

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 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*

Confidential

Decision on the "Prosecution Request to Include Court Documents into its List of Evidence"

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

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

I, Judge Cuno Tarfusser, Single Judge of Pre-Trial Chamber II of the International Criminal Court responsible for the present case;

NOTING the document containing the charges (the "DCC")¹ and the list of evidence² filed by the Prosecutor on 30 June 2014;

NOTING the "Prosecution request to include Court documents into its list of evidence", dated 10 July 2014³ ("Request"), whereby the Prosecutor requests "leave" to rely on court transcripts and filings ("Court Records") cited in the DCC, but not included in the List of Evidence;

NOTING the response to Request filed by the Defence for Mr Bemba, dated 11 July 2014⁴, whereby Mr Bemba opposes the Request on the ground that it "is nothing more than a thinly veiled attempt at justifying its own failure to honour a court deadline and to produce a complete list of evidence";

NOTING article 61(3) of the Statute and rules 15 and 121 of the Rules of Procedure and Evidence;

CONSIDERING that documents in court records, even if considered evidence in specific instances such as the present case, constitute a particular category in that they are kept by the Registrar and are not straightforwardly subject to the general regime of rule 121 of the Rules; and, more importantly, the Defence teams in the present case have been informed in detail of the particular documents in the court records that the Prosecutor intends to rely upon by way of footnotes in the DCC, which was submitted within the applicable time limit;

CONSIDERING, therefore, that no prejudice has arisen to the Defence teams from the fact that these documents are only referred to in the DCC;

¹ ICC-01/05-01/13-526-Conf-AnxB1 and ICC-01/05-01/13-526-Conf-AnxB2.

² ICC-01/05-01/13-526-Conf-AnxE.

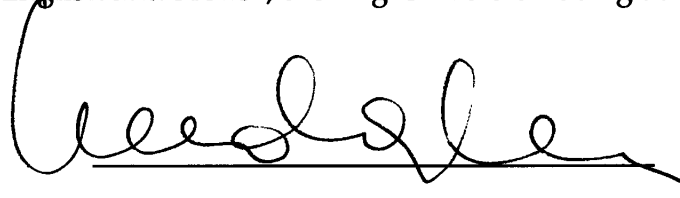
³ ICC-01/05-01/13-554-Conf.

⁴ ICC-01/05-01/13-557-Conf.

FOR THESE REASONS, THE SINGLE JUDGE

DECIDES that the Prosecutor may rely on the Court Records cited in the DCC for the purposes of her submissions on the confirmation of charges.

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

A handwritten signature in black ink, consisting of a series of loops and flourishes, positioned above a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this Monday, 14 July 2014

The Hague, The Netherlands