

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/05-01/08
Date: 19 February 2014

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Sanji Mmasenono Monageng, First Vice-President
Judge Akua Kuenyehia, Acting Second Vice-President

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
V. JEAN-PIERRE BEMBA GOMBO**

UNDER SEAL, *EX PARTE*, only available to the Prosecution and the Registry
Prosecution's Submission Pursuant to order ICC-01/05-01/08-2973-US-Exp dated 13
February 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

Ms Fatou Bensouda

Mr James Stewart

Mr Jean-Jacques Badibanga

Counsel for the Defence of Jean-Pierre Bemba Gombo

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

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Other Section

I. Request regarding the level of confidentiality

1. Pursuant to Regulation 23*bis* of the Regulations of the Court, the Prosecution requests that the Presidency receive this submission as under seal and *ex parte*, only available to the Prosecutor and the Registrar, as it relates to filings and decisions marked with this classification.

II. Prosecution's Submission

2. On 13 February 2014, the Presidency issued its "Order pursuant to the '*Defence Request to the Presidency regarding privileges and immunities of Defence team members*', ICC-01/05-01/08-2962 of 7 February 2014".¹

3. The Presidency, with regard to the Immunity Decision,² noted that in Annex I, which is a request to the Presidency entitled "Request to waive immunities of counsel and to be excused from the Presidency in such decision", the Single Judge included a portion of a request by the Office of the Prosecutor ("Prosecution") dated 19 November 2013 ("Annex I Excerpt").³

4. The Presidency considered that there appears to be no *prima facie* reasons to justify maintaining the under seal and *ex parte* status of the Immunity Decision and its annexes,⁴ and ordered the Prosecution to indicate, and provide reasons for, what information, if any, in the Annex I Excerpt should remain under seal or under seal and *ex parte*.⁵

¹ ICC-01/05-01/08-2973-US-Exp, Order pursuant to the '*Defence Request to the Presidency regarding privileges and immunities of Defence team members*', ICC-01/05-01/08-2962 of 7 February 2014, 13 February 2014.

² ICC-01/05-01/08-68-US-Exp, Decision on the urgent application of the Single Judge of Pre-Trial Chamber II of 19 November 2013 for the waiver of the immunity of lead defence counsel and the case manager for the defence in the case of *The prosecutor v Jean-Pierre Bemba Gombo*, 20 November 2013.

³ ICC-01/05-01/08-2973-US-Exp, at p. 3.

⁴ *Ibid.*, at p. 4.

⁵ *Ibid.*, at p. 4.

5. The Prosecution, in compliance with the Presidency's order, hereby submits that no reasons exist for the Annex I Excerpt to remain under seal or under seal and *ex parte*, as no information contained therein, in the Prosecution's view, justifies such classification. However, the Annex I Excerpt quotes a Prosecution document currently re-classified as confidential;⁶ as such the Prosecution has no objection for the Annex 1 Excerpt to receive the same classification level.



Fatou Bensouda, Prosecutor

Dated this 19th Day of February 2014

At The Hague, The Netherlands

⁶ Pursuant to Pre-Trial Chamber II instruction dated 27/11/2013, this document was transferred in Case ICC-01/05-01/13 under number 19 and reclassified as Confidential.