

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-01/05-01/13
Date: 26 October 2015

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

Further Direction on Submitting Evidence by Email

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 Articles 64, 69 and 74(2) of the Rome Statute, Rules 63-64 of the Rules of Procedure and Evidence and Regulation 33 of the Regulations of the Court ('Regulations'), issues the following 'Further Direction on Submitting Evidence by Email'.

1. On 24 September 2015, the Chamber decided, as a general rule, to defer its assessment of the admissibility of evidence until deliberating its judgment pursuant to Article 74(2) of the Statute.¹ As a consequence, the Chamber would not 'admit' items at the point of their formal submission, but only recognise them as being formally submitted.²
2. On 29 September 2015, the Chamber set out a general procedure for formally submitting items:

[... W]henever one of the parties wishes to submit an item for the Chamber to consider in its judgment, it may request that a particular piece of material be formally submitted. The other parties may then raise any issue relating to relevance or admissibility pursuant to Rule 64 of the Rules. The Chamber will then recognize the item as submitted, at which point the Registry will reflect in the eCourt metadata that the item has been formally submitted.³

3. On 8 October 2015, the Chamber reiterated this general procedure, reminding counsel to request formal submission in a timely fashion, preferably the same day the item has been used.⁴
4. The Chamber has subsequently allowed the parties to formally submit items by email. This procedure has the advantage of not having to reread all the unique

¹ Decision on Prosecution Requests for Admission of Documentary Evidence (ICC-01/05-01/13-1013-Red, ICC-01/05-01/13-1113-Red, ICC-01/05-01/13-1170-Conf), ICC-01/05-01/13-1285.

² See ICC-01/05-01/13-1285, page 11.

³ Transcript of hearing, ICC-01/05-01/13-T-10-Red-ENG, page 11 lines 19-24.

⁴ Transcript of hearing, ICC-01/05-01/13-T-16-Red-ENG, page 2 line 23 to page 3 line 6.

identification numbers in court.⁵ Certain items have been submitted by email for P-261,⁶ P-361⁷ and P-260.⁸ For P-261, the Chamber recognised two Prosecution items as formally submitted.⁹ For P-361, the Bemba Defence sent some comments on materials submitted by the Prosecution, to which the Prosecution asked for an opportunity to respond.¹⁰

5. The Single Judge wishes to clarify the email submission procedure, which will allow for the formal submission of evidence in a timely and efficient manner:¹¹
 - i. When the tendering party wishes to formally submit items used during a hearing, it is to send an email clearly identifying these items in copy to all other parties, the Chamber and the Court Officer. These emails must be sent no later than one day after the materials were used in Court.
 - ii. No later than three days following receipt of the email in part (i) above, and pursuant to Rule 64 of the Rules, the other parties may send emails in response raising issues related to the relevance or admissibility of the items submitted.
 - iii. No later than four days following receipt of the email in part (i) above, the submitting party may send a second email indicating its position on the arguments raised by the other parties.

⁵ Transcript of hearing, 12 October 2015, ICC-01/05-01/13-T-18-CONF-ENG, page 18 lines 10-19.

⁶ Email from the Prosecution to the parties and Court Officer, 8 October 2015 at 19:21; Email from the Kilolo Defence to the parties, 20 October 2015 at 20:05.

⁷ Email from the Prosecution to the parties and Court Officer, 14 October 2015 at 19:01 (incorporating previous messages in the exchange).

⁸ Email from the Prosecution to the parties and Court Officer, 19 October 2015 at 11:02 (with corrections and incorporating previous message in the exchange); Email from the Kilolo Defence to the parties and Court Officer, 18 October 2015 at 13:37.

⁹ Email from the Chamber to the parties and Court Officer, 12 October 2015 at 14:54; Transcript of Hearing, 12 October 2015, ICC-01/05-01/13-T-18-CONF-ENG ET, page 18 line 23 to page 19 line 3.

¹⁰ Email from the Prosecution to the parties and Court Officer, 14 October 2015 at 19:01 (incorporating previous messages in the exchange).

¹¹ For all deadlines set out in this procedure, Regulation 33 of the Regulations applies.

- iv. The Chamber will then send a final email identifying which items are recognised as being formally submitted.
- v. The Registry will then reflect all formally submitted items in the eCourt metadata. The Registry must also submit one formal filing for each witness who testifies, indicating which items have been formally submitted by all parties in relation to that witness. The email exchanges referenced in items (i) to (iv) above are to be annexed to this filing, applying redactions as appropriate.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

DIRECTS the parties and Registry to proceed with submitting evidence in accordance with paragraph 5 above;

ORDERS for P-261,¹² P-361 and P-260, for the time limits set out in paragraphs 5(ii) and (iii) above to run from the notification date of the present decision; and

ORDERS for P-245 and P-272, for the time limits set out in paragraph 5(i) above to run from the notification date of the present decision.

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



Judge Bertram Schmitt, Single Judge

Dated 26 October 2015

At The Hague, The Netherlands

¹² For the Kilolo Defence materials only; the Chamber has already indicated which of the Prosecution's materials are recognised as formally submitted. Email from the Chamber to the parties and Court Officer, 12 October 2015 at 14:54.