

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 9 April 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 shortening the time limit for responses to the “Prosecution’s request to refer potentially privileged materials to Independent Counsel” dated 2 April 2014 by the Defence for Mr Kilolo and the Defence for Mr Arido**

**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

**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**

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**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 confidential “Prosecution’s request to refer potentially privileged materials to Independent Counsel” dated 2 April 2014<sup>1</sup>, of which a public redacted version was filed on 3 April 2014<sup>2</sup>, whereby the Prosecutor (I) submits having “received two DVDs ... containing the contents of email accounts of suspects in this case, including Aimé Kilolo Musamba and Jean-Jacques Mangenda Kabongo”, which “may potentially contain privileged information” and, accordingly, (II) requests the Single Judge (i) “to appoint an independent counsel to review the email accounts of Kilolo and Mangenda and to transmit only non-privileged information to the Prosecution” and to direct the Registrar “to copy/extract Arido’s and Babala’s email accounts in the presence of the independent counsel, and to transmit the copied/extracted information to the prosecution promptly thereafter” (“Prosecutor’s Request”);

**NOTING** the “Defence Response to Prosecution filing: ICC-01/05-01/13-310-Red”<sup>3</sup>, of which a public redacted version was filed on 8 April 2014<sup>4</sup>, whereby the Defence for Jean-Pierre Bemba opposes the Prosecutor’s Request and requests the Single Judge “to permit Counsel for the Defence in the present case and Counsel for the Suspect in case ICC-01/05-01/08 to review the two DVDs ... and to filter out any potentially privileged materials”;

**NOTING** the “Réponse à la requête du Procureur du 3 avril 2014 concernant les comptes de courrier électronique saisis ICC-01/05-01/13-310-Red – 03-04-2014” dated 6 April 2014<sup>5</sup>, whereby the Defence for Jean-Jacques Mangenda submits

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<sup>1</sup> ICC-01/05-01/13-310-Conf.

<sup>2</sup> ICC-01/05-01/13-310-Red.

<sup>3</sup> ICC-01/05-01/13-311-Conf.

<sup>4</sup> ICC-01/05-01/13-311-Red.

<sup>5</sup> ICC-01/05-01/13-316.

*inter alia* that the Prosecutor's request relies on actions constituting "un abus manifeste du pouvoir" and, accordingly, requests the Single Judge to reject the Request and to order "que les matériaux concernés par la requête ne feront pas partie des débats";

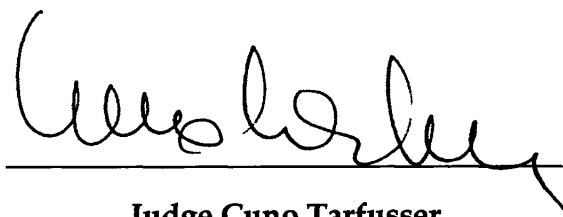
**NOTING** that, pursuant to regulations 24(1) and 34(b) of the Regulations of the Court, the parties may file a response to any document filed in the record of the case within 21 days of notification thereof, unless otherwise ordered;

**CONSIDERING** that, in light of the time-line of these proceedings, it is necessary to decide on the Prosecutor's Request without delay and that, in light of the subject-matter of the Request, it is appropriate for the Single Judge to gather the views of all the Defence teams prior to making his determinations;

**FOR THESE REASONS, THE SINGLE JUDGE HEREBY**

**ORDERS** the Defence for Aimé Kilolo Musamba and the Defence for Narcisse Arido to file their responses to the Prosecutor's Request by Monday, 14 April 2014.

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

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

**Judge Cuno Tarfusser  
Single Judge**

Dated this Wednesday, 9 April 2014

The Hague, The Netherlands