

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 16 May 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 reclassification and filing into the record of material provided  
by the Dutch judicial authorities**

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**

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**Registrar**

Herman von Hebel

**Detention Section**

**Victims and Witnesses Unit**

**Other**

Independent Counsel appointed pursuant to  
ICC-01/05-52-Red2

**Victims Participation and  
Reparations Section**

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

**NOTING** the “Registry submissions related to the material seized in the proceedings and transferred by the Dutch authorities to the Registry on 13 May 2014” dated 15 May 2014<sup>1</sup> (“Registry’s Report”), whereby the Registrar informs having been transferred by the Dutch Ministry of Security and Justice “seized items belonging to Mr Jean-Jacques Mangenda Kabongo”, as well as the Annex thereto, containing (i) a “*Procès-verbal* of transfer of additional seized material provided by the Dutch authorities – Ministry of Security and Justice to the Registry ICC” in case 01/05-01/13; (ii) pictures of 16 closed envelopes containing the transferred materials; (iii) letter by the Dutch Ministry of Security and Justice, clarifying that the materials are released “on the condition that the items will be returned to the Dutch judicial authorities as soon as they are no longer required for the criminal procedure at the International Criminal Court”; (iv) decision and *procès-verbal* by the Dutch judicial authorities (*Rechtbank Den Haag*); (v) Registry’s chain of custody form;

**NOTING** article 67 of the Statute, rules 15 and 121 of the Rules of Procedure and Evidence (“Rules”) and regulation 23bis of the Regulations of the Court (“Regulations”);

**CONSIDERING** that there are no reasons warranting the confidentiality of the Registry’s Report, or of the Annex thereto;

**CONSIDERING** that, as correctly pointed out by the Registrar, the items seized upon the arrest of Jean-Jacques Mangenda constitute Additional Seized Material as defined by the “Decision appointing an Independent Counsel and taking additional measures for the purposes of the forensic acquisition of material

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<sup>1</sup> ICC-01/05-01/13-400-Conf-Exp with confidential ex parte Annex.

seized in the proceedings" dated 13 December 2013 ("13 December 2013 Decision")<sup>2</sup> and shall therefore be subjected to the procedure set forth in that decision for the purposes of their forensic acquisition;

**CONSIDERING**, however, that there is a number of outstanding requests relating to the implementation of the procedure set forth in the 13 December 2013 Decision in respect of the acquisition of other seized items, and that it is therefore appropriate to suspend the forensic acquisition of the items seized from Jean-Jacques Mangenda by the Dutch authorities, until those requests have been decided upon;

**CONSIDERING** it necessary that the decision and *procès-verbal* by the Dutch authorities contained in the Annex to the Registry's Report be translated into both working languages of the Court;

**NOTING** that one of the envelopes released – pictured at page 19 of the Annex to the Registry's Report - contained "report on findings of the examining magistrate and information on the historical data and wire taps", that is material relating to the technical investigative activities carried out by the Dutch authorities further to the "Decision on the Prosecutor's 'Request for judicial order to obtain evidence for investigation under Article 70'" dated 29 July 2013<sup>3</sup> and the relevant subsequent decisions by the Dutch judicial authorities ;

**CONSIDERING** it necessary that this material be promptly made available to the parties on a confidential basis, in accordance with the procedure followed in connection with the first two batches of results of the work carried out by the Dutch authorities pursuant to the 29 July 2013 Decision and the relevant subsequent decisions by the Dutch judicial authorities;

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<sup>2</sup> ICC-01/05-01/13-41-Red.

<sup>3</sup> ICC-01/05-52-Red2.

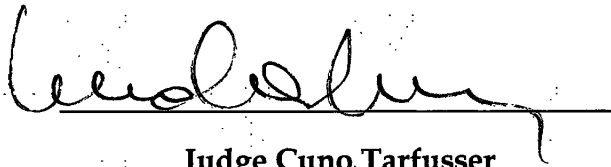
**FOR THESE REASONS, THE SINGLE JUDGE**

**DECIDES** that the Registry's Report and its Annex shall be reclassified as public;

**ORDERS** the Registrar to file in the record of the case, as soon as practicable, a translation into French and into English of the decision and *procès-verbal* by the Dutch authorities contained in pages 24 to 35 of the Annex to the Registry's Report;

**ORDERS** the Registrar to file in the record of the case, as soon as practicable and on a confidential basis, the contents of the envelope relating to "report on findings of the examining magistrate and information on the historical data and wire taps" pictured on page 19 of the Annex to the Registry's Report.

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



**Judge Cuno Tarfusser**

**Single Judge**

Dated this Friday, 16 May 2014

The Hague, The Netherlands