

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 13 February 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 “Prosecution request to obtain evidence from the Detention
Centre” dated 12 February 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 Gombo

Nicholas Kaufman

Counsel for Aimé Kilolo Musamba

Ghislain Mabanga

Catherine Mabilie

Counsel for Jean-Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Legal Representatives of the Victims

Legal Representatives of the 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

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

Harry Tjonk

Victims Participation and Reparations Section Other

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

NOTING the “Prosecution request to obtain evidence from the Detention Centre” dated 12 February 2014, whereby the Prosecutor requests the Single Judge “to order the Registry to provide the Prosecution with information relating to incoming and outgoing payment records regarding Jean-Pierre Bemba’s Detention Centre account “during the period February 2011 through November 2013, including: i. The names of depositors/payees; ii. The amounts concerned; and iii. The transaction dates”, submitting that such information is specific, limited, “relevant to the proceedings and necessary for its continuing Article 54(1)(a) investigation” (“Prosecutor’s Request”);¹

NOTING that the Defence for Mr Mangenda had previously similarly requested the Single Judge to order the Registry (i) “de demander à l’administration pénitentiaire l’inventaire des sommes déposées par le requérant à l’intention de Monsieur Jean-Pierre BEMBA” within the context of its “Requête de mise en liberté” dated 8 January 2014;²

NOTING articles 54(1)(a), 57(3)(a), 67 and 68(1) of the Statute;

CONSIDERING that the reference made by the Prosecutor to “evidence” as the subject matter of her Request is inappropriate and incorrect, since the information requested by the Prosecutor is *per se* neutral *vis-à-vis* the charges and it is only by way of their use in the context and for the purposes of the line of arguing of either the Prosecutor or the Defence teams that it may, or may not, be found of probative value;

CONSIDERING that ordering the provision of information for the purposes of an investigation falls squarely within the powers vested in the Chamber pursuant to article 57(3)(a) of the Statute;

NOTING that the Single Judge had dismissed the similar request submitted by the Defence for Mr Mangenda in the context of his request for interim release because it

¹ ICC-01/05-01/13- 179.

² ICC-01/05-01/13-71.

fell outside the scope of such a request, whilst finding it “instrumental to the determination of issues pertaining to the merit of the case”;³

CONSIDERING that obtaining this information might indeed assist the Prosecutor and the Court in “establishing the truth” pursuant to article 54(1)(a) of the Statute;

CONSIDERING that, accordingly, it is appropriate that the information requested by the Prosecutor from the Detention Centre be also made available to all the Defence teams;

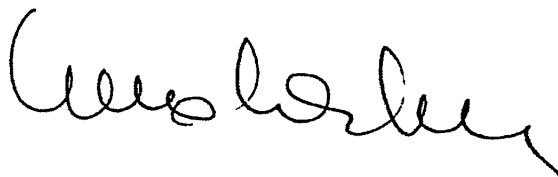
CONSIDERING that, in light of the proximity of the date set for the confirmation of the charges in this case, it is important that the relevant information be made available to the parties without delay;

FOR THESE REASONS, THE SINGLE JUDGE

GRANTS the Prosecutor’s Request;

ORDERS the Registrar, through the Detention Centre, (i) to submit to the Single Judge no later than Monday 17 February 2014 any issue which might constitute an obstacle to the implementation of this decision and, (ii) in the absence of any such obstacle, to provide the Prosecutor and the Defence teams of Mr Bemba, Mr Kilolo, Mr Mangenda and Mr Babala with the information detailed in paragraph 4 of the Prosecutor’s Request as soon as practicable and no later than Thursday 20 February 2014.

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



Judge Cuno Tarfusser
Single Judge

Dated this Thursday, 13 February 2014

At The Hague, The Netherlands

³ ICC-01/05-01/13-73.