Cour Pénale Internationale

International Criminal Court

Original: **English**

No.: **ICC-01/05-01/13**
Date: **16 June 2015**

THE APPEALS CHAMBER

Before: **Judge Sanji Mmasenono Monageng, Presiding Judge**
Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka

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

Public Redacted Version of 'Narcisse Arido's Document in Support of the Appeal of the Single Judge's "Decision on 'Narcisse Arido's Request for Interim Release' " (ICC-01/05-01/13-588)' (ICC-01/05-01/13-606-Conf) filed on 1 August 2014

Source: **Counsel for Narcisse Arido**

Document 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

Counsel for Jean-Pierre Bemba Gombo
Melinda Taylor

Counsel for Aimé Kilolo Musamba
Paul Djunga Mudimbi

Counsel for Jean-Jacques Mangenda Kabongo
Christopher Gosnell

Counsel for Fidèle Babala Wandu
Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido
Charles Achaleke Taku
Philippe Larochelle

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants (Participation/Reparation)

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence
Xavier-Jean Keïta

REGISTRY

Registrar
Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

I. INTRODUCTION

1. In accordance with Article 82 (1) (b) of the Statute, Rule 154 of the Rules of Procedure and Evidence ('RPE') and Regulation 64 (5) of the Regulations of the Court ('RoC'), the Arido Defence hereby files its appeal on the Single Judge's Decision rejecting Mr. Arido's request for interim release ('Impugned Decision').[1]

II. CLASSIFICATION

2. Pursuant to Regulation 23*bis* of the Regulations of the Court ('RoC') and Regulation 24 of the Regulations of the Registry ('RoR'), the present appeal is submitted confidentially as it refers to confidential filings.

III. PROCEDURAL HISTORY

3. On 10 June 2014, the Arido Defence filed a request for interim release ('interim release request').[2] The Prosecution filed its response on 30 June 2014, opposing the interim release request ('Prosecution's Response').[3] [REDACTED].[4]

4. On 4 July 2014, the Arido Defence requested leave to reply to the Prosecution's Response, in order to address a number of new arguments contained therein.[5] On 8 July 2014, the Single Judge granted the Arido Defence leave to reply,[6] and the Arido Defence filed its reply on 16 July 2014.[7]

5. The Single Judge rendered his decision on 24 July 2014, rejecting the interim release request.[8] The Arido Defence filed its notice of appeal on 29 July 2014.[9] On 30 July 2014, the Appeals Chamber selected Judge Sanji Mmasenono Monageng as presiding Judge in relation to the present appeal.[10]

---

1 ICC-01/05-01/13-588.
2 ICC-01/05-01/13-477-Conf. A public redacted version was filed on 17 June 2014 (ICC-01/05-01/13-477-Red).
3 ICC-01/05-01/13-525-Conf. A public redacted version was filed on 11 July 2014 (ICC-01/05-01/13-2-525-Red).
4 [REDACTED].
5 ICC-01/05-01/13-535-Conf. A public redacted version was filed on 16 July 2014 (ICC-01/05-01/13-535-Red).
6 ICC-01/05-01/13-543, p. 4.
7 ICC-01/05-01/13-576-Conf. A public redacted version was filed on 16 July 2014 (ICC-01/05-01/13-576-Red).
8 ICC-01/05-01/13-588.
9 ICC-01/05-01/13-592.
10 ICC-01/05-01/13-593 OA 6.

IV. APPLICABLE LAW

6. According to Regulation 64 (2) of the Regulations of the Court ('RoC'), the Appellant shall file a document in support of the appeal setting out the grounds of appeal and containing the legal and/or factual reasons in support of each ground of appeal. Regulation 64 (3) states that the grounds of appeal may be advanced cumulatively or in the alternative.

