

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/05-01/13
Date: 30 October 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 “Request of the Defence for Mr. Jean-Pierre Bemba Gombo in ICC-01/05-01/08 for reclassification of the Transcript of the 26 March 2014 Status Conference” dated 29 October 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 in case

ICC-01/05-01/13

Nicholas Kaufman

Counsel for Aimé Kilolo Musamba

Paul Djunga Mudimbi

Counsel for Jean-Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Göran Sluiter

Counsel for Jean-Pierre Bemba Gombo in case

ICC-01/05-01/ 08

Peter Haynes QC

States Representatives

Others

REGISTRY

Registrar

Herman von Hebel

Detention Section

Others

Trial Chamber III

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

NOTING the “Request of the Defence for Mr. Jean-Pierre Bemba Gombo in ICC-01/05-01/08 for reclassification of the Transcript of the 26 March 2014 Status Conference” dated 29 October 2014 (“Request”)¹, whereby the Defence for Mr Bemba in case 01/05-01/08 (i) refers to the transcript of an *ex parte* status conference held in these proceedings on 26 March 2014 (“26 March 2014 Status Conference”), mentioned in Judge Usacka’s Dissenting Opinion to the Appeals Chamber Decision rejecting the request for disqualification of the Prosecutor, the Deputy Prosecutor and the Prosecutor’s staff as being “crucial” in respect of “the evidential link” between this case and the Main Case; (ii) submits that access to the currently confidential *ex parte* transcripts of the 26 March 2014 Status Conference is “material to the Defence preparation [in the Main Case], in particular in the context of its upcoming filing addressing the prejudice suffered as a result of this evidential overlap as between the two cases” and, accordingly, (iii) requests that the transcript of the 26 March 2014 Status Conference (ICC-01/05-01/13-T-5-Conf-EXP) be reclassified “as confidential and available to the Defence of Mr. Jean-Pierre Bemba Gombo in case ICC-01/05-01/08”;

NOTING regulation 23 bis (3) of the Regulations of the Court;

CONSIDERING that the reasons why 26 March 2014 Status Conference was *ex parte* Defence for Narcisse Arido and Registrar were that it exclusively addressed issues relating to the legal representation of Narcisse Arido in case ICC-01/05-01/13, in particular in connection with his right to freely choose his own counsel under articles 55 and 67 of the Statute and the threat posed to such right by a

¹ ICC-01/05-01/13-728 and Annex 1 thereto.

series of events having unfolded before and after his first appearance before the Court, involving lawyer Abbé Jolles ;

CONSIDERING that, to the appropriate extent, these events are already in the public domain², as can be evinced in particular from the public transcript of Mr Arido's initial appearance on 20 March 2014³;

CONSIDERING that, accordingly, the 26 March 2014 Status Conference does not relate to the "evidential link" alleged by the Defence for Jean-Pierre Bemba in the Main Case as existing between these proceedings and the Main Case;

CONSIDERING that, since the 26 March 2014 Status Conference exclusively pertained to issues of exclusive interest to Narcisse Arido and his Defence in these proceedings, the reclassification of its transcripts so as to making them available to the Defence for Jean-Pierre Bemba in the Main Case is unwarranted;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

REJECTS the Request.

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



Judge Cuno Tarfusser
Single Judge

Dated this Thursday, 30 October 2014 at The Hague, The Netherlands

² ICC-01/05-01/13-251 and ICC-01/05-01/13-251-Anx1; ICC-01/05-01/13-272-Anx1 ; ICC-01/05-01/13-274; ICC-01/05-01/13-313 and its Annex; ICC-01/05-01/13-344.

³ ICC-01/05-01/13-T-4-Red2, page 13.