

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 October 2014

THE APPEALS CHAMBER

Before:

**Judge Sang-Hyun Song, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka**

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**

URGENT

Public document

Order

**on the filing of a public redacted version of Mr Kabongo's Response to the
Request for Disqualification and warning to Counsel for Mr Kabongo, Mr Jean
Flamme, pursuant to rule 171 (1) of the Rules of Procedure and Evidence**

Shs

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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Mr James Stewart, Deputy Prosecutor

Counsel for Mr Jean-Pierre Bemba Gombo
Mr Nicholas Kaufman

Counsel for Mr Aimé Kilolo Musamba
Mr Paul Djunga Mudimbi

Counsel for Mr Jean-Jacques Kabongo Mangenda
Mr Jean Flamme

Counsel for Mr Fidèle Babala Wandu
Mr Jean-Pierre Kilenda Kakengi Basila

Counsel for Mr Narcisse Arido
Mr Göran Sluiter

Registrar
Mr Herman von Hebel

Sds

The Appeals Chamber of the International Criminal Court,

In relation to the “Request for disqualification of the Prosecution from the investigation and prosecution of Mr Aimé Kilolo Musamba” dated 28 February 2014 and registered on 3 March 2014 (ICC-01/05-01/13-233-Conf-tENG); the “Response to the 3 March 2014 ‘Request for disqualification of the Prosecution from the investigation and prosecution of Aimé Kilolo Musamba and Jean-Jacques Kabongo Mangenda’” of 12 March 2014 (ICC-01/05-01/13-250-Conf-tENG); and the “Defence Observations on the ‘Request for disqualification of the Prosecution from the investigation and prosecution against Mr Aimé Kilolo Musamba’ (ICC-01/05-01/13-233-Conf)” of 19 March 2014 (ICC-01/05-01/13-275-Corr-tENG),

Pursuant to rule 171 (1) of the Rules of Procedure and Evidence,

Issues the following

ORDER AND WARNING

1. Mr Flamme, who is representing Mr Kabongo in these proceedings, is instructed to file a public redacted version of document ICC-01/05-01/13-250-Conf-tENG by 16h00 on 17 October 2014.
2. Mr Flamme is warned that, in case of non-compliance with the above order, sanctions pursuant to rule 171 (1), (2) and (4) of the Rules of Procedure and Evidence may be imposed.

REASONS


1. On 22 August 2014, the Appeals Chamber issued, on a confidential basis, its “Decision on the requests for the Disqualification of the Prosecutor, the Deputy Prosecutor and the entire OTP staff”, rejecting, by majority, Judge Anita Ušacka dissenting, the abovementioned requests for the disqualification of the Prosecutor, the Deputy Prosecutor and the entire staff of the Office of the Prosecutor.¹ With a view to

¹ ICC-01/05-01/13-648-Conf (OA) (hereinafter: “Decision of 22 August 2014”), with “Separate Concurring Opinion of Judge Erkki Kourula”, ICC-01/05-01/13-648-Conf-Anx1, and “Dissenting Opinion of Judge Anita Ušacka”, ICC-01/05-01/13-648-Conf-Anx2.

issuing a public redacted version of its decision, the Appeals Chamber also ordered “the parties in the present proceedings to file public redacted versions of their respective confidential submissions by 16h00 on 29 August 2014”.²

2. In the present proceedings, Mr Jean Flamme (hereinafter: “Mr Flamme”) is representing Mr Jean-Jacques Kabongo Mangenda and is acting before the Court on the latter’s behalf within the meaning of regulation 74 (2) of the Regulations of the Court. The Appeals Chamber notes that Mr Flamme, to date, has not filed a public redacted version of the “Response to the 3 March 2014 ‘Request for disqualification of the Prosecution from the investigation and prosecution of Aimé Kilolo Musamba and Jean-Jacques Kabongo Mangenda’”³ (hereinafter: “Response to the Request for Disqualification”). Recalling that, pursuant to article 7 (3) of the Code of Professional Conduct for counsel, “[c]ounsel shall comply at all times with [...] such rulings [...] as may be made by the Court”, the Appeals Chamber instructs Mr Flamme to immediately file a public redacted version of the Response to the Request for Disqualification. Furthermore, the Appeals Chamber issues a warning to Mr Flamme, pursuant to rule 171 (1) of the Rules of Procedure and Evidence, and informs him that, in case of non-compliance with this order, sanctions pursuant to rule 171 (1), (2) and (4) of the Rules of Procedure and Evidence may be imposed.

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


Judge Sang-Hyun Song
Presiding Judge

Dated this 14th day of October 2014

At The Hague, The Netherlands

² Decision of 22 August 2014, p. 3 and paras 14-15.

³ ICC-01/05-01/13-250-Conf-tENG (OA).