7. The decision on continued detention or release is not of a discretionary nature. Depending upon whether or not the conditions of Article 58 (1) of the Statute continue to be met, the detained person shall be continued to be detained or shall be released.[11] The Appeals Chamber will not review the findings of the Pre-Trial Chamber *de novo*, but will intervene where there are clear errors of law, fact or procedure which vitiate the Impugned Decision.[12]

8. An error of law is an error where the Pre-Trial Chamber misinterpreted the applicable law. On questions of law, the Appeals Chamber will not defer to the Trial Chamber's interpretation of the law. Rather, it will arrive at its own conclusions as to the appropriate law and determine whether or not the Trial Chamber misinterpreted the law. If the Trial Chamber committed such an error, the Appeals Chamber will only intervene if the error materially affected the Impugned Decision.[13]

9. An error of fact occurs where the Pre-Trial Chamber has misappreciated the facts, disregarded relevant facts or took into account facts extraneous to the *sub judice* issues.[14] When reviewing a claim that a Pre-Trial or Trial Chamber has misappreciated facts in a decision on interim release, the Appeals Chamber will defer or accord a margin of appreciation both to the inferences the Chamber drew from the available evidence and to the weight it accorded to the different factors militating for or against detention. It will not interfere with a Pre-Trial or Trial Chamber's evaluation of the evidence just because the Appeals Chamber might have come to a different conclusion. It will interfere only in the case of a clear error, namely where it cannot discern how the Chamber's conclusion could have reasonably been reached from the evidence before it.[15] The applicable standard of review requires the Appellant to show that, on the basis of

[11] ICC-01/04-01/06-824, para. 134; ICC-01/05-01/13-559, para. 23.
[12] ICC-01/05-01/13-559, para. 18; ICC-01/05-01/08-631-Red (OA 2), para. 62.
[13] ICC-01/05-01/13-559, para. 20; ICC-01/04-01/10-514, par. 15, *citing to* ICC-02/05-03/09-295 (OA 2), para. 20.
[14] ICC-01/05-01/13-559, para. 19; ICC-01/05-01/08-631-Red (OA 2), para. 61; ICC-01/04-01/10-T-5-FRA, p. 2; ICC-01/04-01/10-283, para. 16; ICC-01/09-01/11-307, para. 56.
[15] ICC-01/05-01/13-559, para. 19; ICC-01/04-01/10-283, para. 17; ICC-01/04-01/10-T-5-ENG, pp 2-3; ICC-01/09-01/11-307, para. 56.

the evidence before the Single Judge, no reasonable trier of fact could have come to the same decision.[16]

V. SUBMISSIONS

10. The Arido Defence submits that the Impugned Decision contains a number of errors of fact, law and procedure, which taken individually or as a whole materially stain the decision. In particular, the Arido Defence submits that the Single Judge committed errors of fact and of law when assessing the risks contained in Article 58 (1) (b) (i), by finding that Mr. Arido was part of the so-called "Bemba's network" in the absence of specific and concrete evidence (ground 1), by summarily dismissing the Defence's arguments (ground 2) and by finding that pre-trial detention could only be unreasonable if the delay results from the Prosecution's actions (ground 3). Regarding the Single Judge's assessment of the risks listed in Article 58 (b) (1) (ii) and (iii) of the Statute, the Arido Defence submits that the Single Judge erred in relying on an alleged incident related to the disclosure of confidential information by persons related to Mr. Arido without the Arido Defence having been able to investigate the matter and to make fully informed submissions (ground 4). Finally, the Single Judge erred in law when assessing whether conditional release was an option (ground 5).

A. Errors related to the assessment of Article 58 (1) (b) (i) (appearance at trial)

1. The Single Judge committed an error of fact by finding that Mr. Arido was part of "Bemba's network" (ground 1)

11. The Single Judge rejected[17] the Arido Defence's arguments that:

- Mr. Arido never attempted to abscond from the Court;
- Mr. Arido showed his willingness to cooperate when arrested by the French authorities;
- Any action of Mr. Arido aiming not to appear in Court would be detrimental to his asylum claim application in France and he would therefore be left with nowhere to go to;
- Mr. Arido does not have any financial means and is under the legal aid program at the Court.[18]

[16] ICC-01/04-01/07-194, para. 13.
[17] ICC-01/05-01/13-588, para. 13.
[18] ICC-01/05-01/13-477-Conf, paras 26-40.

