



Original: English

No.: ICC-01/05-01/13  
Date: 20 December 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 and NARCISSE ARIDO***

**Public Document**

**With Confidential, *Ex parte*, Prosecution and Registry only Annexes A and B**

**Prosecution's Application for Redactions pursuant to Rule 81(2) of the Rules of Procedure and Evidence**

**Source: The Office of the Prosecutor**

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

**The Office of the Prosecutor**

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**Legal Representatives of Applicants**

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**The Office of Public Counsel for the Defence**

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Herman von Hebel

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Section**

**Other**

## I. Introduction

1. On 4 December 2013 the Single Judge of Pre-Trial Chamber II (“Single Judge”) issued an oral decision regarding the first disclosure deadline of incriminatory material by the Prosecution and determined the deadline for the submission of requests for redactions to the Chamber to be no later than Friday 20 December 2013.<sup>1</sup> Accordingly, the Office of the Prosecutor (“Prosecution”) herewith submits an application for redactions pursuant to Rule 81(2) of the Rules of Procedure and Evidence (“Application”).

## II. Request for Confidentiality

2. The Prosecution requests that Annexes A and B appended to this Application be received by the Single Judge as “Confidential, *Ex parte*, Prosecution and Registry only” in accordance with Rule 81(2), as they relate to confidential information that should not be released to the Defence at this stage.

## III. Submissions

3. The scope, object and purpose of the confirmation hearing is to determine if there is sufficient evidence to establish substantial grounds to believe that the person committed the crimes for which he has been charged. Article 61(5) of the Rome Statute provides that “[t]he Prosecutor may rely on documentary or summary evidence and need not call the witnesses expected to testify at the trial.” Furthermore, the Appeals Chamber has held that that “it may be permissible to withhold the disclosure of certain information from the defence prior to confirming the charge that could not be withheld prior to the trial.”<sup>2</sup>

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<sup>1</sup> ICC-01/05-01/13-T-2-CONF-ENG ET, page 31, line 25 to page 32, line 8. [Emphasis added]

<sup>2</sup> ICC-01/04-01/07-475, para. 68.

4. The Prosecution seeks redactions for one document, which it may rely upon for the purposes of the confirmation hearing. Rule 81(2) states that “[w]here material or information is in the possession or control of the Prosecutor which must be disclosed in accordance with the Statute, but disclosure may prejudice further or ongoing investigations, the Prosecutor may apply to the Chamber dealing with the matter for a ruling as to whether the material or information must be disclosed to the defence.” The redactions sought in appended Annex A are limited and aimed at keeping the identity of the source confidential to preserve the integrity of its ongoing investigations. Annex B contains justification for each piece of information sought to be redacted. With the application of such redactions the Prosecution will be in a position to disclose the document to the Defence teams without causing prejudice to on-going investigations.

#### **IV. Relief Sought**

5. The Prosecution requests the Single Judge to grant the redactions proposed in Annex A of this Application.



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Fatou Bensouda, Prosecutor

Dated this 20<sup>th</sup> December 2013  
At The Hague, The Netherlands