

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 5 June 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 shortening the time limit for responses to the “Requête URGENTE de la Défense de Monsieur Fidèle Babala sollicitant de la Chambre préliminaire II d’ordonner au Conseil indépendant et/ou au Greffe de lui communiquer l’intégralité des conversations téléphoniques intervenues entre M. Babala et les autres suspects de l’affaire en cours” dated 4 June 2014

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

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

Other

Independent Counsel appointed pursuant to ICC-01/05-52-Red2

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 “Requête URGENTE de la Défense de Monsieur Fidèle Babala sollicitant de la Chambre préliminaire II d’ordonner au Conseil indépendant et/ou au Greffe de lui communiquer l’intégralité des conversations téléphoniques intervenues entre M. Babala et les autres suspects de l’affaire en cours” dated 4 June 2014 (“Mr Babala’s Request”)¹, whereby the Defence for Mr Babala submits that “il lui est indispensable d’avoir accès à l’intégralité des enregistrements et/ou transcriptions des conversations entre lui et les autres suspects dans l’affaire en cours”, with a view to preparing his defence and present evidence in the context of the confirmation of the charges and, accordingly, requests the Chamber to order Independent Counsel and or the Registrar “ de mettre à sa disposition le plus vite possible l’intégralité des enregistrements et des transcriptions des conversations de M. Babala auxquels le Conseil indépendant a eu accès et qui n’ont pas encore été communiqués aux parties”;

NOTING articles 57(3)(b), 57(3)(c) and 67 of the Statute, rules 15, 43 and 121 of the Rules of Procedure and Evidence and regulation 23bis of the Regulations of the Court;

NOTING that Mr Babala’s Request does not provide any reason for its classification as “confidential”;

CONSIDERING that Mr Babala’s Request does not contain any information of a confidential nature and that, accordingly, its current classification is unwarranted;

¹ ICC-01/05-01/13-459-Conf.

NOTING that, pursuant to regulations 24(1) and 34(b) of the Regulations of the Court, the parties may file a response to any document filed in the record of the case within 21 days of notification thereof, unless otherwise ordered;

CONSIDERING that, in light of the time-line of these proceedings, it is necessary to decide on Mr Babala's Request without delay and that, in light of the subject-matter of the Request, it is appropriate for the Single Judge to expeditiously gather the views of the Prosecutor and the other Defence teams prior to making his determinations;

CONSIDERING that, whilst Mr Babala's Request makes reference to the decision appointing Independent Counsel for the purposes of the forensic acquisition and review of material seized upon the arrest of the suspects, the content of the Request (in particular, its paragraph 5) makes it clear that it must be read as referring to the appointment of Independent Counsel for the purposes of listening and reviewing telephone calls placed or received by Mr Kilolo and Mr Mangenda recorded and made available by the Dutch authorities, with a view to the transmission to the Court of those portions of calls which might be relevant to the investigation which led to the opening of this case²;

CONSIDERING that Independent Counsel might be aware of and familiar with the methods followed by the Dutch authorities for the purposes of recording and storing the intercepted telephone conversations and that, accordingly, it is appropriate to request Independent Counsel's observations;

CONSIDERING that, since information submitted by Independent Counsel pursuant to this decision might refer to the investigative methods of the Dutch authorities and therefore be of a confidential nature, it is necessary and

² ICC-01/05-52-Red2.

appropriate that Independent Counsel's observations be initially submitted on a confidential, ex parte basis, reserved to the Chamber and the Registry;

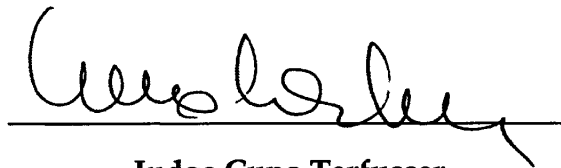
FOR THESE REASONS, THE SINGLE JUDGE HEREBY

DECIDES that Mr Babala's Request shall be reclassified as public;

ORDERS the Prosecutor and the Defence teams for Jean-Pierre Bemba, Aimé Kilolo, Jean-Jacques Mangenda and Narcisse Arido to file their responses to Mr Babala's Request by **Tuesday, 10 June 2014**;

ORDERS Independent Counsel to submit observations on Mr Babala's Request by **Tuesday, 10 June 2014** on a confidential ex parte (Chamber, Registry and Independent Counsel only) basis.

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



Judge Cuno Tarfusser
Single Judge

Dated this Thursday, 5 June 2014

The Hague, The Netherlands