

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 20 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 ‘Demande de mise en liberté provisoire de Maître Aimé Kilolo Musamba’ of 16 December 2013 and its Addendum of 7 January 2014 (ICC-01/05-01/13 and ICC-01/05-01/13-69)”

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

Ghislain Mabanga

Counsel for Jean-Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

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 of the International Criminal Court;

NOTING the “Demande de mise en liberté provisoire de Maître Aimé Kilolo Musamba” dated 16 December 2013¹ and the “Addendum” thereto dated 7 January 2014² (collectively, the “Application”);

NOTING the Prosecutor’s response to the Application dated 13 January 2014 (the “Response”);³

NOTING the request for leave to reply to the Prosecutor’s Response, filed by the Defence of Aimé Kilolo Musamba on 15 January 2014, (the “Request for Leave to Reply”);⁴

NOTING regulation 24(5) of the Regulations of the Court, 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, such as 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 Defence appears to request leave to reply to the Prosecutor’s Response with a view to advancing submissions, inter alia, on the Prosecutor’s alleged violation of the suspect’s presumption of innocence and that any such issue can be discerned by the Single Judge without the need for further submissions by the Defence;

CONSIDERING that the same holds true with respect to the proposed submissions in relation to the alleged fact that the Prosecutor’s Response “n’a

¹ ICC-01/05-01/13-42 and confidential annexes attached thereto.

² ICC-01/05-01/13-69.

³ ICC-01/05-01/13-88-Conf.

⁴ ICC-01/05-01/13-96.

rencontré aucun moyen de droit soulevé par le requérant en vue de démontrer la nécessité de sa mise en liberté”;

NOTING that the Defence proposes to address in its reply certain factual circumstances allegedly having evolved to the effect that at present the suspect’s continued detention is no longer justified, and

CONSIDERING, in the absence of any indication that those circumstances have only arisen after the Prosecutor’s Response, that any such factual circumstances could have been addressed by the Defence in its original submissions;


CONSIDERING that the Defence assertion that the Prosecutor’s Response “est le clone de celle qu’il a réservée à la demande de mise en liberté provisoire de M. Fidèle Babala” is of no relevance for the Single Judge’s disposal of the Application and, accordingly, does not warrant any further submission on the part of the Defence;

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.

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

**Judge Cuno Tarfusser
Single Judge**

Dated this Monday, 20 January 2014
The Hague, The Netherlands