

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **28 May 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***

**Confidential**

**Prosecution's Request in respect of the Modalities of the Disclosure  
of Certain Material**

**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**

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**Registrar**

Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Section Others**

## I. Introduction

1. The Office of the Prosecutor ("Prosecution") requests the Single Judge to order the Registry to make available to all Defence teams in this case *via* TRIM 49 trial transcripts of the Defence witnesses who testified in the Main Case<sup>1</sup>; as well as four confidential documents filed as annexes or otherwise in the Main Case ("the Material").<sup>2</sup>

2. If granted, the Prosecution informs the Defence that the protective measures and level of confidentiality imposed on the Material by Trial Chamber III remain in force.

## II. Confidentiality

3. This filing is classified as "Confidential" as it responds to a decision of the same designation.

## III. Submissions

4. On 27 May 2014, Trial Chamber III authorised the Prosecution to disclose the non-redacted versions of the 49 transcripts<sup>3</sup> and the confidential versions of the five

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<sup>1</sup> The case *The Prosecutor v. Jean-Pierre Bemba Gombo*.

<sup>2</sup> The fifth document, a Defence list of evidence (ICC-01/05-01/08-2243-Conf-AnxB) requires redactions. The Prosecution will implement the redactions and make the document available to the Defence teams through the usual channels.

<sup>3</sup> ICC-01/05-01/08-T-248-CONF-ENG; ICC-01/05-01/08-T-249-CONF-ENG; ICC-01/05-01/08-T-250-CONF-ENG; ICC-01/05-01/08-T-251-CONF-ENG; ICC-01/05-01/08-T-256-CONF-ENG; ICC-01/05-01/08-T-257-CONF-ENG; ICC-01/05-01/08-T-258-CONF-ENG; ICC-01/05-01/08-T-259-CONF-ENG; ICC-01/05-01/08-T-260-CONF-ENG; ICC-01/05-01/08-T-264-CONF-ENG; ICC-01/05-01/08-T-265-CONF-ENG; ICC-01/05-01/08-T-266-CONF-ENG; ICC-01/05-01/08-T-293-CONF-ENG; ICC-01/05-01/08-T-294-CONF-ENG; ICC-01/05-01/08-T-295-CONF-ENG; ICC-01/05-01/08-T-296-CONF-ENG; ICC-01/05-01/08-T-297-CONF-ENG; ICC-01/05-01/08-T-298-CONF-ENG; ICC-01/05-01/08-T-299-CONF-ENG; ICC-01/05-01/08-T-300-CONF-ENG; ICC-01/05-01/08-T-321-CONF-ENG; ICC-01/05-01/08-T-321bis-CONF-ENG; ICC-01/05-01/08-T-322-CONF-ENG; ICC-01/05-01/08-T-325-CONF-ENG; ICC-01/05-01/08-T-325bis-CONF-ENG; ICC-01/05-01/08-T-326-CONF-ENG; ICC-01/05-01/08-T-326bis-CONF-ENG; ICC-01/05-01/08-T-327-CONF-ENG;

documents<sup>4</sup> originating from the Main Case in the Article 70 case. In respect of the modalities of such disclosure, the Chamber directed the Prosecution to address the issue with Pre-Trial Chamber II.

5. All the Material is available in TRIM; either as trial transcripts, or as filings (or annexes thereto).

6. The Prosecution submits that the most logical and efficient way to make the Material available to the respective Defence teams is by providing them access *via* TRIM.

7. All of the material to be made available is part of the court record in the Main Case, and is maintained by the Registry pursuant to Article 64(10) of the Rome Statute<sup>5</sup> and Rule 137(1) of the Rules of Procedure and Evidence.<sup>6</sup>

8. The Registry could make the Material available in TRIM immediately by simply changing the corresponding access rights to add designated Defence team members. In doing so, the Defence would also get access to any translation, revision or correction of the Material (e.g. the French translations of the transcripts; corrections made to the filings; etc.). The Material would maintain its unique

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ICC-01/05-01/08-T-327bis-CONF-ENG; ICC-01/05-01/08-T-330-CONF-ENG; ICC-01/05-01/08-T-332-CONF-ENG; ICC-01/05-01/08-T-333-CONF-ENG; ICC-01/05-01/08-T-334-CONF-ENG; ICC-01/05-01/08-T-335-CONF-ENG; ICC-01/05-01/08-T-336-CONF-ENG; ICC-01/05-01/08-T-337-CONF-ENG; ICC-01/05-01/08-T-338-CONF-ENG; ICC-01/05-01/08-T-339-CONF-ENG; ICC-01/05-01/08-T-343-CONF-ENG; ICC-01/05-01/08-T-344-CONF-ENG; ICC-01/05-01/08-T-345-CONF-ENG; ICC-01/05-01/08-T-353-CONF-ENG; ICC-01/05-01/08-T-354-CONF-ENG; ICC-01/05-01/08-T-355-CONF-ENG; ICC-01/05-01/08-T-356-CONF-ENG; and ICC-01/05-01/08-T-357-CONF-ENG.

<sup>4</sup> ICC-01/05-01/08-2720-Conf; ICC-01/05-01/08-2725-Conf; ICC-01/05-01/08-2222-Conf-AnxA; and ICC-01/05-01/08-2261-Conf-Red.

<sup>5</sup> Article 64(1): "The Trial Chamber shall ensure that a complete record of the trial, which accurately reflects the proceedings, is made and that it is maintained and preserved by the Registrar."

<sup>6</sup> Rules 137(1): "In accordance with article 64, paragraph 10, the Registrar shall take measures to make, and preserve, a full and accurate record of all proceedings, including transcripts, audio- and video-recordings and other means of capturing sound or image."

identification number (i.e., ICC-01/05-01/08-T-XXX-CONF-ENG or ICC-01/05-01/08-XXXX-Conf), and be easily accessible in a sequential manner in TRIM.

9. Disclosure through the Prosecution's Ringtail database on the other hand would take time. The Material would need to be extracted from TRIM in order to load it into the OTPs Ringtail database; it would then have to be down-loaded onto DVDs; and then uploaded to Ecourt and to the Defence Ringtail databases.

10. Moreover, the Material would be given a second identification number (i.e., CAR-OTP-XXXX-XXXX) that would artificially identify the Prosecution as its source. Using two different identification numbers would lead to confusion (for example, if the trial transcripts were already referred to under their original file name); and undo the original numeric sequence, especially if additional trial transcripts were to be registered and disclosed later on.

#### IV. Requested relief

11. Upon the foregoing and in view of the scheduled confirmation process, the Prosecution respectfully requests that the Single Judge order the Registry to make the Material available to the Defence teams *via* TRIM as soon as practicable; and informs the Defence that the protective measures and level of confidentiality imposed on the Material by Trial Chamber III remain in force.



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Fatou Bensouda, Prosecutor

Dated this 28<sup>th</sup> Day of May 2014  
At The Hague, The Netherlands