

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 19 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

Prosecution's Response to 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)*"

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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I. Introduction

1. The Office of the Prosecutor (“Prosecution”) hereby responds to the Babala Defence’s request for the disclosure of email exchanges between the Prosecution and an anonymous source whose information led to the initiation of the investigation in this case (“Request”).¹ The request is without merit and should be dismissed.

II. Submissions

2. The Request joins the Bemba Defence’s Request for Disclosure.² The Prosecution incorporates by reference its response to the Bemba Request.³

3. As the Request introduces no additional arguments to those advanced by the Bemba Defence,⁴ it fails for the same reasons, namely: (a) the Request fails to establish ‘materiality’ under Rule 77; (b) the Chamber’s disposition of previous Article 57(3)(a) of the Rome Statute (“Statute”) requests is irrelevant; and (c) the absence of a specific request for protective measures has no bearing on the determination of the Request.⁵

4. Further, pursuant to the Order of the Single Judge on 17 March 2014,⁶ the Prosecution submitted a copy of the email exchanges to the Single Judge on an *ex parte* basis on 19 March 2014.

¹ ICC-01/05-01/13-230.

² ICC-01/05-01/13-208.

³ ICC-01/05-01/13-232.

⁴ ICC-01/05-01/13-208, pp. 5-7.

⁵ ICC-01/05-01/13-232, pp. 3-6.

⁶ ICC-01/05-01/13-262, p. 4.

III. Requested Relief

5. For the foregoing reasons, the Prosecution respectfully requests the Chamber to dismiss the Request. Should the Chamber determine that a disclosure obligation arises, the Prosecution respectfully requests a reasonable opportunity to apply for protective measures, pursuant to Article 54(3)(f) of the Statute, prior to making any disclosure.



Fatou Bensouda, Prosecutor

Dated this 19th Day of March 2014
At The Hague, The Netherlands