

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **17 November 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

URGENT

**Narcisse Arido's Request for an Extension of the Page Limit for the Defence's Leave
to Appeal the "Decision pursuant to Article 61 (7) (a) and (b) of the Rome Statute"
(ICC-01/05-01/13-749)**

Source: Counsel for Narcisse Arido

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

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I. INTRODUCTION

1. The Arido Defence respectfully requests the Single Judge to grant it the permission to exceed the page limit for the Defence's leave to appeal the 'Decision pursuant to Article 61 (7) (a) and (b) of the Rome Statute' issued by Pre-Trial Chamber II. It requests the Single Judge to grant it an extension of 5 pages.

II. PROCEDURAL HISTORY

2. On 11 November 2014, Pre-Trial Chamber II issued its Decision pursuant to Article 61 (7) (a) and (b) of the Rome Statute confirming a number of the charges against Mr. Arido.¹

III. APPLICABLE LAW

3. Pursuant to Regulation 37 (1) of the Regulations of the Court ('RoC'), a document filed with the Registry may not exceed 20 pages, unless a different page limit is provided in the Statute, Rules, the RoC or ordered by the Chamber. In exceptional circumstances, the Chamber may extend the page limit at the request of a participant under Regulation 37 (2) of the RoC.

4. The exceptional circumstances required by Regulation 37(2) have been met in other cases in light of the nature of the request or the issues on which an appeal was requested,² their number³ and complexity,⁴ their novelty⁵ and/or the need to provide sufficient factual detail.⁶ An extension has also been granted in certain cases where the page limit was insufficient to set out the relevant issues adequately and thus an extension was warranted to receive "comprehensive, well argued and clearly presented submissions".⁷

¹ ICC-01/05-01/13-749.

² ICC-01/04-01/07-1546, para. 4; ICC-01/04-168 OA3, para. 4; ICC-02/11-01/11-471, para. 7.

³ ICC-01/04-01/10-248, p. 3; ICC-01/04-01/06-2532, para. 6.

⁴ ICC-01/04-168 OA3, para. 4; ICC-01/04-01/10-248, p. 3; ICC-01/04-01/10-495, paras 2 and 5; ICC-01/04-01/06-2532, para. 6; ICC-02/11-01/11-471, para. 7.

⁵ ICC-01/04-01/06-2965, para.9; ICC-01/04-01/10-495, paras 2 and 5.

⁶ ICC-01/09-27, para. 4; ICC-01/04-615, para. 7; ICC-01/04-01/06-1350, para. 8.

⁷ ICC-01/04-01/07-3249, p. 4; *see also* ICC-01/04-01/06-177, para. 6.

IV. SUBMISSIONS

5. The Arido Defence hereby requests the authorisation of the Single Judge to file a leave to appeal that exceeds the page limit prescribed by Regulation 37(1) of the RoC by 5 pages. There are exceptional circumstances that justify this request, as explained below.

6. First and foremost, the present case is the first case under Article 70 of the Statute to come before this Court and reach the stage of the confirmation of charges. The novelty of issues has been recognised as an exceptional circumstance warranting an extension of the page limit in a number of cases.⁸ The nature of a case under Article 70 is fundamentally different from that of a case under Article 5 of the Statute. Therefore, there are a number of legal and procedural issues for which there is no well established interpretation, and which the Arido Defence intends to seek leave to appeal on, pursuant to Article 82 (1) (d) of the Statute. Equally novel is the interpretation of the Chamber of Article 25 (3) (c) of the Statute, it is the first time that criminal responsibility for aiding and abetting to a crime is dealt with by this Court.⁹ An extension of the page limit is therefore necessary in order to permit the Arido Defence to present the alleged issues clearly, and to address each of the requirements of Article 82 (1) (d) in detail. This would also assist the Pre-Trial Chamber in its assessment of the request for leave to appeal.

7. Secondly, the Decision on the Confirmation of Charges, for which the Arido Defence will seek leave to appeal, is one of the most important decisions in the course of the proceedings before this Court. Whether or not each of the charges is confirmed, or depending of how the charges are interpreted, will determine the form of the trial phase. Being given the opportunity to present a leave to appeal that is slightly above the page limit would ensure that Mr. Arido's right to seek leave to appeal from the Decision Confirming the Charges is given full effect.

8. According to Regulation 65 (1) and (2) of the Regulations of the Court, a party shall set out the factual and legal reasons for the request for leave to appeal and shall also specify the reasons warranting immediate resolution by the Appeals Chamber of the matter at issue. In its leave to appeal, the Arido Defence will raise issues related to the interpretation of Article 25 (3) (c) of the Statute, Article 70 of the Statute and the standard of proof under Article 61 (7) of the Statute. Despite the Arido Defence's goodwill and best efforts to be concise and comply with the page limit, it is impossible to address all the relevant legal issues with precision and clarity within the limit of 20 pages.

⁸ ICC-01/04-01/06-2965, para. 9; ICC-01/04-01/10-495, paras 2 and 5.

⁹ ICC-01/05-01/13-749, para. 35.

9. Both the Chamber and the parties would benefit from a comprehensive, clearly argued filing. The necessity for a clear and comprehensive reasoning has already been accepted as warranting an extension of the page limit.¹⁰ The additional pages would allow the Arido Defence to present a detailed and clear reasoning, which will assist the Pre-Trial Chamber to rule on the leave to appeal and facilitate the expeditious administration of justice. The Arido Defence only requests 5 additional pages to present its arguments, which is only a modest extension. This slight extension would allow the clear presentation of a number of very novel issues and would give full effect to Mr. Arido's right to seek leave to appeal.

V. CONCLUSION

10. For the reasons stated above, the Arido Defence hereby respectfully requests the authorisation of the Single Judge to file a leave to appeal of 25 pages.

A handwritten signature in black ink, appearing to read 'G. Sluiter', with a large, loopy initial 'G' and a horizontal line extending to the right.

Göran Sluiter, Counsel for Mr. Arido

Dated this 17th Day of November 2014

At Amsterdam, The Netherlands

¹⁰ ICC-01/04-01/07-3249, p. 4; ICC-01/04-01/06-177, para. 6.