

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **21/01/2014**

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 Response to Prosecution Filing: ICC-01/05-01/13-116-Conf

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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Jean-Pierre Kilenda Kakengi Basila

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

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

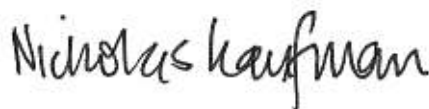
Detention Section

The Defence for Mr. Jean-Pierre Bemba Gombo ("the Suspect") hereby files its response to Prosecution filing ICC-01/05-01/13-116-Conf dated 21 January 2014 ("the Prosecution Filing").

The Prosecution Filing is quite clearly a flagrant attempt to circumvent regulation 24(5) of the Regulations of the Court whereby "[p]articipants may only reply to a response with the leave of the Chamber". For this reason alone, the Prosecution Filing should be disregarded. Only a week ago, the learned Single Judge rejected a similar attempt to respond to a response made by Counsel for Fidèle Babala Wandu.¹

At Paragraph 5 of the Prosecution Filing, the Prosecutor redefines the principles of publicity contained in articles 64(7) and 67(1) of the Rome Statute. According to the Prosecutor's radically novel understanding of due process, legal proceedings should now be held *in camera* unless there is a compelling reason for them to be public. This is plainly incorrect.

The Defence is entitled to full disclosure of all investigative steps taken with respect to the seized materials. Accordingly, the Prosecutor's objection to revealing her communications with the Dutch authorities on this discrete matter is incomprehensible and should be disregarded.



Nicholas Kaufman

Counsel for Jean-Pierre Bemba Gombo

Jerusalem, Israel

Tuesday, January 21, 2014

¹ ICC-01/05-01/13-92.