

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 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*

Public

Decision on the "Defence request for leave to appeal Decision ICC-01/05-01/13-408" submitted by the Defence for Jean-Pierre Bemba Gombo in case ICC-01/05-01/08 on 26 May 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 in case ICC-01/05-01/08

Peter Haynes QC

Ms Kate Gibson

Ms Melinda Taylor

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 Applicants for Participation/Reparation

States Representatives

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Esteban Peralta Losilla

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

NOTING the urgent “Transmission of a Defence Request for Leave to Appeal Decision ICC-01-05-01/13-408” dated 26 May 2014 (“Registrar’s Transmission”)¹, whereby the Registrar (I) submitted having received, earlier in the day, “a document entitled ‘Defence Request for Leave to Appeal Decision ICC-01/05-01/13-408’” from the Defence for Mr Bemba in case ICC-01/05-01/08 “for the attention of the Single Judge of Pre-Trial Chamber II in case ICC-01/05-01/13” (“Request for Leave to Appeal”), as well as “a letter from Mr. Jean-Pierre Bemba transmitted by the ICC Detention Centre whereby Mr. Jean-Pierre Bemba confirms that he has instructed Mr. Peter Haynes to submit the above-mentioned document” (Mr Bemba’s Letter”) and (II) filed them in the record of the case, respectively as Annex 1 and Annex 2 to his Transmission;

NOTING the public redacted version of the “Prosecution’s Response to Defence Request for Leave to Appeal Decision ICC-01/05-01/13-408” dated 3 June 2014², submitting that the Request for Leave to Appeal should be dismissed *in limine* or rejected for failing to meet the requirements of article 82(1)(d) of the Statute;

NOTING article 82(1)(d) of the Statute;

CONSIDERING that, whilst the Single Judge has previously addressed requests filed by the Defence team for Mr Bemba in case ICC-01/05-01/08 (“Main Case”) when appropriate, it remains, as also noted by the Registrar, that “the Defence in case ICC-01/05-01/08 is neither a party nor a participant in case ICC-01/05-01/13”;

CONSIDERING that the fact - repeatedly stated by the Single Judge in these proceedings, in particular for the purposes of the right to access documents – that there is no separation between a defendant and his counsel is obviously not

¹ ICC-01/05-01/13-428.

² ICC-01/05-01/13-447-Red.

tantamount to saying that the Defence teams respectively appointed in this case and in the Main Case are interchangeable, whether in general or in respect of specific procedural rights;

CONSIDERING that, to the best of the Single Judge's knowledge, Mr Nicholas Kaufman has been, and still is, the only lawyer duly empowered by Mr Bemba to act as his counsel in case ICC-01/05-01/13 and that Mr Bemba's Letter is not suitable to amend the composition of his defence team in this case, even less to do so for the exclusive purpose of lodging a single application;

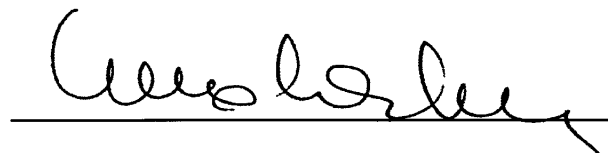
CONSIDERING that, accordingly, the Defence Team for Mr Bemba in the Main Case has no standing to apply for leave to appeal Decision ICC-01/05-01/13-408, or any other decision issued in case ICC-01/05-01/13, and that there is therefore no need for the Single Judge to address its merits;

CONSIDERING that, to the extent that Mr Bemba's Letter is aimed at obtaining a change of counsel in case ICC-01/05-01/13, it should explicitly state so and be duly filed in the record of the case through the Counsel Support Section of the Registry;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DISMISSES the Request for Leave to Appeal submitted by the Defence Team for Mr Bemba in the Main Case.

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

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', is written over a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this Tuesday, 3 June 2014 at The Hague, The Netherlands