

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 2 June 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 "Prosecution's Request in respect of the Modalities of the Disclosure of Certain Material"

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 the Defence of Jean-Pierre

Bemba

Nicholas Kaufman

Counsel for the Defence of Aimé Kilolo

Musamba

Ghislain Mabanga

Counsel for the Defence of 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**

**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 "Prosecution's Request in respect of the Modalities of the Disclosure of Certain Material" filed on 28 May 2014¹ (Prosecution Request), submitting that on 27 May 2014 "Trial Chamber III authorised the Prosecution to disclose the non-redacted versions of the 49 transcripts and the confidential versions of the five documents originating from the Main Case in the Article 70 case" ("Material") and that "[i]n respect of the modalities of such disclosure, the Chamber directed the Prosecution to address the issue with Pre-Trial Chamber II";

NOTING the Response filed on 28 May 2014 by the Defence of Mr Bemba (Defence Response)², whereby Counsel for Mr Bemba "objects to any reliance by the Prosecutor on the materials during the confirmation proceedings" as "[t]he materials in question were, presumably, in the Prosecutor's possession prior to 23 November 2013 and should, thus, have been disclosed or reclassified, so it is submitted, pursuant to the deadlines set down by the Single Judge at the Status Conference held on 4 December 2013";

CONSIDERING that, as already stated in the "Decision on the 'Prosecution's request in respect of access to the Defence to certain materials' and related filings"³, whilst "the setting of intermediate deadlines for the disclosure of specific batches of evidence is possible and appropriate for the purposes of properly organising the disclosure process and enhancing its efficiency, the only provision to be found in the statutory framework of the Court as to the consequences of the presentation of evidence after the expiry of a given time

¹ ICC-01/05-01/13-437-Conf.

² ICC-01/05-01/13-444-Conf.

³ ICC-01/05-01/13-409.

limit relates to the thirty-day time limit before the date set for the confirmation of charges”;

CONSIDERING further that a decision on the Prosecution request is not the appropriate context to address the issue underlying the Defence Response, in particular since the Defence will have all opportunities to raise issues relating to the admissibility of the evidence in the context of its submissions for the purpose of the confirmation of the charges;

CONSIDERING that the most efficient way to make the Material available to the Defence teams in this case is by providing the Defence teams access to them *via* TRIM through the Registry;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Registrar to grant access via TRIM to all Defence teams in the present case to the following files:

- 1) ICC-01/05-01/08-T-248-CONF-ENG;
- 2) ICC-01/05-01/08-T-249-CONF-ENG;
- 3) ICC-01/05-01/08-T-250-CONF-ENG;
- 4) ICC-01/05-01/08-T-251-CONF-ENG;
- 5) ICC-01/05-01/08-T-256-CONF-ENG;
- 6) ICC-01/05-01/08-T-257-CONF-ENG;
- 7) ICC-01/05-01/08-T-258-CONF-ENG;
- 8) ICC-01/05-01/08-T-259-CONF-ENG;
- 9) ICC-01/05-01/08-T-260-CONF-ENG;
- 10) ICC-01/05-01/08-T-264-CONF-ENG;
- 11) ICC-01/05-01/08-T-265-CONF-ENG;
- 12) ICC-01/05-01/08-T-266-CONF-ENG;
- 13) ICC-01/05-01/08-T-293-CONF-ENG;
- 14) ICC-01/05-01/08-T-294-CONF-ENG;
- 15) ICC-01/05-01/08-T-295-CONF-ENG;
- 16) ICC-01/05-01/08-T-296-CONF-ENG;

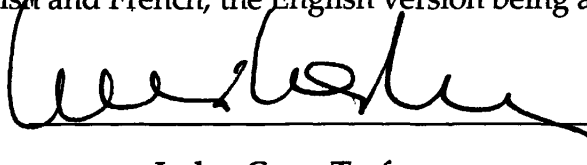
- 17) ICC-01/05-01/08-T-297-CONF-ENG;
- 18) ICC-01/05-01/08-T-298-CONF-ENG;
- 19) ICC-01/05-01/08-T-299-CONF-ENG;
- 20) ICC-01/05-01/08-T-300-CONFENG;
- 21) ICC-01/05-01/08-T-321-CONF-ENG;
- 22) ICC-01/05-01/08-T-321bis-CONF-ENG;
- 23) ICC-01/05-01/08-T-322-CONF-ENG;
- 24) ICC-01/05-01/08-T-325-CONF-ENG;
- 25) ICC-01/05-01/08-T-325bis-CONF-ENG;
- 26) ICC-01/05-01/08-T-326-CONF-ENG;
- 27) ICC-01/05-01/08-T-326bis-CONF-ENG;
- 28) ICC-01/05-01/08-T-327-CONF-ENG;
- 29) ICC-01/05-01/08-T-327bis-CONF-ENG;
- 30) ICC-01/05-01/08-T-330-CONF-ENG;
- 31) ICC-01/05-01/08-T-332-CONF-ENG;
- 32) ICC-01/05-01/08-T-333-CONF-ENG;
- 33) ICC-01/05-01/08-T-334-CONF-ENG;
- 34) ICC-01/05-01/08-T- 335-CONF-ENG;
- 35) ICC-01/05-01/08-T-336-CONF-ENG;
- 36) ICC-01/05-01/08-T-337-CONF-ENG;
- 37) ICC-01/05-01/08-T-338-CONF-ENG;
- 38) ICC-01/05-01/08-T-339-CONF-ENG;
- 39) ICC-01/05-01/08-T-343-CONF-ENG;
- 40) ICC-01/05-01/08-T-344-CONF-ENG;
- 41) ICC-01/05-01/08-T-345-CONF-ENG;
- 42) ICC-01/05-01/08-T-353-CONF-ENG;
- 43) ICC-01/05-01/08-T-354-CONF-ENG;
- 44) ICC-01/05-01/08-T-355-CONF-ENG;
- 45) ICC-01/05-01/08-T-356-CONFENG;
- 46) ICC-01/05-01/08-T-357-CONF-ENG.

and to the following documents

- a) ICC-01/05-01/08-2720-Conf;
- b) ICC-01/05-01/08-2725-Conf;

- c) ICC-01/05-01/08-2222-Conf-AnxA;
- d) ICC-01/05-01/08-2261-Conf-Red.

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



Judge Cuno Tarfusser

Single Judge

Dated this Monday, 2 June 2014

The Hague, The Netherlands