

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **15 December 2016**

TRIAL CHAMBER VII

Before: Judge Bertram Schmitt, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Raul Pangalangan

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 with Confidential Annex A

**Narcisse Arido's Defence Communication of Items Disclosed to the Defence Teams
and the Prosecution on 14 December 2016 and Request for Admission of Evidence for
the Purpose of Sentencing**

Source: Counsel for Narcisse Arido

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

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I. NOTIFICATION

1. The Defence for Mr Narcisse Arido hereby submits a notification of items disclosed to the Defence Teams of Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu, and the Prosecution on 14 November 2016.

2. *Confidential* Annex A, appended to this notification, is classified as *confidential* as it refers to evidence, the contents of which, is confidential. This filing lists 2 items disclosed pursuant to Rules 78 and 140 (1) of the Rules of Procedure and Evidence. The items are disclosed following the cross-examination of witness P-0256 as they are relevant to that witness's testimony.

II. REQUEST

3. In its 23 November 2016 formal submission of evidence, the Arido Defence noted that it was awaiting a report which might be filed after the 23 November 2016 deadline.¹ Further, on 29 November 2016, it indicated to the Trial Chamber that it had yet to receive a reply from an official, but would provide information as soon as possible.² The day following the testimony of witness P-0256,³ on 13 December 2016, the Arido Defence received and circulated a copy of the final documents related to that advance notice of formal disclosure.⁴

4. The Arido Defence hereby requests that items CAR-D24-0006-0100 and CAR-D24-0006-0103 be formally accepted by Trial Chamber VII ("Trial Chamber") for the purpose of sentencing.

5. Regulation 35(2) of the Regulations of the Court provides that "the Chamber may extend or reduce a time limit if [...] if the participant seeking the extension can demonstrate that he or she was unable to file the application within the time limit for reasons outside his or her control". The Arido Defence notes that the hearing with witness P-0256 has passed. Nevertheless, the present request is made because the timing of the taking of the statement was beyond the control of the Arido Defence as it depended upon the actions of a busy CAR official. As can be seen on its face, the statement was only taken on 13 December 2016. The Arido Defence therefore submits that good cause has been demonstrated for an extension of the time-limit.

¹ ICC-01/05-01/13-2054, para. 6.

² Email, sent 29 November 2016 at 19h55, subject line 'Re: report referred to in paragraph 6 of ICC-01/05-01/13-2054'.

³ ICC-01/05-01/13-T-53-Conf-Eng.

⁴ Email, sent 8 December 2016 at 15h25, subject line 'Courtesy copy of two CAR documents'.

6. Moreover, given that information contained within the statement is relevant to elements of P-0256's testimony and shares similarities to a document presented to him, the Defence submits that it is in the interest of justice that the items are submitted and respectfully requests the Trial Chamber to receive them.

7. In providing instructions to the parties with regards to material submitted by the parties, the Trial Chamber has explained that at the sentencing stage, the prerequisites for Rule 68 of the Rules of Procedure and Evidence ('RPE') are not required.⁵ Item CAR-D24-0006-0100 is a statement taken in the Central African Republic ('CAR') and is relevant to allegations made against Mr Arido by P-0256. In particular, like another statement submitted by the Arido Defence,⁶ it is stated therein by an individual who has the name of a person who P-0256 associates with Mr Arido alleged aggravating actions, that said individual does not know Mr Arido and the business in which this individual works does not have an affiliation with him. This is relevant as it undermines the aggravating factors put forward by the Prosecution in its sentencing brief.⁷

8. The statement is reliable. It was taken, pursuant to a Defence request by a CAR official who has a liaison position with the court and who serves both the Prosecution and Defence. The document also bears the official marks and letter-head of CAR which further attests to its authenticity. Item CAR-D24-0006-0103 is a document further supporting the reliability of the statement and is thus relevant for the purposes of sentencing. The item simply further confirms the identity of the person who provides the statement CAR-D24-0006-0100.

III. CONCLUSION

9. In light of the above, the Arido Defence respectfully notifies Trial Chamber VII of the disclosure of two items and for the reasons above respectfully requests Trial Chamber VII to receive the referenced items as *formally submitted*.



⁵ ICC-01/05-01/13-2025, paras 6-7.

⁶ ICC-01/05-01/13-2091-Corr, paras 7-8.

⁷ See ICC-01/05-01/13-2085, para. 85.

Chief Charles Achaleke Taku, Counsel for Mr. Arido

Dated this 15th day of December 2016

The Hague, The Netherlands