

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 20 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 *ex parte* only available to the Prosecutor, the Registry, the Victims
and Witnesses Unit and the Defence for Mr Arido**

**Second decision on “Narcisse Arido’s Request for a disclosure order to the
Prosecutor” (ICC-01/05-01/13-413-Conf-Exp) and related filings**

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

Counsel for Aimé Kilolo Musamba

Counsel for Jean-Jacques Mangenda Kabongo

Counsel for Fidèle Babala Wandu

Counsel for Narcisse Arido

Göran Sluiter

Legal Representatives of Victims

**The Office of Public Counsel for
Victims**

Legal Representatives of Applicants

The Office of Public Counsel for the Defence

States Representatives

REGISTRY

Registrar

Herman von Hebel

Detention Section

Victims and Witnesses Unit

Natacha Schauder

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

NOTING “Narcisse Arido’s Request for a Disclosure Order to the Prosecution” dated 20 May 2014 (“Mr Arido’s Defence Request”)¹;

NOTING the “Prosecution Response to the Arido Defence Request for Disclosure” dated 26 May 2014²;

NOTING the “Decision on ‘Narcisse Arido's Request for a disclosure order to the Prosecutor’”, dated 3 June 2014³, whereby the Single Judge, *inter alia*, ordered the Prosecutor to disclose to the Chamber, on a confidential *ex parte basis*, information relating to Mr Arido’s Defence Request;

NOTING the “Prosecution’s Disclosure of Information pursuant to the ‘Decision on “Narcisse Arido's Request for a disclosure order to the Prosecution”’ (ICC-01/05-01/13-455-Conf-Exp)” dated 9 June 2014⁴ (“Prosecution’s Disclosure of Information”), whereby the Prosecutor, *inter alia*, suggested “that this and other related filings should be made available to the VWU, and that it should be invited to provide its observations to the Chamber” on Mr Arido’s Defence Request;

NOTING the “Decision requesting observations on ‘Narcisse Arido’s Request for a disclosure order to the Prosecutor’ (ICC-01/05-01/13-413-Conf-Exp) and related filings” dated 12 June 2014⁵, whereby the Single Judge made all filings relevant to Mr Arido’s Defence Request available to the Victims and Witnesses Unit and ordered it to submit its observations no later than 19 June 2014;

¹ ICC-01/05-01/13-413-Conf-Exp.

² ICC-01/05-01/13-426-Conf-Exp.

³ ICC-01/05-01/13-455-Conf-Exp.

⁴ ICC-01/05-01/13-473-Conf-Exp.

⁵ ICC-01/05-01/13-491-Conf-Exp.

NOTING the confidential, *ex parte* "Victims and Witnesses Unit's Observations on the 'Narcisse Arido's request for a disclosure order to the Prosecutor'(ICC-01/05-01/13-413-Conf-Exp)", as well as confidential, *ex parte* Annexes 1 to 3 thereto, dated 19 June 2014⁶ ("VWU's Observations");

NOTING articles 57(3)(b) and (c) and 68 of the Statute, rule 81 of the Rules of Procedure and Evidence, regulations 23*bis*(3) and 42 of the Regulations of the Court;

CONSIDERING, on the one hand, that it is appropriate that both the Prosecutor's Disclosure of Information and the VWU's Observations, to the extent that they contain information relevant to the questions formulated in Mr Arido's Defence Request, be made available to the Defence for Mr Arido on a confidential, *ex parte* basis and that, on the other hand, it is necessary to prevent that sensitive information of a confidential nature which is not relevant to Mr Arido's Defence Request be disclosed to him;

CONSIDERING that the Prosecutor's Disclosure of Information makes reference to witnesses and developments in case ICC-01/05-01/08 ("Main Case") which are not related to Mr Arido's Defence Request;

CONSIDERING that Annex 1 to the VWU's Observations consists of a document in the record of the Main Case, which is already available to Mr Arido in redacted form;

CONSIDERING that, pursuant to regulation 42 of the Regulations, protective measures can only be varied by the Chamber having ordered them and that, accordingly, the Defence for Mr Arido should address Trial Chamber III, should it wish to obtain a non-redacted version of said document;

⁶ ICC-01/05-01/13-506-Conf-Exp and confidential *ex parte* Annexes 1 to 3 thereto.

CONSIDERING that Annex 2 to the VWU's Observations consists of documents and information of a personal nature relating to an employment relationship between the ICC and a staff member, as such non pertinent or relevant to Mr Arido's Defence Request;

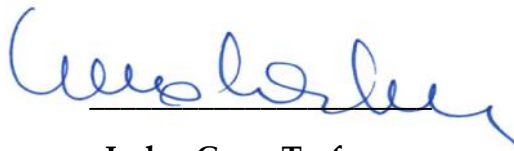
CONSIDERING that Annex 3 to the VWU's Observations consists of documents relating to exchanges between the Court and relevant national authorities, as such non pertinent or relevant to Mr Arido's Defence Request;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DECIDES that document ICC-01/05-01/13-506-Conf-Exp shall be reclassified as confidential, *ex parte* Registry, VWU and Defence for Mr Arido;

ORDERS the Prosecutor to file in the record no later than **Wednesday 25 June 2014**, as confidential, *ex parte* Registry, VWU, Prosecutor and Defence for Mr Arido, a redacted version of her Disclosure of Information (ICC-01/05-01/13-473-Conf-Exp), from which any and all references to witnesses and developments in case ICC-01/05-01/08 which are not related to Mr Arido's Defence Request shall have been expunged.

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



Judge Cuno Tarfusser
Single Judge

Dated this Friday, 20 June 2014

The Hague, The Netherlands