

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-01/05-01/13
Date: 16 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 Final Submission of Further Items for Sentencing

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, 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 Article 64(2) of the Rome Statute and Regulation 35 of the Regulations of the Court, issues the following 'Decision on Final Submission of Further Items for Sentencing'.

1. On 20 October 2016, the Single Judge set a deadline of 23 November 2016 for the disclosure and submission of any additional materials for sentencing.¹
2. On 9 December 2016, the defence for Mr Narcisse Arido ('Arido Defence') accordingly submitted its additional evidence to be considered for sentencing.²
3. On 9 December 2016, the Arido Defence formally submitted six further documents for sentencing purposes ('First Request').³
4. On 14 December 2016, the Office of the Prosecutor ('Prosecution') deferred to the discretion of the Chamber in respect of the First Request.⁴
5. The response deadline for the First Request was set for 15 December 2016, the first day of the Chamber's sentencing hearing.⁵ In setting this response deadline, the Chamber indicated that 'all parties are to make their final sentencing submissions while mindful of the pending status of these items'. Other than the email communication from the Prosecution, no further responses were received.

¹ Sentencing Calendar, ICC-01/05-01/13-1990.

² Narcisse Arido's Formal Submission of Additional Evidence to be Considered for Sentencing, ICC-01/05-01/13-2054 (with three annexes).

³ Narcisse Arido's Defence Communication of Items Disclosed to the Defence Teams and the Prosecution on 9 December 2016 and Request for Admission of Evidence for the Purpose of Sentencing, ICC-01/05-01/13-2091-Corr (corrigendum notified 14 December 2016).

⁴ Email from the Prosecution to the other parties and Chamber at 12:31.

⁵ See Transcript of Hearing, 12 December 2016, ICC-01/05-01/13-T-53-CONF-ENG, page 4 lines 10-22. This response deadline applied to a seventh item which the Arido Defence announced an intention to submit, but in the end no such application was made. ICC-01/05-01/13-T-53-CONF-ENG, page 79 lines 20-23.

6. On 15 December 2016, the Arido Defence attempted to submit two further items ('Second Request').⁶
7. For the reasons provided by the Arido Defence and noting that the First Request is not opposed, the Single Judge permits the late submission of these six documents. The Chamber will consider them when deliberating its sentencing determinations.
8. After granting the First Request, the Single Judge notes that the Chamber now has: (i) confirmed that all materials submitted from the submission deadline to the First Request will be considered by the Chamber in its sentencing determinations;⁷ (ii) heard the testimony of P-256, the only *viva voce* sentencing witness in this case, and (iii) received the final written and oral sentencing submissions of the parties.
9. The Single Judge notes the Arido Defence's submission that the two items which are the subject of the Second Request were obtained after the 23 November deadline for reasons outside of its control.⁸ However, and unlike with the First Request, the parties were not specifically directed to be mindful of these two items when making their final submissions. Accepting these further items would require affording the parties a further opportunity to make submissions.
10. Sentencing proceedings cannot last for an indefinite duration, and eventually the submission of materials and arguments needs to conclude in order for a sentencing decision to be rendered. The Single Judge considers that the fair and expeditious conduct of the proceedings demands that the submission of sentencing materials be closed at this time. The Second Request is therefore rejected.

⁶ 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, ICC-01/05-01/13-2098 (with annex).

⁷ See ICC-01/05-01/13-T-53-CONF-ENG, page 4 lines 1-9.

⁸ Second Request, ICC-01/05-01/13-2098, para. 3.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS the First Request;

REJECTS the Second Request and

DECLARES the submission of any further materials for sentencing to be closed.

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

A handwritten signature in black ink, appearing to read 'Bertram Schmitt', is written over a horizontal line.

Judge Bertram Schmitt, Presiding Judge

Dated 16 December 2016

At The Hague, The Netherlands