

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 3 February 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 “Requête afin de pouvoir répondre à la réplique du Procureur du 24 janvier 2014 ICC-01/05-01/13-127-conf 24-01-2014 à la requête de mise en liberté du 8 janvier 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

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 ("Chamber") of the International Criminal Court;

NOTING the "Requête de mise en liberté" (the "Application")¹ submitted by the Defence for Mr Mangenda on 8 January 2014;

NOTING the "Prosecution response to the «Requête de mise en liberté » of 8 January 2014 (ICC-01/05-01/13-71)" (the "Response"),² dated 24 January 2014;

NOTING the request for leave to reply to the Prosecutor's Response, filed by the Defence for Mr Mangenda on 29 January 2014 (the "Request for Leave to Reply");³

NOTING regulation 24(5) of the Regulations of the Court (the "Regulations"), according to which "participants 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, in particular 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, to a great extent, the Request for Leave to Reply is centred on criticism of a legal nature to the Prosecutor's response (in particular, as regards the Prosecutor's alleged failure to acknowledge the distinction between a request for interim release and a request for "la mise en liberté pure et simple");

¹ ICC-01/05-01/13-71, with Confidential Annexes A and B.

² ICC-01/05-01/13-127-Conf.

³ ICC-01/05-01/13-136-Conf.

CONSIDERING further that the Defence requests leave to reply with a view to discussing certain aspects which the Single Judge would be able to consider without the need for additional arguments to be advanced by the Defence;

CONSIDERING also that the Defence request to reply to the Prosecutor “quant à sa comparution, à la possibilité de faire obstruction à l’instruction et à la possibilité de la ‘continuation’ des ‘crimes’ allégués”, in the absence of any further explanation, is too vague for the Single Judge to assess its merits, and that granting leave to reply on this basis alone would be tantamount to a blank authorisation without the necessary judicial control envisaged in regulation 24(5) of the Regulations;

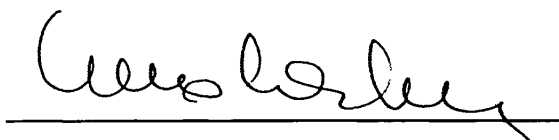
CONSIDERING that, accordingly, the Defence fails to demonstrate the existence of good cause to obtain authorisation to file the sought reply;

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', is written over a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this Monday, 3 February 2014

The Hague, The Netherlands