

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 9 April 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 shortening the time limit for responses to the “Prosecution’s request to refer potentially privileged materials to Independent Counsel” dated 2 April 2014 by the Defence for Mr Kilolo and the Defence for Mr Arido

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

Legal Representatives of Victims

Legal Representatives of Applicants

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

REGISTRY

Registrar

Herman von Hebel

Detention Section

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

NOTING the confidential “Prosecution’s request to refer potentially privileged materials to Independent Counsel” dated 2 April 2014¹, of which a public redacted version was filed on 3 April 2014², whereby the Prosecutor (I) submits having “received two DVDs ... containing the contents of email accounts of suspects in this case, including Aimé Kilolo Musamba and Jean-Jacques Mangenda Kabongo”, which “may potentially contain privileged information” and, accordingly, (II) requests the Single Judge (i) “to appoint an independent counsel to review the email accounts of Kilolo and Mangenda and to transmit only non-privileged information to the Prosecution” and to direct the Registrar “to copy/extract Arido’s and Babala’s email accounts in the presence of the independent counsel, and to transmit the copied/extracted information to the prosecution promptly thereafter” (“Prosecutor’s Request”);

NOTING the “Defence Response to Prosecution filing: ICC-01/05-01/13-310-Red”³, of which a public redacted version was filed on 8 April 2014⁴, whereby the Defence for Jean-Pierre Bemba opposes the Prosecutor’s Request and requests the Single Judge “to permit Counsel for the Defence in the present case and Counsel for the Suspect in case ICC-01/05-01/08 to review the two DVDs ... and to filter out any potentially privileged materials”;

NOTING the “Réponse à la requête du Procureur du 3 avril 2014 concernant les comptes de courrier électronique saisis ICC-01/05-01/13-310-Red – 03-04-2014” dated 6 April 2014⁵, whereby the Defence for Jean-Jacques Mangenda submits

¹ ICC-01/05-01/13-310-Conf.

² ICC-01/05-01/13-310-Red.

³ ICC-01/05-01/13-311-Conf.

⁴ ICC-01/05-01/13-311-Red.

⁵ ICC-01/05-01/13-316.

inter alia that the Prosecutor's request relies on actions constituting "un abus manifeste du pouvoir" and, accordingly, requests the Single Judge to reject the Request and to order "que les matériaux concernés par la requête ne feront pas partie des débats";

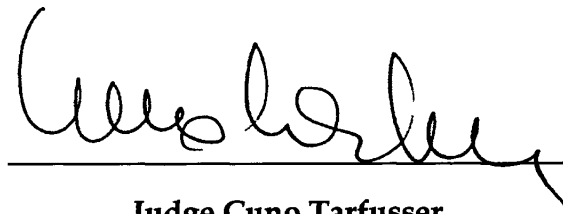
NOTING that, pursuant to regulations 24(1) and 34(b) of the Regulations of the Court, the parties may file a response to any document filed in the record of the case within 21 days of notification thereof, unless otherwise ordered;

CONSIDERING that, in light of the time-line of these proceedings, it is necessary to decide on the Prosecutor's Request without delay and that, in light of the subject-matter of the Request, it is appropriate for the Single Judge to gather the views of all the Defence teams prior to making his determinations;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Defence for Aimé Kilolo Musamba and the Defence for Narcisse Arido to file their responses to the Prosecutor's Request by Monday, 14 April 2014.

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

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

**Judge Cuno Tarfusser
Single Judge**

Dated this Wednesday, 9 April 2014

The Hague, The Netherlands