



Original: **English**

No.: ICC-01/05-01/13
Date: **6 December 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 Defence Request for Variation of the Sentencing Calendar

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 Michael Karnavas

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

Amicus Curiae

REGISTRY

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 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 Regulation 35 of the Regulations of the Court, issues the following 'Decision on Defence Request for Variation of the Sentencing Calendar'.

1. On 20 October 2016, the Single Judge issued the 'Sentencing Calendar', ordering the parties, *inter alia*, to provide their written submissions on the additional evidence and the appropriate sentences by 7 December 2016. By the same deadline, the Registry was ordered to provide a solvency report ('Solvency Report') for each of the convicted persons to the Chamber.¹
2. On 1 December 2016, the defence teams of Mr Kilolo, Mr Mangenda, Mr Babala and Mr Arido (together, 'Defence') filed a motion requesting that the Registry be ordered to file its Solvency Report by 6 December 2016 and that the parties be allowed to file their submissions by 8 December 2016 ('Request').²
3. The Defence argues that the Solvency Report might contain information which influences the defence submissions. It seeks additional time to incorporate the Solvency Report therein by requesting that it be allowed to file one day later than prescribed by the Sentencing Calendar, on 8 December 2016.
4. On 2 December 2016, the Office of the Prosecutor informed the Chamber via email that it does not oppose the Request, provided that it will also be allowed to file its submissions on 8 December 2016.³
5. On 5 December 2016, the Registry provided its observations, also via email,⁴ stating that it is in a position to provide the Solvency Report by 6 December 2016.⁵

¹ Sentencing Calendar, ICC-01/05-01/13-1990, para. 2(iii).

² Application to vary the Sentencing Calendar, 1 December 2016, ICC-01/05-13-2071.

³ Email from Prosecution to the Chamber, on 2 December 2016, at 18:14.

6. On the same day, the defence for Mr Bemba ('Bemba Defence') provided its response, not opposing the Request.⁶ The Bemba Defence further requests that in case the Solvency Report does include new information or evidence, it be allowed to submit additional discrete written observations on it ('Bemba Request').⁷
7. In light of the observations of the Registry, the Single Judge orders the provision of the Solvency Report by the Registry on 6 December 2016. Given that the second part of the Request, a one day extension for the parties to file their submissions, is unopposed, the Single Judge hereby also grants this part of the Request. The parties are to provide their submissions on the additional evidence and appropriate sentences by 8 December 2016.
8. As to the Bemba Request, the Single Judge finds that it is premature to give leave to respond with additional written observations to a document that has not even been provided yet. It must also be noted that the Bemba Defence will receive an opportunity to orally respond to this document at the sentencing hearing, currently scheduled from 12-14 December 2016. Accordingly, the Bemba Request is rejected.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request;

INSTRUCTS the Registry to provide the Solvency Report by 6 December 2016; and

REJECTS the Bemba Request.


⁴ The response deadline was shortened this day, Email from the Chamber to Registry and parties, on 1 December 2016, at 17:05. The Chamber further allowed the Registry to provide its observations via email, Email from the Chamber to the Registry and parties, on 2 December 2016, at 18:18.

⁵ Email from the Registry to the Chamber and the parties, on 5 December 2016, at 17:47.

⁶ Response to the 'Application to Vary the Sentencing Calendar', ICC-01/05-01/13-2075.

⁷ ICC-01/05-01/13-2075, para. 8.

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



Judge Bertram Schmitt, Presiding Judge

Dated 6 December 2016

At The Hague, The Netherlands