

**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

Second 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 the “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 (“First Decision”);

NOTING that two *ex parte* status conferences had taken place on 26 March 2014 and that the First Decision was based on the erroneous assumption that the transcript requested was ICC-01/05-01/13-T-6-Conf-EXP, as opposed to ICC-01/05-01/13-T-5-Conf-EXP;

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

² ICC-01/05-01/13-730.

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

CONSIDERING that transcript ICC-01/05-01/13-T-5-Conf-EXP relates to a status conference *ex parte* Prosecutor also held on 26 March 2014, made necessary by a request for disclosure of information pertaining to an “anonymous informant”³, during which the redactions requested by the Prosecutor prior to the disclosure of such information to the Defence for Mr Bemba were discussed;

CONSIDERING that a confidential redacted version of the material discussed in the 26 March 2014 Status Conference was filed by the Prosecutor on 1 April 2014⁴ and is already available to Jean-Pierre Bemba;

CONSIDERING that, accordingly, it is vital that transcript ICC-01/05-01/13-T-5-Conf-EXP remain confidential *ex parte*, with a view not to defeating the purpose of the redactions applied;

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

The Hague, The Netherlands

³ ICC-01/05-01/13-262.

⁴ ICC-01/05-01/13-292-Conf-AnxA-Red.