

Public Redacted

Annex VI



Cour
Pénale
Internationale

International
Criminal
Court

Le Bureau du Procureur
The Office of the Prosecutor

Strictly Confidential

Peter Haynes, Q.C.
Lead Counsel for Jean-Pierre Bemba Gombo
International Criminal Court
Maanweg 174,
2516AB, The Hague,
The Netherlands

[REDACTED]
Date: 30 April 2014

Dear Peter,

Reference is made to your letter of 23 April 2014, to which I respond at the direction of the Prosecutor. I hope that I can clarify a few misapprehensions under which you may be labouring.

First, Mr. Badibanga has indeed been fully engaged in the Article 70 investigation through your client's arrest on the resultant charges in late November 2013. Notwithstanding that the Article 70 case (*Bemba et al.*) is joinable to the Main Case under the Rules, a separate Prosecution team, which I lead, was constituted to bring the case forward through trial. The Prosecution has made no contrary representations to the parties or the Chambers.

Second, although you have received information regarding the identity of the Independent Counsel appointed in *Bemba et al.*, please note that this information is *inter partes confidential*, pursuant to the Single Judge's order. However, note is taken of the recent decision on your access motion.

Your concern about Mr. Badibanga's association with the Independent Counsel seems predicated on an erroneous assumption that the Prosecution has breached privileged Defence information in the Main Case. To the contrary, the Prosecution has not accessed any legally protected Defence communications or information.

Although I can appreciate your concern about Mr. Badibanga's prior professional association with the Independent Counsel, I do not share the view that this reasonably suggests the latter is per se 'not independent', is susceptible to improper influence by the Prosecution, or has provided information to the OTP in violation of his professional and ethical obligations. You may be aware that the Pre-Trial Chamber has recently rejected as unfounded your client's application for the disqualification of the independent counsel on this basis. In the absence of contrary information, whether and what the Prosecutor knew or did not know of any prior

association is irrelevant to any assessment of the impact of the Article 70 investigation on the overall fairness of the Main Case.

I trust you will consider this matter and advise me accordingly. Note that I am happy to discuss with you any further concerns you may have.

Kind regards,

A handwritten signature in blue ink, appearing to read 'K. Vanderpuye', with a stylized flourish at the end.

Kweku Vanderpuye
Senior Trial Lawyer