitt, Single Judge

Dated 14 April 2016

At The Hague, The Netherlands

⁵ Request, ICC-01/05-01/13-1804, paras 6 and 8. *See also* Email from the Kilolo Defence to the parties and Chamber, 13 April 2016 at 16:48.

⁶ Decision on Prosecution’s Application for Non-Standard Redactions Related to Records on Collection of Telecommunication Evidence, 16 March 2016, ICC-01/05-01/13-1722; Decision on Modalities of Disclosure, 22 May 2015, ICC-01/05-01/13-959, paras 10-11 (with annex).