12. According to the Single Judge, such arguments are "not suitable to weaken the persuasiveness of the factors supporting the existence of a flight risk".[19] According to the Single Judge, this flight risk exists because Mr. Arido is part of the so-called "Bemba's network". The Single Judge relied on the fact that Mr. Arido was "actively involved with the other suspects in the implementation of the criminal plan alleged by the Prosecutor" to state that Mr. Arido was therefore also part of the Bemba's network and therefore potentially able to claim and obtain economic support, if and when required.[20] On this basis alone, the Single Judge found that Mr. Arido was therefore a flight risk and that the conditions in Article 58 (1) (b) (i) were fulfilled.[21]

13. The Arido Defence submits that the Single Judge erred in fact, by misappreciating the facts. The Single Judge does not point out to any specific items of evidence supporting his position, only referring to "the recently disclosed evidence". This cannot be said to amount to specific and concrete evidence, as the Single Judge failed to support its assertion with any reference to the evidence provided by the Prosecution. This makes it nearly impossible for the Arido Defence to challenge the decision. In particular, the Single did not explain how – since the suspects with whom Mr. Arido was allegedly involved with are all in detention right now – Mr. Arido could be said to have a network of supporter and financial means available.

14. The Arido Defence recalls that an interim release application must be assessed on a case-by-case basis and that the risks must be established based on specific and concrete elements.[22] Nowhere in the evidence can the Single Judge find any evidence of communication between Mr. Bemba, Mr. Mangenda, Mr. Babala and Mr. Arido. A mere reference to "recently disclosed evidence" that Mr. Arido was "actively involved with the other suspects in the implementation of the criminal plan" cannot be said to amount to specific and concrete elements.

15. Further, the Arido Defence notes that the only evidence related to Mr. Arido are the interviews of D-2 and D-3, who provide no evidence that Mr. Arido was ever in contact with Mr. Bemba, Mr. Babala or Mr. Mangenda. They also provide no evidence that Mr. Arido had financial means at his disposal, since the only payments Mr. Arido allegedly made to them were of a total of 90 euros for both of them, to refund them for their transportation and food costs. Cleary, this does not show access to significant funds to abscond.

---

[19] ICC-01/05-01/13-588, para. 13.
[20] *Ibid.*
[21] ICC-01/05-01/13-588, paras 12-14.
[22] ICC-01/05-01/13-560, para. 119.

16. By making a general statement that Mr. Arido was part of the Bemba network and had access to funds and other means to abscond without providing specifics as to the evidence supporting this fact, the Single Judge misappreciated the facts, and gave weight to extraneous factors. The Arido Defence submits that no reasonable Judge would have reached the same conclusion.

17. The Arido Defence recalls that the Single Judge's assessment of Article 58 (1) (b) (i) is solely based on the existence of this network.[23] This error vitiates the totality of the decision since the sole basis on which the Single Judge finds that Mr. Arido meets Article 58 (1) (a) (i) is the membership of the network.

2. The Single Judge committed an error of law and of fact by summarily dismissing the Arido Defence's arguments (ground 2)

18. The Single Judge failed to give weight to the fact that Mr. Arido collaborated with the French authorities upon arrest, that the reason why he did not testify was related to security fears – and ignored the fact that Mr. Arido had informed both the Bemba Defence team but also the VWU unit of these fears, and that it was as a result of their lack of action which he was left with no choice but not coming to The Hague. The Single Judge also summarily rejected Mr. Arido's arguments that he had an asylum application in France and therefore would not take any action to endanger it, and that he could not return to Cameroon in light of security risks.[24]

19. The Single Judge summarily dismissed all of these arguments as "not suitable to outweigh the elements considered by the Single Judge as determining the existence of a concrete flight risk", namely Mr. Arido's membership in the Bemba network.[25] However, in light of the abovementioned argument that the Single Judge failed to provide specific and concrete reasons for finding that Mr. Arido was in fact part of the alleged network, the weight to be given to the personal situation of Mr. Arido, namely his cooperation with the French authorities and his asylum application in France, should have been given more weight.

20. Here, the Single Judge committed an error of law as he failed to assess the situation of Mr. Arido on a case-by-case basis, and failed to assess whether in fact, his individual situation as a refugee could mitigate the existence of a flight risk. As a result, the error of the Single Judge vitiates his conclusion that Mr. Arido is a flight risk.

[23] ICC-01/05-01/13-588, paras 12-15.
[24] ICC-01/05-01/13-588, para. 15.
[25] ICC-01/05-01/13-588, para. 13.

