

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 May 2014

Date of public redacted version: 06 January 2017

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 redacted version of

Decision on the “Narcisse Arido’s request for review of the Registrar’s decision on legal assistance paid by the Court dated 17 April 2014 (CSS/2014/269)”

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor **Counsel for Jean-Pierre Bemba Gombo**

Counsel for Aimé Kilolo Musamba

**Counsel for Jean-Jacques Mangenda
Kabongo**

Counsel for Fidèle Babala Wandu

Counsel for Narcisse Arido
Göran Sluiter

**Legal Representatives of
Victims**

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

States Representatives

REGISTRY

Registrar

Herman von Hebel

Detention Section

Victims and Witnesses Unit

Others

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

NOTING the “Decision on the Registrar on the legal assistance paid by the Court, CSS/2014/269”, dated 17 April 2014, whereby the Registrar granted to Mr Arido [REDACTED] as legal assistance to be paid by the Court and additional [REDACTED] in order to cover travel expenses (the “Registrar’s Decision”);¹

NOTING that the “Request for reconsideration of legal aid decision by the Arido Defence, 17 April 2014”, whereby the Defence for Mr Arido requested the Registrar “to reconsider its decision on the amount of legal aid to be provided to Mr. Arido and to grant him the full amount, as per the Registry Policy, for one counsel, one legal assistant and one case manager all at full-time, that is [REDACTED]”² was orally denied during a meeting held by the Counsel for Mr Arido, two representatives from the Counsel Support Section of the Registry on 24 April 2014;

NOTING the “Narcisse Arido’s Request for Review of the Registrar’s decision on legal assistance paid by the Court dated 17 April 2014 (CSS/2014/269)”³, submitted on 14 May 2014, whereby the Defence for Mr Arido argues that “[t]he Regulations of the Court state clearly that legal assistance should cover all costs reasonably necessary for an effective and efficient Defence, ... submits that the Registrar erred in both law and facts in its assessment of what qualifies as such and, as a result, rendered an unfair decision” and therefore requests the Single Judge to: “i. Hold that the Registrar erred by granting the Arido Defence team half of the legal aid budget provided for in the Legal Aid Policy for a core team; i.

¹ ICC-01/05-01/13-396-Conf-Exp-AnxA.

² ICC-01/05-01/13-396-Conf-Exp-AnxB.

³ ICC-01/05-01/13-396-Conf-Exp.

Reverse the 17 April 2014 Registrar's decision on legal assistance; iii. Order that Mr Arido be granted legal aid to finance a full-time core team composed of one counsel, one legal assistant and one case manager under the rates provided in paragraph 85 of the Legal Aid Policy; iv. Order that such amount of legal aid be applicable retroactively since the day of appointment of counsel; v. Order the Registrar to reassess the amount of legal aid to be provided to Mr Arido, including by obtaining submissions from his Defence team regarding the amount of work to be undertaken, after the filing of the written submissions in lieu of the confirmation of charges hearing" ("Request for review");

CONSIDERING that these proceedings, governed by regulation 83 of the Regulations of the Court, have administrative nature and the Chamber's function and competence is, if required according to par. 4 of the cited regulation, to "review" the decision of the Registrar on the "scope" of legal assistance paid by the Court;

CONSIDERING therefore, that in the ambit of this role, the Chamber has an appellate function and, as consequence, it must assess whether the decision of the Registrar was materially affected by an error of law or fact, or whether the decision is so unfair and unreasonable to constitute an abuse of discretion;

CONSIDERING that in his Decision the Registrar, while having decided on the request on legal aid for Narcisse Arido and having determined "l'ampleur de tâches qu'il est raisonnable d'attendre de la Défense en l'état actuel du dossier et de la procedure, ainsi que du niveau de ressources aux equips de la Défense des trois autres personnes déclarées indigentes dan le même dossier ICC-01/05-01/13" has given an exhaustive legal and factual motivation to his determination;

CONSIDERING further, that as underlined also in the Request for review, "the legal assistance scheme was established for those suspected of crimes under

Article 5 of the Statute and not for those suspected of crimes under Article 70 of the Statute”;⁴

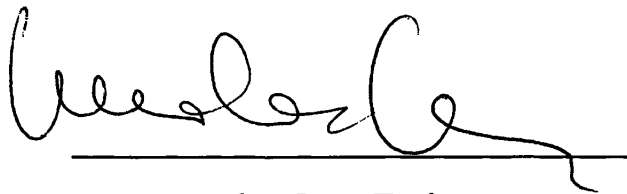
CONSIDERING that in no way it can be said that in his Decision “the Registrar committed an error of law by unreasonably departing from Legal Aid Policy ... and also erred by failing to take into account relevant information as required by Regulation 83(1) of the RoC”;

CONSIDERING finally, that the determination of the Registrar concerning the legal aid is not a final decision, therefore the request can be renewed and the decision can adjusted given a good cause;

FOR THESE REASONS, THE SINGLE JUDGE.

REJECTS the request for judicial review.

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



Judge Cuno Tarfusser

Single Judge

Dated this Wednesday, 21 May 2014

The Hague, The Netherlands

⁴ ICC-01/05-01/13-396-Conf-Exp, par. 23.