

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 7 February 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***

Confidential

Decision on Mr Bemba's request for disclosure dated 2 February 2014

Decision 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

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

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

Others

REGISTRY

Registrar

Herman von Hebel

Detention Section

Victims and Witnesses Unit

Others

**Victims Participation and
Reparations Section**

I, Judge Cuno Tarfusser, having been designated as Single Judge of Pre-Trial Chamber II ("Chamber") of the International Criminal Court;

NOTING the "Defence request for disclosure" dated 2 February 2014, whereby the Defence for Jean-Pierre Bemba Gombo requests the Single Judge to order the Prosecutor "to disclose documentation substantiating an assertion put by one of her investigators to the co-suspect Jean-Jacques Mangenda ('Mangenda') in interview" ("Mr Bemba's Defence Request");¹

NOTING the "Decision shortening the time limit for the Prosecutor's response to the 'Defence request for disclosure'",² filed on an urgent basis and granting the Prosecutor until Friday 7 February 2014 to respond to the Mr Bemba's Defence Request, with a view to its prompt disposal;

NOTING the "Prosecution response to Defence request for disclosure" dated 6 February 2014,³ whereby the Prosecutor submits that the Defence for Mr Bemba's Request, being "founded upon an apparently reasonable, but erroneous assumption", is without merit and should be dismissed;

NOTING article 24 of the Code of Professional Conduct for counsel, setting forth the duties of counsel before the Court;

NOTING the explanations provided by the Prosecutor in her Response, in particular the statement that the remark on which the Mr Bemba's Defence request was premised was the result of an investigator having "misspoken";

CONSIDERING that, in light of these statements, Mr Bemba's Defence Request is deprived of content;

CONSIDERING that, as a matter of principle, issues relating to the identification of materials which might be relevant for the purposes of disclosure should be

¹ ICC-01/05-01/13-145-Conf.

² ICC-01/05-01/13-148-Conf.

³ ICC-01/05-01/13-153-Conf.

addressed between the parties and only be brought before the Chamber when an issue requiring judicial determination arises;

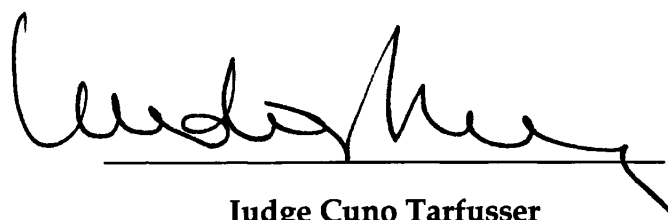
CONSIDERING that indeed, as pointed out by the Prosecutor, Counsel for Mr Bemba should have verified the correctness of his assumption (i.e., that the Office of the Prosecutor had interviewed Mr Babala and failed to disclose the relevant material) with the Office of the Prosecutor before seizing the Single Judge with the matter;

CONSIDERING that, for the purposes of the efficient and expeditious conduct of the proceedings, it is vital that the parties exercise their utmost care before making submissions which may result in unnecessarily burdening the Chamber, thereby causing unnecessary delays;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DISMISSES Mr Bemba's Defence Request.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

Judge Cuno Tarfusser

Single Judge

Dated this Friday, 7 February 2014

The Hague, the Netherlands