

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 15 May 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 the reclassification of documents in situation ICC-01/05
related to case ICC-01/05-01/13**

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to the parties in case ICC-01/05-01/13:

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

Counsel for Jean-Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Göran Sluiter

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

States Representatives

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 of the International Criminal Court;

NOTING the "Defence request for reclassification of documentation", annexed to the Registry's "Transmission of a submission from Mr. Nicholas Kaufman entitled 'Defence request for reclassification of documentation'"¹, submitted on 16 April 2014², as well as the "Defence request for reclassification of documentation" (the "Request"), dated 17 April 2014, "incorporating by reference the whole of filing ICC-01/05-74-Conf-Anx1" and filed in the case (collectively, "Defence Request")³ whereby the Defence for Jean-Pierre Bemba requests the Single Judge "to reclassify all documentation possessed by him in Chambers pertaining to communications with CSS, with the Independent Counsel and with any national authority";

CONSIDERING that, to the extent that it requests the reclassification of "various transcripts and documents *most likely filed*" in the situation (emphasis added), the Request is premised on a speculative assumption;

CONSIDERING that, accordingly, the Request must be construed as a request to the Single Judge to perform a review of the Chamber's existing filings in the records of the situation and the case, with a view (i) to determining whether the basis for the classification chosen in respect of these filings still exists and (ii) to reclassifying those filings in respect of which relevant circumstances might have changed;

NOTING article 57(3)(c) and 67 of the Rome Statute, rules 15, 43, 81 and 121 of the Rules of Procedure and Evidence, regulation 23 *bis* of the Regulations of the Court and regulation 25 of the Regulations of the Registry;

¹ ICC-01/05-74-Conf.

² ICC-01/05-74-Conf-Anx1.

³ ICC-01/05-01/13-345-Conf.

CONSIDERING that the Chamber has the duty to ensure that proceedings are conducted in a fair and expeditious manner and that the rights of the suspects are preserved, including with due regard to the principle of publicity of the proceedings;

CONSIDERING that, following the "Decision reclassifying documents in the record, lifting protective measures and taking additional measures related to the implementation of Decision ICC-01/05-01/13-41-Red" dated 17 April 2014 ("17 April 2014 Decision")⁴, the anonymity of Independent Counsel has been lifted *vis-à-vis* the parties to these proceedings, and that therefore the grounds for the original classification as confidential, *ex parte* of those documents containing the name of the Independent Counsel no longer exist;

CONSIDERING however that, as already stated in the 17 April 2014 Decision, "there are still outstanding security reasons making it necessary to maintain the identity of Independent Counsel confidential *vis-à-vis* the public, with a view to ensuring that the personal safety and security of Independent Counsel be preserved";

NOTING that the review of filings in the Case ICC-01/05-01-13 for the purpose of their reclassification as appropriate shall be conducted by the Chamber in due course;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DECIDES that the following documents, all of which belong to situation ICC-01/05 and are related to case ICC-01/05-01/13, shall be reclassified as confidential:

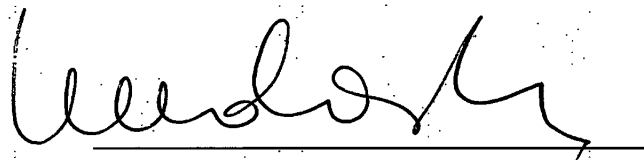
- ICC-01/05-52-Conf-Exp ("Decision on the Prosecutor's 'Request for judicial order to obtain evidence for investigation under Article 70'", dated 29 July 2013);

⁴ ICC-01/05-01/13-347-Red.

- ICC-01/05-53-Conf-Exp ("Registration of the appointment of Mr. Fidel Nsita Luvengika in accordance with the 'Decision on the Prosecutor's "Request for judicial order to obtain evidence for investigation under Article 70" dated 29 July 2013"', dated 2 August 2013);
- ICC-01/05-55-Conf-Exp ("Requête du conseil désigné par la décision ICC-01/05-52-Conf-Exp concernant certaines modalités relatives à la mise en œuvre de son mandat", dated 27 August 2013);
- ICC-01/05-56-Conf-Exp ("Decision convening a status conference", dated 27 August 2013);
- ICC-01/05-57-Conf-Exp ("Decision convening a status conference", dated 23 September 2013);
- ICC-01/05-58-Conf-Exp ("Prosecution's Report to the Single Judge on provision to the Independent Counsel of French translations of Second Prosecution Application and Single Judge's Decision", dated 23 September 2012) and confidential, ex parte Annex B thereto;
- ICC-01/05-59-Conf-Exp ("Rapport intermédiaire du conseil ad hoc", dated 1 October 2013) and confidential, ex parte Annex thereto;
- ICC-01/05-61-Conf-Exp ("Decision convening a status conference", dated 9 October 2013);
- ICC-01/05-62-Conf-Exp ("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)", dated 10 October 2013);
- ICC-01/05-64-Conf-Exp ("Premier rapport du Conseil indépendant (période du 15 au 30 août 2013)", dated 25 October 2013);

- ICC-01/05-66-Conf-Exp ("Deuxième rapport du Conseil indépendant (période du 23 août au 19 octobre 2013)", dated 14 November 2013);
- ICC-01/05-72-Conf-Exp ("Decision on request by Independent Counsel", dated 25 November 2013);
- ICC-01/05-T-2-CONF-EXP;
- ICC-01/05-T-3-CONF-EXP;
- ICC-01/05-T-4-CONF-EXP.

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



Judge Cuno Tarfusser
Single Judge

Dated this Thursday, 15 May 2014

The Hague, The Netherlands