

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 4 August 2014

**PRE-TRIAL CHAMBER II**

**Before:** Judge Ekaterina Trendafilova, Presiding Judge  
Judge Cuno Tarfusser  
Judge Christine Van den Wyngaert

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC**

**IN THE CASE OF**  
***THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO, AIME KILOLO***  
***MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU***  
***AND NARCISSE ARIDO***

**Public**

**Prosecution Request for Variation of Time Limit for Confirmation Response**

**Source:** The 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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**States Representatives**

**Amicus Curiae**

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**Detention Section**

**Victims Participation and Reparations Section Others**

## I. Introduction

1. Pursuant to Regulation 35(2) of the Regulations of the Court, the Prosecution requests the Chamber to extend the Prosecution's 7 August 2014 time limit<sup>1</sup> to respond to the Defence confirmation submissions by at least two weeks. The five submissions and their substantive annexes total 848 pages. Given the length and complexity of the filings, the seven days allotted to the Prosecution for its response are not sufficient to critically read, analyse, and frame a cogent, concise, response.

2. The Prosecution also notifies the Chamber and the parties that it will submit a corrigendum of the graphic summary annexed to its Document Containing the Charges ("DCC")<sup>2</sup> following the Babala Defence's identification of a typographical error.<sup>3</sup>

## II. Submissions

3. There is good cause for the Chamber to grant this request. The Defence submissions are extensive. The Kilolo Defence's submission is 316 pages,<sup>4</sup> the Mangenda Defence's is 287 (including its substantive annexes),<sup>5</sup> the Arido Defence's is 111,<sup>6</sup> and the Bemba and Babala Defence's submissions are both 67 pages;<sup>7</sup> a total of 848 pages from five suspects to respond to in seven days — conditions unprecedented at this Court.<sup>8</sup> In contrast, the time limit to respond to a 20-page filing in normal circumstances is 21 days.<sup>9</sup>

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<sup>1</sup> See ICC-01/05-01/13-443, p. 5.

<sup>2</sup> ICC-01/05-01/13-526-Conf-AnxC1; ICC-01/05-01/13-526-Conf-AnxC2.

<sup>3</sup> See ICC-01/05-01/13-596-Conf, paras. 47-48.

<sup>4</sup> ICC-01/05-01/13-600-Conf-Corr.

<sup>5</sup> ICC-01/05-01/13-594-Conf.

<sup>6</sup> ICC-01/05-01/13-598-Conf.

<sup>7</sup> ICC-01/05-01/13-599-Conf (Bemba); ICC-01/05-01/13-596-Conf (Babala).

<sup>8</sup> See, e.g., ICC-02/11-01/11-576, p. 6 (permitting the Prosecution two weeks to file its response to the *Gbagbo* single Defence team's confirmation submissions); see also ICC-01/05-01/08-3071, p. 11 (allocating the Prosecution two weeks to file its response to the *Bemba* single Defence team's closing brief).

<sup>9</sup> See Regulations 24(1) and 34(2) of the Regulations of the Court.

4. Although the 7 August 2014 time limit was set some time ago, the Prosecution could not reasonably have anticipated that the Defence's substantive confirmation submissions would average 170 pages per suspect. The five defence teams raise issues particular to their client, which each require more than seven days to evaluate, analyse, and respond to.

5. The Defence submissions differ from the Prosecution's confirmation submission<sup>10</sup> both on the facts<sup>11</sup> and on the applicable law.<sup>12</sup> A two-week extension will permit the Prosecution to better formulate a limited, focused, response on important law that has not yet been addressed at this Court.

6. The requested extension does not unduly prolong the confirmation proceeding because the Prosecution should be permitted a reasonable timeframe within which to file a considered and meaningful response to the Defence's submissions. Nor does it prejudice the Defence, which will be afforded additional time to respond to the Prosecution's confirmation submission, and which will still have the 'last word'.

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<sup>10</sup> ICC-01/05-01/13-597-Conf-AnxB.

<sup>11</sup> They also vary from each other factually, raising both inconsistencies and contradictions.

<sup>12</sup> See, e.g., ICC-01/05-01/13-596-Conf, paras. 122, 128, 133, 144, 148 (contribution requirement for individual criminal responsibility to arise under common plan liability); ICC-01/05-01/13-599-Conf, paras. 156-158 (*mens rea* requirement under Article 25(3)(b)).

### III. Requested Relief

7. Pursuant to Regulation 35(2) of the Regulations of the Court, the Prosecution requests the Pre-Trial Chamber to extend the time limit set for the Prosecution to respond to the Defence confirmation submissions to 21 August 2014, at least.



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**Fatou Bensouda, Prosecutor**

Dated this 4<sup>th</sup> Day of August 2014

At The Hague, The Netherlands