

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **07/01/2014**

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 Document

Defence Submission on "Properly Motivated Keywords"

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

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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 13 December 2013, the learned Single Judge confidentially ordered the parties to supply properly motivated keywords in order to assist an anonymous independent counsel to identify materials of a potentially privileged nature.
2. Counsel for Mr. Bemba apologises for the delay in filing this submission. For technical reasons, Counsel has been denied access to the Court intranet via the CITRIX system since the New Year – something which was necessary for him to complete a review of materials uploaded to date by the Prosecution in preparation for this submission. Only now, has this access been restored.
3. As will be recalled, Counsel's request for leave to appeal the decision appointing an independent counsel and ordering the provision of properly motivated keywords was denied.
4. Without intending any disrespect to the Pre-Trial Chamber, Counsel refrains from submitting keywords for the simple reason that he wishes the anonymous independent counsel to examine each and every piece of information and material seized in order to decide whether it is privileged. Counsel does not wish independent counsel to make any short cuts in such a sensitive and important matter by relying on keywords. As has been mentioned elsewhere, keywords will also not identify materials of a potentially privileged nature which are not conducive to "optical character recognition".



Nicholas Kaufman

Counsel for Jean-Pierre Bemba Gombo

Jerusalem, Israel

Tuesday, January 07, 2014