

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 25 July 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 seeking the Prosecution to provide to the Kilolo
Defence specific information relating to its reimbursement of Prosecution
witnesses” dated 27 June 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

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**

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

Others

REGISTRY

Registrar

Herman von Hebel

Detention Section

Victims and Witnesses Unit

Others

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

NOTING the “Request seeking the Prosecution to provide to the Kilolo Defence specific information relating to its reimbursement of Prosecution witnesses” dated 27 June 2014¹ (“Mr Kilolo’s Request” or “Request”), whereby the Defence for Aimé Kilolo Musamba requests the Single Judge to “order the Office of the Prosecutor (‘OTP’) to provide to the Kilolo Defence information critical to its defence in relation to the monies expended by the OTP in relation to witnesses in the case of the Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08 (‘Main Case’)”, including more specifically “(i) monies paid to expert witnesses as remuneration, (ii) monies given directly by the OTP to any and all witnesses during the course of the OTP’s on-the-ground investigation, and (iii) monies spent in relation to and on behalf of all Prosecution witnesses but which were not tendered directly to the witnesses”;

NOTING the “Prosecution’s Response to the Kilolo Defence’s Request for disclosure of information relating to the reimbursement of the Prosecution witnesses” dated 7 July 2014², whereby the Prosecutor submits that the Request “lacks a proper legal and factual basis for disclosure and fails to establish that the information sought is material to the preparation of the Defence” and should accordingly be dismissed;

NOTING articles 57(3)(b) and 61(3) of the Statute, rules 116 and 121(2) of the Rules of Procedure and Evidence;

¹ ICC-01/05-01/13-520.

² ICC-01/05-01/13-542.

CONSIDERING that it is for the Chamber, and not for the Prosecutor, to determine whether the material and information sought by the Defence can be regarded as “material” for the purposes of their disclosure;

CONSIDERING that, for the Chamber to be able to make that determination, it is necessary that all relevant information be made available to it;

CONSIDERING that, once the relevant information will have been made available to it, the Chamber shall subsequently review it, with a view to determining whether its subsequent disclosure to the parties is warranted and appropriate, in light of all the relevant circumstances;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Prosecutor to submit to the Chamber, on a confidential *ex parte* basis and no later than Monday 4 August 2014, any and all information which is in her possession which might be pertinent to Mr Kilolo’s Request.

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



Judge Cuno Tarfusser
Single Judge

Dated this Friday, 25 July 2014

The Hague, The Netherlands