

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 17 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 redacted version**

**Decision reclassifying documents in the record, lifting protective measures and taking additional measures related to the implementation of Decision ICC-01/05-01/13-41-Red**

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

**Counsel for Narcisse Arido**

Göran Sluiter

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**States Representatives**

**Others**

[REDACTED]

(Independent Counsel appointed pursuant to  
Decision ICC-01/05-01/13-41-Conf-Exp)

**REGISTRY**

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**Registrar**

Herman von Hebel

**Detention Section**

**Victims and Witnesses Unit**

**Others**

**Victims Participation and  
Reparations Section**

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

**NOTING** the “Decision appointing an Independent Counsel and taking additional measures for the purposes of the forensic acquisition of material seized in the proceedings” dated 13 December 2013<sup>1</sup> (“13 December 2013 Decision”), whereby the Single Judge *inter alia* appointed Independent Counsel tasked with (i) being present at the unsealing and the forensic acquisition of documentary and electronic material seized upon the searches of the person and cell of Jean-Pierre Bemba, the residence of Narcisse Arido and the residence of Fidèle Babala (“Seized Material”); (ii) reviewing the Seized Material, with a view to identifying any item which is privileged or otherwise obviously irrelevant for the purposes of these proceedings; (iii) promptly submitting a report to the Single Judge as to the results of such review;

**NOTING** the “Rapport du Conseil indépendant suivant la Décision ICC-01/05-01/13-41 (Levée et copie d’une dernière pièce saisie et analyse des pièces saisies)” (“Independent Counsel’s Report” or “Report”) submitted on an *ex parte*, confidential basis by Independent Counsel on 8 April 2014 (“Independent Counsel Report”)<sup>2</sup>, whereby Independent Counsel describes the operations conducted in connection with the forensic acquisition of some items contained in the Seized Material and transmits the results of the review of items seized upon the searches of the person and cell of Jean-Pierre Bemba;

**CONSIDERING** it necessary to disclose to the parties the identity of Independent Counsel, also in light of the advanced stage of the proceedings and the proximity of the date set for the confirmation of the charges;

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<sup>1</sup> ICC-01/05-01/13-41-Red.

<sup>2</sup> ICC-01/05-01/13-319-Conf-Exp.

**NOTING** that, as confirmed by Independent Counsel, there are no longer security reasons making it necessary to withdraw this identity from the parties;

**CONSIDERING**, by the same token, that there are still outstanding security reasons making it necessary to maintain the identity of Independent Counsel confidential *vis-à-vis* the public, with a view to ensuring that the personal safety and security of Independent Counsel be preserved;

**CONSIDERING** that it is therefore of the essence that all of the parties and their Counsel strictly comply with the confidential nature of the information relating to the identity of Independent Counsel;

**CONSIDERING** that the information contained in Independent Counsel Report pertain to the proceedings and the charges in the present case and that, therefore, it is appropriate to make it available to the parties;

**NOTING** that the 13 December 2013 Decision requested Independent Counsel to review the Seized Material with a view to determining which items, if any, would not have to be made available to the Prosecutor and the other parties, whether because of their privileged nature or because of their being obviously irrelevant to these proceedings (such as items of a private and personal nature);

**NOTING** that, as a result of the review of material seized upon the searches of the person and cell of Jean-Pierre Bemba, Independent Counsel identified items which are privileged or otherwise obviously irrelevant for the purposes of these proceedings, as well as items which are not privileged;

**CONSIDERING** it necessary that any and all those items which were identified as non privileged and relevant for the purposes of these proceedings be eventually made available to all of the parties to these proceedings;

**NOTING** that Independent Counsel indicates that some of these items should be subject to redactions prior to their being made available to the parties and proposes to carry out the requested redactions with the assistance of the Registry;

**CONSIDERING** it also necessary that the Defence for Jean-Pierre Bemba be given an opportunity to provide observations on the selection made by Independent Counsel, prior to any item being made available to the Prosecutor and the other Defence teams, if it so wishes;

**CONSIDERING** that, accordingly, the relevant items shall be made available to the Prosecutor and the other Defence teams only after the Single Judge has reviewed the observations made by the Defence for Jean-Pierre Bemba, if any;

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

**DECIDES** that ICC-01/05-01/13-319-Conf-Exp shall be reclassified as “confidential”;

**ORDERS** all the parties and their Counsel to strictly comply with the confidential nature of the information relating to the identity of Independent Counsel;

**ORDERS** Independent Counsel, with the assistance of the services of the Registry, to prepare redacted versions of those items, as referred to in paragraph 37 of Independent Counsel’s Report, where redactions are needed before they can be made available;

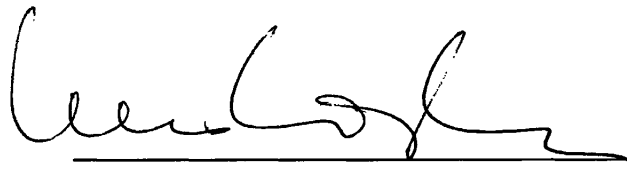
**ORDERS** Independent Counsel, with the assistance of the services of the Registry, to file in the record of the case, on a confidential, ex parte basis, reserved to the Defence for Jean-Pierre Bemba only, all items identified as non-privileged and relevant (subject to the appropriate redactions), as referred to in paragraph 35 of Independent Counsel’s Report;

**ORDERS** the Registrar to provide Independent Counsel with all assistance which may be necessary and appropriate with a view to allowing the expeditious completion of the tasks entrusted in Independent Counsel by this decision;

**DECIDES** that the Defence for Jean-Pierre Bemba shall have 5 days to submit observations, if any, following the notification of relevant items into the record of the case pursuant to this decision;

**DECIDES** that the relevant items shall only be made available to the Prosecutor and the other Defence teams after the Single Judge will have reviewed the observations submitted by the Defence for Jean-Pierre Bemba, if any.

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 Thursday, 17 April 2014

The Hague, The Netherlands