3. <u>The Single Judge committed an error of law by failing to consider whether the detention is unreasonable (ground 3)</u>

21. The Single Judge committed an error in law in paragraph 17, relying on Article 60 (4) of the Statute to reject Mr. Arido's argument that his detention since November 2013 was unreasonably long in light of the maximum penalty for Article 70 offences.[26] According to the reasoning of the Single Judge, a pre-trial detention can only be unreasonable if "due to inexcusable delay by the Prosecutor".[27] Following this reasoning, a suspect could be held in pre-trial detention forever, as long as it was not due to the Prosecution. This goes against the reasonable interpretation of the Statute and fundamental human rights.

22. The Arido Defence recalls the words of Judge Ušacka, referring to the European Court of Human Rights's jurisprudence, in that the overarching consideration as far as pre-trial detention is concerned is that continued detention is not unreasonable or leads to an arbitrary or disproportionate outcome.[28]

23. The Arido Defence notes that five years is the maximum penalty for Article 70 offences, and that a fine is also an option, something which the Single Judge fails to even mention. It must also be pointed out that the maximum available penalty is rarely imposed, also in respect of the Court's 'core crimes'. The Arido Defence is also concerned about the self-fulfilling prophecy, in the sense that when reference is made the maximum available penalty justifying pre-trial detention, the pre-trial detention would in fact serve as anticipation on such sentence, which is prohibited by human rights law.

24. In this respect, it must also be noted that Mr. Arido's alleged participation in the offences is – by comparison to the co-suspects – more limited both in time and in scope. As a result, it is unlikely that if convicted, he would be given the maximum penalty. The Single Judge failed to give due consideration to the possible sentence that Mr. Arido could face, a factor which he should have taken into consideration when deciding on whether or not to grant provisional release and whether pre-trial detention was unreasonable as a result. While the present case is the

[26] Interim release request, paras 55-60.
[27] ICC-01/05-01/13-588, para. 17.
[28] ICC-01/05-01/13-559-Anx2, para. 18, *citing to* European Court of Human Rights, *Khodorkovskiy* v. *Russia,* Judgment, 31 May 2011, application no. *5829104,* para. 136, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-104983; *see also Ladent* v. *Poland,* Judgment, 18 March 2008, application no. *11036/03,* paras 55-56, available at http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-85487.

first case of Article 70 offences are the ICC, it is clear from the sentencing practices of other tribunals that the penalty for similar offences is usually limited to a few months.[29]

25. In a case where the Accused was indicted for putting to the Appeal Chamber a case which was known to him to be false, and manipulating proposed witnesses, decided to only apply a fine accompanied by a disciplinary sanction.[30] In another case, regarding an individual accused to have received a bribe for signing a statement to be presented before the Court, and to have located two other men who were prepared to sign false statements for the same purpose, the ICTY, sentenced the accused to 3 months of imprisonment.[31]

26. While the Arido Defence is aware that the ICC is not bound by the *ad hoc* tribunals' case law and that sentencing is a matter to be assessed on a case-by-case basis, it submits that this provides guidance as to the assessment of whether pre-trial detention is reasonable. The Arido Defence submits that the Single Judge erred by finding that pre-trial detention could only be unreasonable if resulting from an inexcusable delay on the part of the Prosecution, and by failing to consider the issue as a whole, in light of sentencing practices in other tribunals.

27. The Single Judge has also erred in failing to apply internationally protected human rights law in his interpretation of Mr. Arido's right not to be detained for an unreasonably period of time, as provided for in Article 60 (4) of the Statute. Article 21 (3) nevertheless obliges the Single Judge to interpret and apply every provision in the Statute consistently with internationally recognised human rights.

28. Both Article 9 (3) of the ICCPR and Article 5 (3) of the ECHR protect each individual's right not to be subjected to an unreasonable period of detention prior to trial; this right is in no manner made conditional on, or affected by, the conduct of the prosecutorial authorities. The Single Judge has failed to take this into account.

