

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 10 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*

**Confidential
with Confidential Annexes A and B**

Prosecution application for leave to submit an "Amended and corrected version of Prosecution Response to the "Requête urgente de la Défense sollicitant la mise en liberté provisoire de Monsieur Fidèle Babala Wandu" of 3 January 2014 (ICC-01/05-01/13-38)"

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

States Representatives

Amicus Curiae

REGISTRY

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Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations

Other

I. Introduction

1. The Office of the Prosecutor ("Prosecution") respectfully seeks the leave of Pre-Trial Chamber II ("Chamber")¹ to file a corrected and amended version of its 3 January 2014 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) ("Response").² The Prosecution regrets any inconvenience this filing may cause to the Chamber and the Registry.

2. For the Chamber's convenience, the proposed Corrected and Amended Response is attached at Confidential Annex A. A list of the corrections made to the Response is attached at Confidential Annex B. With the exception of three minor corrections set out below, all of the proposed corrections address typographical, formatting and clerical errors. They in no way alter the substance of the Response.

II. Confidentiality

3. This filing is classified as "Confidential" as it concerns a previous filing classified as such.

III. Submissions

4. As noted above, there are three minor changes to the Response that potentially fall outside the strict parameters of a corrigendum under the Regulations. These, comprise the following:

¹ The Chamber's leave is sought given the expiration of the original filing deadline. Mr. Babala's defence team has assured the Prosecution that it has no objection to the Prosecution making necessary corrections to its filing.

² ICC-01/05-01/13-67-Conf.

- (a) a recharacterisation of the nature of an alleged conversation to more accurately reflect the facts of the case, namely:

At Response paragraph 13, sub.iii, "privilege" should read, "privileged-line";

- (b) replacement of an reference concerning the date and time of a conversation, namely,

At Response footnote 48, "ICC-01/05-67-Conf, Annex I.1., telephone conversation 2013/000034780 on 14 September 2012 from 06:35 to 06:52:21." should read, "ICC-01/05-67-Conf, para. 85, and Annex I.1., telephone conversation 2013/000034808 on 28 September 2012 from 10:21:33 to 10:26:07, in which Bemba instructs Babala"; and

- (c) removing a redundant reference to information already in the text of the Response, namely:

At Response footnote 56, "[i]t is interesting to note nonetheless that Babala did not substantiate his allegations regarding the illegality of his arrest pursuant to DRC law, nor did he file such a complaint before the DRC's judicial system." otherwise found at Response at para 43.

5. None of these corrections constitutes a substantive change to either the meaning or import of the Response. Moreover, as noted, none of the other corrections set out at Confidential Annex B are substantial in nature. As such, no prejudice will inure to the Defence should the Chamber allow the proposed filing. Furthermore, the corrections will improve the clarity and accuracy of the Prosecution's response.

IV. Relief Requested

6. For the foregoing reasons, the Prosecution respectfully requests that the Chamber permit the Prosecution to supersede and replace its original Response with the proposed Corrected and Amended Response.



Fatou Bensouda, Prosecutor

Dated this 10th day of January 2014

At The Hague, The Netherlands