

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 19 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*

Public

Decision on the “Requête en interprétation de la ‘Decision on the reclassification of documents in the record of the situation and of the case’ (ICC-01/05-01/13-147)”

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

Counsel for Jean-Pierre Bemba

Gombo

Nicholas Kaufman

Counsel for Aimé Kilolo Musamba

Ghislain Mabanga

Catherine Mabilie

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

REGISTRY

Registrar

Herman von Hebel

Detention Section

Victims and Witnesses Unit

Others

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

NOTING the “Requête en interprétation de la ‘Decision on the reclassification of documents in the record of the situation and of the case’(ICC-01/05-01/13-147)” dated 18 February 2014 (Mr Kilolo’s Defence Request”),¹ whereby the Defence for Mr Kilolo requests an “authentic interpretation” by the Single Judge of his “Decision on the reclassification of documents in the record of the situation and of the case”(ICC-01/05-01/13-147), namely in respect of an apparent contradiction relating to the modalities of the confirmation of the charges in this case;

NOTING that a request of such nature is not contemplated by the statutory instruments of the Court and should therefore be dismissed *in limine*;

NOTING nevertheless, for the sake of clarity, that in the context of the first appearances of the suspects the Single Judge clearly and univocally stated that “Rule 121 of the Rules of Procedure and Evidence makes it mandatory to the Chamber to set at this point the date for the confirmation of charges and rule 165(3) allows for the confirmation of charges relating to offences against the administration of justice to take place on the basis of written submissions, without a hearing” and, as a consequence, orally decided to proceed in this case on the basis of written submissions, in light of consultations held within the Chamber;

NOTING that, ever since, no contrary decision was issued either by the Single Judge or by the Chamber;

CONSIDERING that a decision of such importance (i.e., changing the modality of the confirmation of charges from written submissions into an oral hearing) would undoubtedly have to be taken in a thoroughly reasoned decision,

¹ ICC-01/05-01/13-202.

specifically addressing the modalities of the confirmation of the charges and based on significant new facts;

CONSIDERING that, to this day, no such significant new facts occurred and that, therefore, no such decision has been issued;

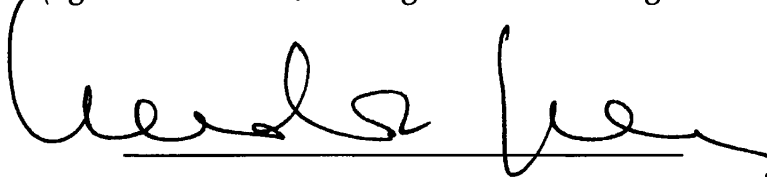
CONSIDERING that the fact that the confirmation of the charges in these proceedings will take place in writing has always been referred to and considered as a given fact, as confirmed for example by Decision ICC-01/05-01/13-93 dated 14 January 2014;

CONSIDERING, as a consequence, that the wording used in the “Decision on the reclassification of documents in the record of the situation and of the case” (addressing, as made apparent from its title, not the confirmation of charges proceedings but rather the reclassification of documents), by reference to “the confirmation hearing” being “scheduled for 18 April 2014”, whilst possibly imprecise, should not have given rise to a “request for interpretation”;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DECIDES to confirm the oral decisions on the modalities and the calendar for the confirmation of the charges taken during the hearings for the first appearances of the suspects.

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 Wednesday, 19 February 2014 in The Hague, The Netherlands