

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 May 2014

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova
Judge Hans-Peter Kaul
Judge Cuno Tarfusser

**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 Requesting Observations on the "Defence Request for the Exercise of
Judicial Functions by the full Pre-Trial Chamber II"**

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

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 the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER II (the “Chamber”) of the International Criminal Court, having been assigned the situation in the Central African Republic,¹ from which emanates the case of *The Prosecutor v Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, renders this decision requesting observations on the “Defence Request for the Exercise of Judicial Functions by the full Pre-Trial Chamber II” (the “Request”).²

1. On 6 May 2013, the Chamber issued the “Decision designating a Single Judge”³ in which the Chamber decided to designate Judge Cuno Tarfusser as Single Judge to act on behalf of the Chamber⁴ in determining the issues arising in connection with the Prosecutor’s “Request for Judicial Assistance to Obtain Evidence for Investigation under Article 70”⁵.

2. On 7 May 2014, the Chamber received the Request, in which the Defence team of Aimé Kilolo Musamba (“Mr. Kilolo”) seeks that the full Chamber exercise its judicial functions in relation to the “remainder of all proceedings in case ICC-01/05-01/13” “as concerns Mr Kilolo”.⁶

3. The Chamber notes regulations 24(1), 31, 33 and 34(b) of the Regulations of the Court (the “Regulations”).

4. The Chamber observes that the Request was put forward by the Defence team of one suspect, namely Mr. Kilolo. Given that the case *sub judice* involves four additional suspects whose rights might be affected as a result of making a ruling without having heard from them, the Chamber deems it necessary to receive their

¹ Presidency, “Decision on the constitution of Pre-Trial Chambers and on the assignment of the Central African Republic situation”, 19 March 2009, ICC-01/05-22, Presidency, “Decision on the constitution of Pre-Trial Chambers and on the assignment of the Democratic Republic of the Congo, Darfur, Sudan and Côte d’Ivoire situation, 15 March 2012, ICC-02/11-01/11-59.

² ICC-01/05-01/13-381 and its confidential *ex parte* annexes 1, 2 and confidential annex 3.

³ Pre-Trial Chamber II, ICC-01/05-45.

⁴ Pre-Trial Chamber II, ICC-01/05-45, p. 4.

⁵ ICC-01/05-44-Conf-Exp.

⁶ ICC-01/05-01/13-381, paras 1, 24.

observations on the present Request. This ensures the fair and expeditious conduct of the entirety of the upcoming proceedings.

5. In this respect, the Chamber recalls regulation 24(1) of the Regulations according to which “[...] the defence may file a response to any document filed by any participant in the case in accordance with the Statute, Rules, these Regulations and any order of the Chamber”. Moreover, according to regulation 34(b) of the Regulations “[u]nless [...] otherwise ordered [...] [a] response referred to in regulation 24 shall be filed with 21 days of notification in accordance with regulation 31 of the document to which the participant is responding”.

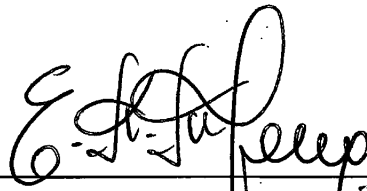
6. The Request was notified to the parties on 7 May 2014, and therefore, the expiry date for receipt of a response pursuant to regulation 34(b) of the Regulations is 30 May 2014, “unless otherwise ordered”. In view of expediting the proceedings, the Chamber finds it appropriate to receive observations from the Prosecutor and the four additional defence teams, if they wish to do so, no later than Friday, 23 May 2014.

7. The need to allow the proceedings to advance requires that, pending the Chamber’s decision on the Request, the functions of the Chamber shall continue to be exercised by Judge Cuno Tarfusser as Single Judge.

FOR THESE REASONS THE CHAMBER HEREBY

- a) **requests** that the Prosecutor as well as the Defence teams of Jean-Pierre Bemba Gombo, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido, if they wish to do so, file their observations on the Request, no later than Friday, 23 May 2014; and
- b) **decides** that Judge Cuno Tarfusser continues to carry out the judicial functions on behalf of the Chamber, until the Chamber rules on the Request.

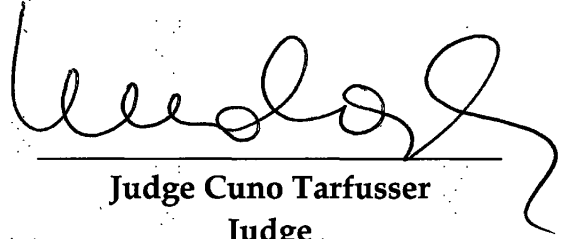
Done in both English and French, the English version being authoritative.



Judge Ekaterina Trendafilova
Presiding Judge



Judge Hans-Peter Kaul
Judge



Judge Cuno Tarfusser
Judge

Dated this Wednesday, 14 May 2014

At The Hague, The Netherlands