

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 11 July 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 pursuant to Regulation 35(2) of the Regulations of the Court” submitted by the Defence for Mr Bemba

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

Florence Darques Lane

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**

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

Others

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 notification of filing of the document containing the charges and list of evidence” dated 30 June 2014¹, whereby the Prosecutor submits her document containing the charges (“DCC”) both in English (“English Version”²) and in French (“French Version”³);

NOTING the “Defence request pursuant to Regulation 35(2) of the Regulations of the Court” dated 10 July 2014 (“Mr Bemba’s Defence Request”, or “Request”)⁴, whereby the Defence for Mr Bemba (I) submits (i) that “the Suspect ... is extremely perturbed by a number of inconsistencies between the two versions of the DCC” which, therefore, “fail[s] to meet the standards required by the Statute and the Rules [of Procedure and Evidence]”; (ii) that “the current situation prevents the Suspect from understanding what documents are actually cited in support of the charges against him (and what are not)”, inhibiting “his ability to review the evidence, to support the assertions in his defence, and to be put on notice of the charges and underlying facts brought against him by the Prosecutor”, and, accordingly (II) requests (i) “that the Single Judge order the Prosecutor to re-issue the DCC with corrections being made to the footnotes as necessary”; (ii) “to suspend the deadline for [Mr Bemba’s] response to the DCC and the submission of his list of evidence until shortly after the date on which the Prosecutor re-issues her corrected DCC”, or, alternatively, (ii-*bis*) “to grant a postponement of a few days in order to enable the submission of a response to

¹ ICC-01/05-01/13-526 and Confidential Annexes A, B1, B2, C1, C2, D and E thereto.

² ICC-01/05-01/13-526- Conf-AnxB1.

³ ICC-01/05-01/13-526- Conf-AnxB2.

⁴ ICC-01/05-01/13-556-Conf.

the DCC and the list of evidence which will accommodate the extra work which the Defence will now need to perform”;

NOTING Articles 61(3) and 67(1) of the Statute and Rule 121(2) and (3) of the Rules of Procedure and Evidence;

CONSIDERING that the footnotes of the French Version the Defence for Mr Bemba refers to in its Request are affected by material mistakes, which are apparently caused by inaccuracies of the Court Interpretation and Translation Section (i.e. as regards the wrong citations in footnote 72, in which there is a clear “copy-and-paste” error), or by technical issues (i.e. as regards footnotes “43, 310, 311, 313, 314, 316, 317, 318, 331, 334, 336, 337, 341, 353, 365, 387, 401, 405, 409, 410, 412-414426 [sic], 427, 432-434, 438, 440, 44”);

CONSIDERING that, by using the common diligence, the Defence can easily handle with this inaccuracies and, by referring to the corresponding footnotes in the English Version, understand what documents are cited in support of the Prosecutor’s charges;

CONSIDERING accordingly, that the rights of Mr Bemba’s Defence in its “preparation of the Case” are not affected;

CONSIDERING however that it would have been in the Prosecutor’s duties and diligence to review the French Version of the document containing the charges, by verifying its consistency with the English Version;

CONSIDERING that, the Defence for Mr Bemba fails to provide any reason justifying the confidentiality of the Request;

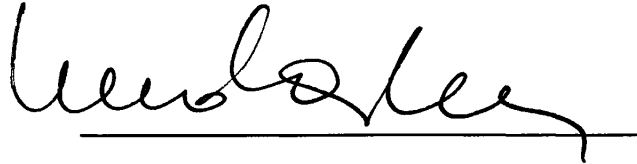
FOR THESE REASONS, THE SINGLE JUDGE HEREBY

REJECTS Mr Bemba’s Defence Request;

ORDERS the Prosecutor to submit a corrected French Version of the document containing the charges as soon as feasible;

ORDERS that Mr Bemba's Defence Request be reclassified as public.

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

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

Judge Cuno Tarfusser
Single Judge

Dated this Friday, 11 July 2014

The Hague, The Netherlands