

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 27 February 2015

TRIAL CHAMBER VII

Before: Judge Chile Eboe-Osuji, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Robert Fremr

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF
THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU
AND NARCISSE ARIDO

Public Redacted Document
With
Confidential Annex A

Public redacted version of "Prosecution Notice of Communication with Dutch Authorities concerning Seized Material", 06 February 2014, ICC-01/05-01/13-154-Conf

Source: The Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Mr Göran Sluiter

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Others

I. Notice

1. The Office of the Prosecutor ("Prosecution") hereby notifies the Pre-Trial Chamber II ("Chamber") of a further communication from the Dutch authorities regarding the seized materials.¹

2. Following the Chamber's Decision on the Prosecution's notification of a previous communication from the Dutch authorities concerning the seized materials,² on 29 January 2014 the Prosecution transmitted to the Dutch authorities the General Relevance Protocol set out in its Prior Notice.³

3. On 4 February 2014, the Public Prosecutor's Office contacted the Prosecution to advise that the Investigative Judge responsible for the review of seized materials required further assistance in order to conduct the relevant searches of electronic data. Specifically, the Public Prosecutor's Office advised the Investigative Judge considered the General Relevance Protocol overbroad, and requested a more focused list. On 5 February, the Prosecution provided a modified general relevance protocol, reducing the previously indicated relevant timeframe of documents, the number of names listed, and the number of keywords. The document is attached at *Confidential Annex A*.

4. The Public Prosecutor's Office further advised that, should the Investigative Judge be without a suitable keyword list, [REDACTED] might not be in a position to vet the material in accordance with [REDACTED] legal mandate. The result would be that none of the seized material would be transmitted to the Court.

¹ See ICC-01/05-01/13-77, Prosecution's Notice of Receipt of Communication from Dutch Authorities Concerning Seized Material, 10 January 2014 ("Prior Notice").

² ICC-01/05-01/13-135, Decision on the "Prosecution's notice of receipt of communication from Dutch authorities concerning seized material" and related filings, 28 January 2014.

³ ICC-01/05-01/13-77-Conf-AnxB.

5. Given the obvious impact on the implementation of the conditions of the Warrant of Arrest and Request for Cooperation, and the resultant uncertainty concerning the future availability of potentially relevant evidence, the Prosecution considers it of urgent importance to bring this matter to the Single Judge's attention.

6. In light of the uncertain transmittal of potentially relevant non-privileged seized materials to the Court, the Single Judge may wish to consider requesting the Dutch authorities: (1) to preserve the material for the benefit of the parties through the completion of the case; and (2) to act as a repository of, and to facilitate the parties' access to the material to which they are legitimately entitled, upon the parties' respective provision of search criteria, as this appears to be the most efficient way to proceed.

II. Confidentiality

7. This filing is classified as "Confidential" as it refers to matters that are not yet accessible to the public. Annex A is classified as "Confidential", because it contains information subject to protective measures.



Fatou Bensouda, Prosecutor

Dated this 27th Day of February 2015
At The Hague, The Netherlands