

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 14 January 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

Decision on the “Demande d’autorisation de répliquer à la ‘Prosecution Response to the ‘Requête urgente de la Défense sollicitant la mise en liberté provisoire de monsieur Fidèle Babala Wandu’ (ICC-01/05-01/13-38)’”

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

Florence Darques Lane

Counsel for Jean-Pierre Bemba Gombo

Nicholas Kaufman

Counsel for Aimé Kilolo Musamba

Jean-Pierre Kilenda Kakengi Basila

Counsel for Jean-Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Prof Jean-Pierre Fofé Djofia Malewa

Legal Representatives of Victims

Legal Representatives of Applicants

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

REGISTRY

Registrar

Herman von Hebel

Detention Section

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

NOTING the “Requête urgente de la Défense sollicitant la mise en liberté provisoire de monsieur Fidèle Babala Wandu” dated 12 December 2013 (the “Application”);¹

NOTING the Prosecutor’s response to the Application, dated 3 January 2014 (the “Response”);²

NOTING the request for leave to reply to the Prosecutor’s Response, filed by the Defence of Fidèle Babala Wandu on 9 January 2014 (the “Request for Leave to Reply”);³

NOTING regulation 24(5) of the Regulations of the Court (the “Regulations”), according to which “[p]articipants may only reply to a response with the leave of the Chamber”;

CONSIDERING that in order to be granted leave to file a reply, a party needs to demonstrate that good cause exists, in particular when one or more issues arising from the response could not have been anticipated in its initial submission, or when it would be beneficial for the Chamber to receive further submissions prior to its disposal of the matter under consideration;

CONSIDERING that the Request for Leave to Reply fails to demonstrate the existence of good cause to obtain authorisation to file the sought reply and, in particular, does not identify any issue with respect to which further submissions from the Defence would be desirable for the determination of the Application;

¹ ICC-01/05-01/13-38-Corr.

² ICC-01/05-01/13-67-Conf.

³ ICC-01/05-01/13-74.

CONSIDERING that it rather appears that the Defence requests leave to reply in order to discuss certain aspects which could have been addressed in the Application, or which the Single Judge would be able to consider without the need for additional arguments to be advanced by the Defence;

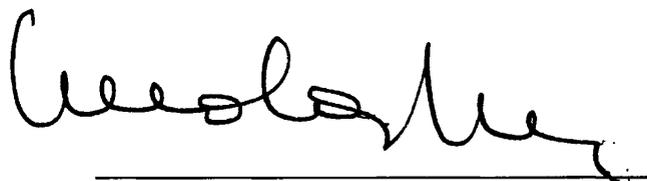
CONSIDERING also that, in the absence of any further explanation, the Single Judge is unable to assess the Defence request to address in its reply the Prosecutor's "affirmations gratuites" allegedly contained in the Response, and that granting leave to reply on this basis alone would be tantamount to a blank authorisation without the necessary judicial control envisaged in regulation 24(5) of the Regulations;

CONSIDERING that the Request for Leave to Reply is therefore unjustified;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

REJECTS the Request for Leave to Reply.

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



**Judge Cuno Tarfusser
Single Judge**

Dated this Tuesday, 14 January 2014

The Hague, The Netherlands