

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 28 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 “Defence urgent request for disclosure on non-privileged telephone communication” submitted by the Defence for Jean-Pierre Bemba Gombo in case ICC-01/05-01/08

No. ICC-01/05-01/13

1/4

28 May 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 in case ICC-01/05-01/08

Peter Haynes QC

Kate Gibson

Melinda Taylor

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 Applicants for
Participation/Reparation**

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 “Defence urgent request for disclosure of non-privileged telephone communications” dated 9 May 2014¹, whereby the Defence for Jean-Pierre Bemba in case ICC-01/05-01/08 (the “Main Case”) requests the Single Judge to “issue an urgent order to the Registrar to provide the Defence with all non-privileged recordings between Mr Bemba and others, which the [Registrar] transmitted to the Prosecution in accordance with the Decision of 8 May 2013” (the “Defence Request”);

NOTING the “Decision on the ‘Prosecution’s request in respect of access to the Defence to certain materials’ and related filings” dated 20 May 2014², whereby the Single Judge ordered the Registrar “to extend to the Defence teams of all the suspects in this case access to the TRIM folder containing the ICC Detention Centre call records”;

CONSIDERING that, as already stated by the Single Judge in the “Decision on the ‘Defence Request for access to confidential transcripts and filings’ dated 1 April 2014 submitted by the Defence for Jean-Pierre Bemba Gombo in case ICC-01/05-01/08”, dated 15 April 2014, there is no separation between a defendant and his counsel, in particular for the purposes of the right to access documents;³

CONSIDERING that Jean-Pierre Bemba has already access to all of the records which his Counsel in the Main Case wishes to access and is therefore entitled to decide whether, and to what extent, he shall or shall not share such access with his Counsel, without prejudice to the need for both of them to comply with the

¹ ICC-01/05-01/08-391-Anx.

² ICC-01/05-01/13-409.

³ ICC-01/05-01/13-338.

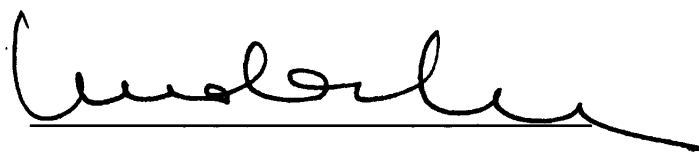
level of confidentiality of information thus shared and to the obligations specifically incumbent to Counsel in this respect;

CONSIDERING therefore that the Defence Request is deprived of content;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DISMISSES the Defence Request.

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

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

**Judge Cuno Tarfusser
Single Judge**

Dated this Wednesday, 28 May 2014

The Hague, The Netherlands