



Original: English

No.: ICC-01/05-01/13
Date: 31 January 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 and NARCISSE ARIDO*

**Public Document
With Confidential Annexes A and B**

**Prosecution's Communication of Incriminatory Evidence and Rule 77 Material
Disclosed to the Defence on 31 January 2014**

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

Fatou Bensouda

James Stewart

Kweku Vanderpuye

Counsel for Jean-Pierre Bemba Gombo

Nicholas Kaufman

Counsel for Aimé Kilolo Musamba

Ghislain Mabanga

Counsel for Jean-Jacques Mangenda

Kabongo Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Legal Representatives of Victims

Legal Representatives of Applicants

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

Victims Participation and Reparations Section

Other

I. Introduction

1. The Office of the Prosecutor (“Prosecution”) herewith submits this communication report regarding Incriminating evidence and evidentiary materials under Rule 77 of the Rules of Procedure and Evidence (“Rules”), disclosed to the Defence teams of Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo and Fidèle Babala Wandu on 31 January 2014.¹

2. On 4 December 2013, the Single Judge of Pre-Trial Chamber II (“Single Judge”) decided that “[a]s regard all evidence collected between 23 November 2013 and 31st January 2014 on which the Prosecutor intends to rely for the purpose of the confirmation hearing, no later than Friday, 31st of January the Prosecutor shall disclose it to the Defence or submit to the Chamber requests for redactions or other protective measures.”² In accordance with its on-going statutory obligations to disclose potentially exculpatory and Rule 77 evidence, the Prosecution additionally disclosed Rule 77 materials to the Defence teams.

3. This communication report is submitted in accordance with the Single Judge’s order “that any and all evidence disclosed for the purpose of the confirmation hearing shall be communicated to the Chamber”.³

II. Request for Confidentiality

¹ The Prosecution requested but did not receive from the respective Defences an indication of whom had been designated to receive this disclosure. Accordingly, the Prosecution will upload the disclosure to eCourt and will provide the physical disclosure of these materials as and when the Defences identify their respective focal points for its receipt.

² ICC-01/05-01/13-T-2-CONF-ENG ET 04-12-2013 page 32, lines 9-13. [Emphasis added].

³ ICC-01/05-01/13-T-2-CONF-ENG ET 04-12-2013 page 31, line 25 to page 32, line 3.

4. The Prosecution requests that Annexes A and B appended to this report be received as “Confidential” as they relate to confidential evidence disclosed *inter partes* that should not be released to the public.

III. Submissions

5. The confidential annexes to this communication report list evidentiary items disclosed to all four Defence teams. Confidential Annex A lists incriminatory evidence collected between 23 November 2013 and 31 January 2014 on which the Prosecution intends to rely for the Confirmation proceedings. This list includes two audio recordings of conversations in French and a non-ICC official or situation language. Transcription requests have been submitted. The accompanying transcripts will be disclosed once completed.

6. Confidential Annex B contains material that may be regarded as falling under Rule 77 of the Rules. This information will enable the Defence to determine the materials, if any, which it may wish to inspect.⁴ The Prosecution will continue reviewing its collection to disclose all relevant information, including information material to the preparation of the Defence and potentially exculpatory material, as required.



Fatou Bensouda, Prosecutor

Dated this 31st January 2014
At The Hague, The Netherlands

⁴ ICC-01/05-01/13-T-2-CONF-ENG ET 04-12-2013, page 32, lines 17-19: The Single Judge “Order[ed] the Prosecution to agree with the Defence on a location and time to permit the inspection of material relevant under our Rule 77, if any.”