

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13

Date: 14 March 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 “Prosecution request for a page limit extension for the
document containing the charges” dated 11 March 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

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

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

REGISTRY

Registrar

Herman von Hebel

Detention Section

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

NOTING the “Prosecution request for a page limit extension for the document containing the charges” dated 11 March 2014¹, whereby the Prosecutor submits that, in light of the period covered by the charges, the number of the suspects and the number of the relevant items of evidence, “pleading ... with the clarity, detail and precision required to provide the suspects with sufficient notice of the charges and their factual and legal basis requires more than 20 pages” and, accordingly, requests an extension to 60 pages for the document containing the charges under regulation 37(2) of the Regulations of the Court;

NOTING the “Defence response to Prosecution request: ICC-01/05-01/13-247” dated 12 March 2014², whereby the Defence for Jean-Pierre Bemba leaves the request for an extension of the page limit “to the discretion of the Single Judge”;

NOTING regulation 37 of the Regulations of the Court;

CONSIDERING that it is indeed hardly likely that the page limits set forth in the Regulations were set envisaging a scenario where as many as five suspects were simultaneously involved;

CONSIDERING more fundamentally that, as already stated in this proceedings, what is critical for a judicial submission is that it be drafted bearing in mind the paramount need for exhaustiveness, clarity, thoroughness, factual and legal accuracy, in the interest of both the relevant party and the overall efficiency of the judicial process;

CONSIDERING that, accordingly, the page limits set forth in the Regulations should be adapted on a case-by-case basis in light of both the features and

¹ ICC-01/05-01/13-247.

² ICC-01/05-01/13-249.

objectives of a specific submission and the overall circumstances of the proceedings at stake;

CONSIDERING that, in this perspective, as a matter of principle the circumstances of each and every submission can be considered as “exceptional” within the meaning and for the purposes of regulation 37(2) of the Regulations;

CONSIDERING further that, as also already stated, the determination of the way in which the parties decide to present their evidence, or argue their case, falls within the scope of their discretion, to be exercised in light of their professional judgement, duties and responsibilities;

CONSIDERING that the unnecessary stretching of a factual narration or a legal argument beyond what is strictly required for that narration or argument to be accurate and exhaustive has necessarily an adverse impact on its persuasiveness, to the very detriment of the relevant party, and that the more concise a submission, the more effective the argument;

CONSIDERING that, accordingly, it is to be expected that the Prosecutor will only use as many pages as are required for the purposes of adequately making her case;

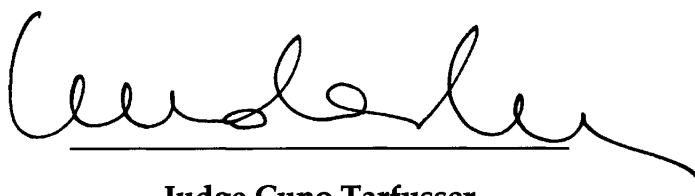
CONSIDERING that the same principles shall apply to the final submissions to be prepared by both the Prosecutor and the Defence teams for the purposes of the confirmation, in lieu of the hearing;

CONSIDERING that, as already stated, the Chamber welcomes the Prosecutor’s proposal to include footnotes and hyperlinks in the document containing the charges, as a format suitable to enhance the easiness of access to the relevant evidence;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DECIDES that the document containing the charges, the submissions and the replies to be prepared by the Prosecutor and the Defence teams for the purposes of the confirmation of the charges shall not be subject to the page limit set forth in regulation 37(1) of the Regulations.

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

A handwritten signature in black ink, consisting of a series of loops and flourishes, positioned above a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this Friday, 14 March 2014
The Hague, The Netherlands