

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 18 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, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU
AND NARCISSE ARIDO***

**Public Document
with Confidential Annexes A to C**

**Prosecution's Communication of Incriminatory Evidence, Rule 77 and Potentially
Exculpatory Materials Disclosed to the Defence on 18 March 2014**

Source: The Office of the Prosecutor

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 Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

States Representatives

Amicus Curiae

REGISTRY

Registrar

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Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section Others

I. Introduction

1. The Office of the Prosecutor (“Prosecution”) herewith submits this Communication Report ¹ regarding Incriminating, Rule 77 and potentially exculpatory evidence disclosed to the Defence teams of Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo and Fidèle Babala Wandu on 18 March 2014.²

2. The disclosure was made pursuant to, and in accordance with, the Chamber’s 4 December Order,³ 28 January Decision,⁴ and 31 January Decision.⁵ Additionally, the Prosecution disclosed Rule 77 and potentially exculpatory materials to the Defence teams, in accordance with its on-going obligations.

II. Request for Confidentiality

3. The Prosecution requests that Annexes A, B and C, appended to this Report, be received as “Confidential” as they relate to evidence disclosed *inter partes* that should not be released to the public.

III. Submissions

4. The *Confidential* Annexes to this Report list evidentiary items disclosed to all four Defence teams.

¹ ICC-01/05-01/13-T-2-Red-ENG, 4 December 2013, p. 31, line 25 to p. 32, line 3 (“that any and all evidence disclosed for the purpose of the confirmation hearing shall be communicated to the Chamber”).

² The Prosecution requested but has not received from all Defences an indication of who has been designated to receive this disclosure. Accordingly, the Prosecution will upload the disclosure of Incriminating material to eCourt and will provide the physical disclosure of incriminating, Rule 77 and potentially exculpatory materials as and when the Defences identify their respective focal points for their receipt.

³ ICC-01/05-01/13-T-2-Red-ENG, p. 31 (establishing the pre-confirmation disclosure schedule).

⁴ ICC-01/05-01/13-135, p. 6 (clarifying that “the final date for the Prosecutor to communicate the evidence on which she intends to rely for the confirmation is 18 March 2014”).

⁵ ICC-01/05-01/13-142, p. 4 (extending the applicable disclosure deadline for “newly obtained” material to 18 March 2014).

5. *Confidential* Annex A includes, (i) items obtained from Narcisse Arido's email account received on 23 January 2014, (ii) Call Data Records received on 5 March 2014, (iii) transcripts and/or translations of audio files previously disclosed to the Defence as incriminatory evidence, and (iv) screenshots of eCourt metadata for alleged false documents presented as evidence in the *Bemba* case; all collected by the Prosecution either after 31 January 2014 or shortly before.⁶ Additionally, the annex includes translations of two previously disclosed statements,⁷ as well as an Excel sheet containing the metadata of a previously disclosed audio file.⁸

6. *Confidential* Annex B contains items falling under Rule 77, comprising emails obtained from Narcisse Arido's email account and other documents provided by or referring to the suspects.

7. *Confidential* Annex C contains potentially exculpatory evidence, including a media article and other documents related to Narcisse Arido.



Fatou Bensouda, Prosecutor

Dated this 18th Day of March 2014
At The Hague, The Netherlands

⁶ ICC-01/05-01/13-140-Conf, Prosecution's request pursuant to Regulation 35 of the Regulations of the Court for variation of time limit for disclosure and ICC-01/05-01/13-142, p. 4 (Extending the applicable disclosure deadline for "newly obtained" material to 18 March 2014).

⁷ The original statements (CAR-OTP-0069-0010 and CAR-OTP-0069-0083) were disclosed to the Defence teams on 20 December 2013, in Pre-confirmation INCRIM package 1.

⁸ The corresponding audio file (CAR-OTP-0074-0560) was disclosed to the Defence teams on 20 December 2013, in Pre-confirmation INCRIM package 1.