



Original: **English**

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

Date: **19/12/2013**

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 & NARCISSE ARIDO**

**Public
with Confidential Annexes A-E**

**Defence request for assistance
pursuant to Regulation 77(4)(b) of the Regulations of the Court**

Source: Defence for Mr. Jean-Pierre Bemba Gombo

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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Amicus Curiae

REGISTRY

Registrar

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Detention Section

Introduction

1. Pursuant to article 67(1)(b) of the Rome Statute and Regulation 77(4)(b) of the Regulations of the Court (“Regulations”), the learned Single Judge is hereby requested to order the Registrar through his agent – the Office of the Public Counsel for the Defence (“OPCD”) - to assist herein undersigned Counsel (“Counsel”) with administrative tasks pending assessment of the eligibility of Mr. Jean-Pierre Bemba Gombo (“the Suspect”) for financial legal assistance.

2. Article 67(1)(b) of the Rome Statute stipulates that an accused before the International Criminal Court (“ICC”) is entitled “[t]o have adequate time and facilities for the preparation of the defence”. Judicial precedent has applied this principle to a suspect appearing before the ICC at the pre-trial stage of proceedings.

3. Regulation 77(4)(b) provides that “[w]hen a conflict of interest does not arise, the tasks of the Office of Public Counsel for the Defence shall include... (b) [p]roviding general support and assistance to defence counsel and to the person entitled to legal assistance”.

4. Counsel submits that Regulation 77(4)(b) is to be read in disjunctive fashion such that the envisaged assistance may be provided either to an appointed defence counsel or to a person who benefits from financial judicial assistance. Such an interpretation would seem most appropriate in light of Regulation 77(4)(a) which mentions two specific scenarios in which the provision of assistance is envisaged prior to the surrender of a suspect to the Court and cannot, thus, be conditional on the award of financial legal assistance.

5. On 20 December 2013, the Office of the Prosecutor will be obliged to disclose all evidence collected before 23rd November 2013 on which it intends to rely for the purpose of the confirmation of charges. On the same date, the OTP will be required to submit to the Chamber requests for redactions or other protective measures in respect of these materials.¹

6. At the present moment in time, the Suspect is without financial legal assistance and, thus, has no legal representative resident at The Hague. Consequently, the Suspect is currently denied the ability to receive the disclosure of evidence and to upload it, thereafter, into an electronic environment enabling remote access by Counsel. No mission expenses will be approved in the interim for Counsel or his representative to perform the aforementioned tasks.

7. Given this unfortunate state of affairs and the pressing need to protect the Suspect's rights and interests, Counsel petitioned OPCD with the modest request that, pending assessment of the Suspect's eligibility for financial legal assistance, it assist him by transferring documentation to and from the Suspect in the ICC Detention Unit. Counsel also requested that OPCD assist him by receiving and uploading the Prosecution disclosure of evidence due to be effected on 20 December 2013. The Head of OPCD, while expressing sympathy for Counsel's request, denied it citing problems with respect to human resources.²

8. It should be stressed that Counsel for the Suspect does not wish to impugn in any way whatsoever the professionalism of OPCD and the loyal dedication it demonstrates with respect to the mandate provided for it in Regulation 77(4). Counsel has enjoyed the invaluable assistance of OPCD in the past and appreciates

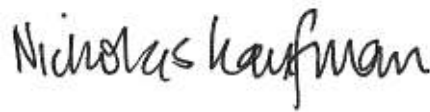
¹ ICC-01/05-01/13-T-2-Red-ENG WT 04-12-2013 32/33 at line 4 onwards.

² **Confidential Annexes A-E** in chronological order comprising correspondence between Counsel and the Head of OPCD with Annex A being the first email. The classification of these annexes which is determined by the fact that the correspondence contains the names and contact details of ICC staff.

that the denial of such support in the present instance is truly motivated by logistical and budgetary considerations.

9. The relevant texts make it clear that the Registry is shall both administer the scheme for financial legal assistance and “develop” OPCD. Whereas the grant of financial legal assistance, however, is discretionary, the provision of general support is mandatory.

10. In light of all the aforementioned, the learned Single Judge is hereby requested, as a matter of extreme urgency, to order the Registrar to provide OPCD with the means of assisting Counsel to perform the tasks detailed in paragraph 7 hereinabove.



Nicholas Kaufman

Counsel for Jean-Pierre Bemba Gombo

Leeds, United Kingdom

Thursday, December 19, 2013