



Original: **English**

No.: **ICC-01/05-01/13**
Date: **18 August 2016**

TRIAL CHAMBER VII

Before:

**Judge Betram Schmitt, Presiding Judge
Judge Marc Pierre Perrin de Brichambaut
Judge Raul C. Pangalangan**

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF

***THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA
WANDU AND NARCISSE ARIDO***

Public Document

**Registry's Observations to "Prosecution's request to Obtain Financial Information
from the Registry"**

Source: Registrar

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Registrar

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. The present filing is submitted in accordance with the instructions received from Trial Chamber II (“the Chamber”) via an email received by the Registry on 10 August 2016.¹

II. Procedural history

2. On 10 August 2016, the Office of the Prosecutor (“OTP”) filed a request to the Chamber in which it seeks to obtain information related to the costs associated with the trial of *The Prosecutor v. Jean-Pierre Bemba* (“Main Case”) generally; and those costs specifically incurred by the Court in relation to the Main Case Defence witnesses (“14 witnesses”) who are the subject of the charged offences in this case (“Request”).²
3. The Chamber then instructed the Registry via email to provide its observations by 16:00 on Thursday, 18 August 2016.³

III. Submission

4. In the Request, the OTP states that the financial information being sought is relevant to the Chamber’s determination of sentence as it illustrates the extent of damage caused by the crimes allegedly committed by the accused persons in this case (“Accused”).⁴ A non-exhaustive list of the pecuniary damage alleged is set out in the second part of the Request.⁵
5. The Registry considers that the costs of the Main Case would have been incurred by the Court irrespective of the Accused’s alleged conduct. Thus, the Registry considers that providing a total cost assessment of the Main Case would not assist the Chamber in determining the extent of the damage caused

¹ Email from Trial Chamber VII dated 10 August 2016 at 12:59.

² The Office of the Prosecutor, “Prosecution’s Request to Obtain Financial Information from the Registry”, ICC-01/05-01/13-1966, dated 10 August 2016.

³ Email from Trial Chamber VII dated 10 August 2016 at 12:59.

⁴ *Supra* 2, para 4.

⁵ *Supra* 2, para. 6.

or the severity of the alleged criminal conduct. However, there are costs associated with organising Article 70 trial proceedings that the Chamber may deem relevant in the event of a conviction (or convictions).

6. The OTP noted in its Request that the information being sought is limited in scope. However, the description provided in the Request suggested the contrary.⁶ If the OTP is of the view that the calculation of costs incurred in relation to the 14 witnesses should include, *inter alia*, the cost “to staff the courtroom during their ostensible ‘testimony’”,⁷ then logically the calculation of costs should include the staff costs of the OTP and the Chamber present during said testimonies. As the staff costs may have been incurred by the Court irrespective of the alleged conduct of the Accused, the Registry is of the opinion that these costs should not be included in its calculations.
7. Furthermore, the OTP states that the Request is for information that should be readily available and should not overburden the Registry in identifying and providing it.⁸ The Registry wishes to note that the costs incurred for witness protection in the Main Case began in 2008 and that the training of the Sango interpreters began in 2010. Therefore the breadth of the Request is greater than as initially indicated.
8. Should the Chamber so order, the Registry could provide a calculation for the total costs incurred in both the Main Case and the present case. The calculation will not include the general “lights on” costs that would have been incurred by the Court irrespective of the existence of the two cases. Rather, the Registry would propose to provide the additional costs incurred to meet the specific needs of each case (e.g. translation into situation languages).
9. The Registry is also able to provide the total costs incurred in relation to the 14 witnesses in the Main Case and those of the 14 witnesses that also testified in the present case. Similarly, the calculation of costs would be limited to the

⁶ *Ibid*, para 6.

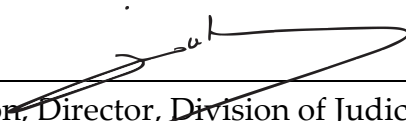
⁷ *Ibid*.

⁸ *Ibid*, para 7-8.

additional costs incurred and would not include costs that would have otherwise have been incurred by the Court.

10. The Registry notes that Trial Chamber III is currently seized with the Main Case and that pursuant to its function under article 64(6)(c) of the Rome Statute, the Registry would require an order from Trial Chamber III in order to disclose confidential information emanating from the Main Case as such information (e.g. protective measures of witnesses) would form part of the calculation of costs being sought under the Request.
11. If the Chamber grants the Request, the Registry stands ready to provide the information outlined under paragraphs 8 and 9, as early as three days from the date of the Chamber's decision.

RESPECTFULLY SUBMITTED,



Marc Dubuisson, Director, Division of Judicial Services
per delegation of
Herman von Hebel, Registrar

Dated this 18 August 2016

At The Hague, the Netherlands