

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **24 May 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 Motion to Require Corrected English Translations

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 ('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 69 and 74(2) of the Rome Statute, issues the following 'Decision on Motion to Require Corrected English Translations'.

1. On 12 May 2016, the defence for Mr Mangenda ('Mangenda Defence') requested the Chamber to order the Office of the Prosecutor ('Prosecution') to produce and submit *corrigenda* to English translations of thirteen telephone intercepts ('Request').¹ The Mangenda Defence submits that '[t]hese corrections should be made to both the "submitted" translations and any non-submitted translations upon which the Trial Chamber may, formally or informally, rely.'²
2. On 18 May 2016, the Prosecution responded to the Request, submitting that it be rejected ('Response').³ The Prosecution contends that there is no plausible basis for the Chamber to direct the Prosecution to correct translations of the 10 identified transcripts which were never formally submitted.⁴ As to the three translations identified by the Mangenda Defence which were formally submitted, the Prosecution responds that the relief sought is untimely and should have been raised at the point of submission.⁵
3. The Single Judge recalls that '[i]n principle, the Chamber considers that recognising the formal submission of audio-visual material automatically includes recognising the formal submission of any associated transcripts or

¹ Motion to require corrected English translations, ICC-01/05-01/13-1891 (with three annexes).

² Request, ICC-01/05-01/13-1891, para. 15.

³ Prosecution's Response to Mangenda's "Motion to require corrected English translations", ICC-01/05-01/13-1891, ICC-01/05-01/13-1895.

⁴ Response, ICC-01/05-01/13-1895, paras 2-4.

⁵ Response, ICC-01/05-01/13-1895, paras 5-10.

translations which were duly disclosed’.⁶ This determination has been made only ‘in principle’, and is therefore subject to reasonable exceptions. In the present case, the Prosecution is affirmatively denying reliance on the 10 English transcripts it did not formally submit during trial. Under these circumstances, the Single Judge clarifies that the Chamber will not consider these 10 English translations in its judgment.⁷ Accordingly, the relief sought by the Mangenda Defence is dismissed in this respect.

4. As to the remaining three transcripts,⁸ the Prosecution challenges that the corrections sought are ‘procedurally appropriate or substantively required’.⁹ The Prosecution’s opposition suggests that these corrections are not mere *corrigenda*, but are in fact contested submissions on the accuracy of the transcripts in question. The Single Judge will not order the Prosecution to modify its translations under these circumstances, but notes that the Chamber defers the arguments related to the reliability of these three transcripts until its trial judgment.¹⁰

⁶ Decision on ‘Prosecution’s Fifth Request for the Admission of Evidence from the Bar Table’, ICC-01/05-01/13-1524, para. 7.

⁷ CAR-OTP-0089-1391 (English version of intercept CAR-OTP-0074-0998); CAR-OTP-0091-0074 (English version of intercept CAR-OTP-0074-0995); CAR-OTP-0091-0084 (English version of intercept CAR-OTP-0074-0999); CAR-OTP-0091-0091 (English version of intercept CAR-OTP-0074-1001); CAR-OTP-0091-0122 (English version of intercept CAR-OTP-0074-1004); CAR-OTP-0089-1503 (English version of intercept CAR-OTP-0074-1009); CAR-OTP-0089-1271 (English version of intercept CAR-OTP-0074-1013); CAR-OTP-0089-1396 (English version of intercept CAR-OTP-0074-1024); CAR-OTP-0089-1402 (English version of intercept CAR-OTP-0080-1416) and CAR-OTP-0089-1422 (English version of CAR-OTP-0080-1329).

⁸ CAR-OTP-0092-5469 (English version of intercept CAR-OTP-0074-0993); CAR-OTP-0092-5477 (English version of intercept CAR-OTP-0074-0997) and CAR-OTP-0080-0419 (English version of CAR-OTP-0074-1021).

⁹ Response, ICC-01/05-01/13-1895, para. 14.

¹⁰ See 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, para. 9.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

DISMISSES the relief sought in the request, subject to paragraph 4 above.

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


Judge Bertram Schmitt, Single Judge

Dated 24 May 2016

At The Hague, The Netherlands