

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 22 November 2013

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*

Under seal *ex parte*, only available to the Prosecutor and the Registrar

URGENT

Decision on the Prosecutor's "Request for application of temporary redactions"

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

Counsel for the Defence

Legal Representatives of Victims

Unrepresented Victims

Legal Representatives of Applicants

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

REGISTRY

Registrar

Herman von Hebel

Detention Section

Victims and Witnesses Unit

Others

**Victims Participation and
Reparations Section**

I, Judge Cuno Tarfusser, having been designated¹ as Single Judge of Pre-Trial Chamber II ("Chamber") of the International Criminal Court responsible for addressing and determining the issues arising in connection with the Prosecutor's "Request for Judicial Assistance to Obtain Evidence for Investigation under Article 70" dated 3 May 2013;²

NOTING the "Mandat d'arrêt à l'encontre de Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu et Narcisse Arido" issued under seal, ex parte on 20 November 2013 («Warrant»);³

NOTING the Prosecutor's "Request for application of temporary redactions" dated 22 November 2013 ("Prosecutor's Request"),⁴ whereby the Prosecutor submits that the arrest of Fidèle Babala may be executed at a later stage and, accordingly, requests that temporary redactions (as detailed in Annex A to her Request) be applied to the Warrant to be served on Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, and Narcisse Arido (collectively, "Other Suspects"), with a view to avoiding that the chances for arresting of Fidèle Babala and the collection of relevant evidence be compromised;

NOTING rule 81(2) of the Rules of Procedure and Evidence of the Court;

CONSIDERING that the Prosecutor's Request pertains to the case of *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido* and not to the situation in the Central African Republic;

¹ ICC-01/05-45-Conf-Exp.

² ICC-01/05-44-Conf-Exp.

³ ICC-01/05-01/13-1-US-Exp.

⁴ ICC-01/05-71-US-Exp with US-Exp Annex A.

CONSIDERING that the Single Judge is persuaded that the measures ordered in the Warrant providing for isolation of the suspects for 72 hours are adequate to take care of the Prosecutor's concerns, in particular since the expected time frame indicated by the Prosecutor for the arrest of Fidèle Babala is shorter than the aforementioned period of isolation;

CONSIDERING further that the Prosecutor states that Fidèle Babala is being monitored by the authorities of the Democratic Republic of the Congo ("DRC") and that, therefore, the risk of compromising his arrest appears very limited;

CONSIDERING that there might exist a limited, residual risk that, due to the delay in arresting him, Fidèle Babala is informed of the Warrant against him by third persons, including by lawyers appointed by the Other Suspects;

CONSIDERING, however, that at this stage the preparations for the execution of the Warrant, which involve as many as four different States, are very advanced;

CONSIDERING that granting the Prosecutor's Request would require consulting and coordinating anew with all relevant State authorities and that the timing and result of such processes is highly uncertain ;

CONSIDERING that, accordingly, this would create a serious risk of jeopardising the successful execution of the Warrant for the Other Suspects;

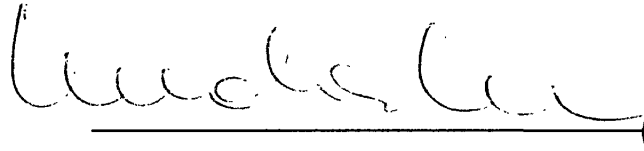
CONSIDERING that the Single Judge takes the view that this risk is higher and suitable to result in more serious prejudice to the case than the ones which might be entailed by the envisaged limited delay in executing the arrest of Fidèle Babala;

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

ORDERS The Registrar to transfer the Prosecutor's Request in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*;

REJECTS the Prosecutor's Request.

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



Judge Cuno Tarfusser
Single Judge

Dated this Friday, 22 November 2013

The Hague, The Netherlands