

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **17/12/2013**

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, 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 & NARCISSE ARIDO**

Confidential

Defence request pursuant to Regulation 35(2) of the Regulations of the Court

Source: Defence for Mr. Jean-Pierre Bemba Gombo

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

The Office of the Prosecutor

Fatou Bensouda

Kweku Vanderpuye

Counsel for Jean-Pierre Bemba Gombo

Nicholas Kaufman

Counsel for Aimé Kilolo Musamba

Jean-Pierre Kilenda Kakengi Basila

Counsel for Jean-Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Fofé Djofia Malewa

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

Xavier-Jean Keïta

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr. Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

1. On 17 December 2013, the Defence for Mr. Jean-Pierre Bemba Gombo ("the Suspect") sought leave to appeal¹ the learned Single Judge's "*Decision appointing an Independent Counsel and taking additional measures for the purposes of the forensic acquisition of material seized in the proceedings*" of 13 December 2013 ("the Impugned Decision").²

2. The Impugned Decision was rendered in order to expedite the identification of privileged information which could very likely exist among the documentary and electronic materials seized by law enforcement authorities during personal searches of the Suspect and his legal team ("the Seized Materials").

3. Under the terms of the Impugned Decision, an independent counsel ("the Independent Counsel") was appointed in order to oversee the unsealing and the examination of potentially privileged information. Furthermore, the Defence was ordered to submit, no later than 3 January 2014, a properly motivated list of keywords in order to assist the Independent Counsel in identifying items of a potentially privileged nature.

4. It is not clear from the Impugned Decision when exactly the Independent Counsel will commence his review of the Seized Materials. It is, nevertheless, reasonable to assume that the latest date on which the Independent Counsel will embark on such a task will be immediately after the expiry of the time limit for the submission of properly motivated keywords.

5. Were the Prosecution to exploit the time limits normally available to it for a response, the request for leave to appeal the appointment of the Independent Counsel and to appeal the mechanism fixed by the Single Judge for reviewing potentially privileged information would be frustrated.

¹ ICC-01/05-01/13-47-Conf.

² ICC-01/05-01/13-41-Conf-Red.

6. In light of the aforementioned, therefore, and pursuant to Regulation 35(2) of the Regulations of the Court, the Defence respectfully submits that good cause has been shown for substantially reducing the time limits normally available to the Prosecution for responding to the request for leave to appeal.

A handwritten signature in black ink that reads "Nicholas Kaufman". The signature is written in a cursive, slightly slanted style. Below the signature is a solid horizontal line.

Nicholas Kaufman

Counsel for Jean-Pierre Bemba Gombo

Jerusalem, Israel

Tuesday, December 17, 2013