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

Date: **13/01/2014**

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**

Public Document

Defence request for an in-depth analysis chart

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

James Stewart

Kweku Vanderpuye

Florence Darques-Lane

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

States' Representatives

Amicus Curiae

REGISTRY

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Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

Introduction

The Defence for Jean-Pierre Bemba Gombo ("the Suspect") respectfully requests that the learned Single Judge order the Prosecutor to prepare an in-depth analysis chart of all incriminating evidence on which she intends to rely for the purpose of the confirmation hearing. The Defence requests that this in-depth analysis chart be presented, at the latest, one month after the Prosecution's last disclosure in advance of the submissions on the confirmation of the charges.

Submission

1. The in-depth analysis chart has become an accepted tool at the International Criminal Court and its purpose is to allow both the Defence and the Court "to understand the reasons why the Prosecutor relies on any particular piece of evidence".¹ Indeed, the Prosecution has, on occasion, not opposed the preparation of such an in-depth analysis chart.²

2. In his oral decision dated 5 December 2013, the learned Single Judge fixed two deadlines for the Prosecutor to effect disclosure in advance of the confirmation hearing subject to any requests that she may have for redactions or protective measures. On 20 December 2013, the Prosecutor effected her first disclosure of incriminating materials and transmitted to the Defence 775 items which came into her possession prior to 23 November 2013. Of these 775 items, almost 300 are "*.wav" files comprising recordings, apparently, of telephone conversations to which the Suspect was a party.

3. The Prosecutor has had the best part of a year to investigate the case against the Suspect. Indeed, it is inconceivable that the Prosecutor would have disclosed the aforementioned items under the rubric of "incriminating evidence" – especially those

¹ ICC-01/09-01/11-44.

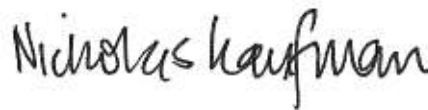
² ICC-01/09-01/11-50 at paragraphs 16 and 23.

in a non-working language of the Court – if her team did not have knowledge of the relevance of each and every one of these items.

4. Given the negligible resources available to the Defence in contrast to the generously staffed Office of the Prosecutor, it is not reasonable to expect that the Defence, in the short time available to it until confirmation, should understand the relevance of each incriminating item without some form of assistance. The situation will become even grimmer when the second Prosecution disclosure is effected on 31 January 2014.

Relief Sought

5. In light of all the aforementioned, an in-depth analysis chart will address the clear inequality of arms which presently exists and will prevent the Prosecutor from drowning the Defence and the Court in a sea of potentially irrelevant information. Any item of evidence not accounted for in the in-depth analysis chart should be disregarded by the Pre-Trial Chamber when deciding whether or not to confirm the charges.



Nicholas Kaufman

Counsel for Jean-Pierre Bemba Gombo

Jerusalem, Israel

Monday, January 13, 2014