

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 March 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 “Defence request for disclosure” submitted by the Defence for Jean-Pierre Bemba on 20 February 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

Catherine Mabilie

Counsel for Jean-Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Legal Representatives of Victims

Legal Representatives of Applicants

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

REGISTRY

Registrar

Herman von Hebel

Detention Section

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

NOTING the “Defence request for disclosure” dated 20 February 2014, whereby the Defence for Jean-Pierre Bemba Gombo requests the Single Judge to order the Prosecutor “to disclose information pertaining to an ‘anonymous informant’ who provided her with information concerning an alleged witness ‘bribery’ scheme orchestrated by the Suspect” and, in particular,

“1) The Emails sent by the anonymous informant to the Office of the Prosecutor and the responses thereto in a non-redacted format;

2) All identifying information pertaining to the ‘anonymous informant’ including the Email address/es from which he or she corresponded with the Prosecutor and the IP addresses contained in the raw data accompanying the Emails sent to her”(“Request for Disclosure”)¹;

NOTING the “Adjonction de la Défense de Monsieur Fidèle Babala à ‘Defence request for disclosure’ de la Défense de M. Jean-Pierre Bemba (ICC-01/05-01/13-208)” dated 3 March 2014, whereby the Defence for Mr Babala “appuie intégralement” the Request for Disclosure and “s’y joint pour l’intérêt de son propre client”²;

NOTING the “Prosecution response to the Bemba Defence’s request for disclosure” dated 3 March 2014³, whereby the Prosecutor submits that the Request for Disclosure “is without merit because it fails to establish that the information sought is material to the preparation of the Defence, and should be dismissed”;

¹ ICC-01/05-01/13-208.

² ICC-01/05-01/13-230.

³ ICC-01/05-01/13-232.

NOTING article 61(3) of the Statute, rules 77 and 121(2) of the Rules of Procedure and Evidence;

CONSIDERING that, this being an instance where “there is no agreement by the parties as to the materiality or relevance of the information sought to any contested issue in this case”, the Single Judge is called upon exercising his responsibilities in disclosure matters;

CONSIDERING that, for the Single Judge to be in a position to properly address and determine the merit of the Request for Disclosure, it is necessary for him to have access to the information and material the disclosure of which is sought;

CONSIDERING that, accordingly, the Prosecutor’s readiness to provide the Chamber “with a copy of the email exchanges sought on an ex parte basis” is to be welcomed as suitable to allowing the Single Judge to properly discharge his responsibilities in the matter;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Prosecutor to provide the Single Judge “with a copy of the email exchanges sought on an ex parte basis”, as well as with any other information or material in her possession which might be relevant in connection with and for the purposes of the Request for Disclosure, by Wednesday 19 March 2014.

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

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this Monday 17 March 2014

The Hague, The Netherlands