

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/05-01/13  
Date: 12 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, AIME KILOLO  
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU  
AND NARCISSE ARIDO***

**Public document**

**Prosecution request to obtain evidence from the Detention Centre**

**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**

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## I. Introduction

1. Pursuant to Articles 54(1)(a) and 57(3)(a) of the Rome Statute (“Statute”), and Regulation 92(3) of the Regulations of the Court (“RoC”), the Office of the Prosecutor (“Prosecution”) requests the Single Judge of Pre-Trial Chamber II to order the Registry to provide the Prosecution with information regarding Jean-Pierre Bemba Gombo’s (“Bemba”) Detention Centre (“DC”) account. As detailed below, the Prosecution seeks specific and limited information relevant to the proceedings and necessary for its continuing Article 54(1)(a) investigation.

## II. Procedural history

2. On 23 November 2013, Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido (“Suspects”) were arrested for alleged violations of Article 70 of the Statute, pursuant to the 20 November warrant of arrest of the Single Judge of Pre-Trial Chamber II,<sup>1</sup> issued upon the Prosecution’s application.<sup>2</sup>

3. On 8 January 2014, Mangenda filed his “*Requête de mise en liberté*” wherein he requested an order for the Registrar to provide information concerning Bemba’s DC account.<sup>3</sup> On 9 January, the Single Judge denied the requested order.<sup>4</sup>

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<sup>1</sup> ICC-01/05-01/13-1-US-Exp-tENG. The warrant of arrest was unsealed on 28 November 2013, ICC-01/05-01/13-1-Red2-tENG.

<sup>2</sup> ICC-01/05-67-US-Exp, Prosecution’s Application for Warrant of Arrest, 19 November 2013 (“Application”). The AWA and its supporting materials were reclassified as confidential on 27 November 2013, ICC-01/05-67-Conf.

<sup>3</sup> ICC-01/05-01/13-71, *Requête de mise en liberté*, 8 January 2014 (“Request”).

<sup>4</sup> ICC-01/05-01/13-73, Decision requesting observations on the “*Requête de mise en liberté*” submitted by the Defence for Jean-Jacques Mangenda Kabongo, 9 January 2014.

### III. Submissions

#### A. The information sought is relevant and probative

4. The Prosecution seeks information from the DC relevant to this case — specifically, incoming and outgoing payment records regarding Bemba's DC account during the period February 2011 through November 2013, including:

- i. The names of depositors/payees;
- ii. The amounts concerned; and
- iii. The transaction dates.

5. The information sought is directly relevant to and probative of material issues in the case. The Prosecution's Application alleges that, "the Western Union records show that Kilolo and Mangenda received large payments on dates coinciding with the dates of testimony of several witnesses in The Hague. In turn, payments to Defence witnesses coincided with the period immediately preceding and/or following their testimonies."<sup>5</sup> The Prosecution further alleged that Mangenda received at least USD 30,774.66 from Bemba's associates in the period February 2011 – April 2013.<sup>6</sup> To the contrary, Mangenda avers that any money he received was «à chaque fois transféré[s] à l'administration pénitentiaire à Scheveningen, aux fins d'être versés au compte de Monsieur Jean-Pierre BEMBA, afin de subvenir à ses besoins en prison».<sup>7</sup>

6. In his Request, Mangenda thus requested the Single Judge, *inter alia*, to order the Registrar to provide the inventory of the amounts deposited into Bemba's account.<sup>8</sup> Although the Single Judge denied the requested order in the context of Mangenda's application, he observed that the material sought appears to be

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<sup>5</sup> ICC-01/05-67-Conf, para. 7.

<sup>6</sup> ICC-01/05-67-Conf, paras. 5 and 59.

<sup>7</sup> ICC-01/05-01/13-71, para. 15.

<sup>8</sup> ICC-01/05-01/13-71, p. 24.

“instrumental to the determination of issues pertaining to the merit of the case.”<sup>9</sup> Indeed, the disposition of the Western Union payments that Mangenda allegedly received between 2011 and 2013 bears directly on salient aspects of the case. Relative to Mangenda’s claim to have deposited these payments in Bemba’s DC account, it is equally relevant to determine whether Bemba paid out any of this money, *inter alios*, to Mangenda from the account. For this reason, the records of both “in” and “out” payment transactions between Bemba and Mangenda are sought.

## **B. The requested material is limited**

7. The request is as narrow as reasonably possible, given the nature and temporal scope of the Western Union payments attributed to Mangenda between February 2011 and April 2013 and in view of the claim advanced in his Request. As such, the Prosecution seeks the requested information for the period beginning February 2011 through the Suspects’ arrests on 23-24 November 2013.

8. The Prosecution has previously sought similar relief, including to obtain relevant evidence in possession of the DC, which has been granted.<sup>10</sup> Should the Single Judge grant this request, the Prosecution proposes to liaise with the DC directly on any outstanding issues.

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<sup>9</sup> ICC-01/05-01/13-73, pp. 4-5.

<sup>10</sup> See, ICC-01/05-46; Decision on the Prosecutor's "Request for judicial assistance to obtain evidence for investigation under Article 70", 8 May 2013, ICC-01/05-50, Decision on the "Registry's Observations pursuant to regulation 24 bis of the Regulations of the Court on the implementation of the 'Decision on the Prosecutor's 'Request for judicial assistance to obtain evidence for investigation under Article 70'", 27 May 2013. ICC-01/05-62-Red, Decision on the Prosecutor's "Third request for judicial order to obtain evidence for investigation under Article 70" dated 7 October 2013 (ICC-01/05-60-Conf-Exp), 4 February 2014.

#### IV. Requested Relief

9. For the foregoing reasons, the Prosecution requests the Single Judge order the Registry to provide the Prosecution, as soon as possible and in any event within one week of the order, the information described at paragraph five above.



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Fatou Bensouda, Prosecutor

Dated this 12<sup>th</sup> day of February, 2014

At The Hague, The Netherlands