---

[29] *See e.g. Prosecutor v. Beqaj*, Case No. IT-03-66-T-R77, Judgement on Contempt Allegations, 27 May 2005, para. Disposition, available at http://www.icty.org/x/cases/contempt_beqaj/tjug/en/050527.pdf; *Prosecutor v. Haraqija and Morina, Case No.* IT-04-84-R77.4, Judgement on Allegations of Contempt, 17 December 2008, para. 120, available at: http://www.icty.org/x/cases/contempt_haraqija_morina/tjug/en/081217judg_en.pdf; *see also* dissenting opinion of Judge Ušacka, ICC-01/05-01/13-559-Anx2, paras 7-9.

[30] *Prosecutor v. D. Tadić*, Case No. IT-94-1-A-R77, Judgment on Allegations of Contempt Against Prior Counsel, Milan Vujin, Appeals Chamber, 31 January 2000, para. 165, available at: http://www.icty.org/x/cases/contempt_vujin/tjug/en/000131.pdf.

[31] *Prosecutor v. Tabaković*, Case No. IT-98-32/1-R77.1, Sentencing Judgement, 18 March 2010, para. 19, available at: http://www.icty.org/x/cases/contempt_tabakovic/tjug/en/100318.pdf.

B. Procedural error related to the assessment of Article 58 (1) (b) (ii) (obstruction or endangering of the investigation or the Court proceedings) and (iii) (continuation of crimes) (ground 4)

29. In the Impugned Decision, the Single Judge relies heavily on an alleged recent incident where "confidential information relating to witnesses in these proceedings was unduly disseminated by persons closely related to Narcisse Arido".[32]

30. The Arido Defence notes that the only element providing support to such allegation is [REDACTED],[33] [REDACTED]. The Arido Defence is therefore left in no position to challenge the said disclosure of confidential information, as it is deprived of basic information such as the time, date or location of the alleged incident and Mr. Arido is therefore deprived of his right to defend himself. As a result, the Single Judge erred in relying on the said incident.

31. Furthermore, the Arido Defence notes that the allegations relate to the disclosure of [REDACTED] by persons closely related to Mr. Arido. As far as the Defence knows – in light of the very limited information at its disposal – there is no evidence that Mr. Arido was the source of such "leak" [REDACTED].

32. By relying on this event in its decision without having permitted the Arido Defence to have access to the requisite materials and to make submissions on the matter, the Single Judge committed a procedural error and an error of fact, by relying on evidence without respect for the principles of natural justice, notably the *audi alterem partem* rule. Considering the multiple references made by the Single Judge to this alleged incident, when discussing the risks under both Article 58 (1) (b) (ii) and (iii), it is submitted that it materially affected the Impugned Decision.

C. Error of law related to the consideration of conditional release (ground 5)

33. The Single Judge failed to consider the precise conditions proposed by the Arido Defence, and instead dismissed the argument by repeating the same statement than in all the previous decisions: "because of the nature of the alleged criminal conduct and the specific role played by Mr. Arido in its implementation […] it is difficult to conceive of measures which might effectively counteract the risks identified in this decision".[34]

---

[32] ICC-01/05-01/13-588, para. 18.
[33] [REDACTED].
[34] ICC-01/05-01/13-588, para. 26.

34. The Arido Defence submits that this statement violated international human rights law, which provides that pre-trial detention should only be ordered where there are no other measures available to achieve the same aims without restricting as much the individuals' right to liberty. Under Article 21 (3) of the Statute, the "application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights". The European Court of Human Rights has held that pre-trial detention would be acceptable when certain conditions are met and **only** where there is **no possibility that alternative measures would address those concerns**.[35] Less restricting alternatives to detention must first be considered – including bail, sureties, prohibition on leaving the country, electronic tagging, house arrest and restraining orders.[36] Alternatives to detention must be based on the individual situation of the suspect,[37] and reasons should be provided if alternatives are not applicable.[38]

35. Mr. Arido had undertaken to accept a detailed list of measures if he were to be provisionally released – measures that exist and are enforced in most domestic jurisdictions.[39] By failing to discuss the measures and simply making a general statement that conditional release was not possible in the specific case, the Single Judge committed an error of law by violating Article 21 (3) of the Statute and international human rights law and principles. Such error materially affects the Impugned Decision, since had the Single Judge assessed whether there existed measures other than detention to prevent the risks contained in Article 58 (b), the Impugned Decision could have granted interim release.

36. The Arido Defence further notes that the Single Judge referred to the fact that "no availability to accept Narcisse Arido on their territory in the event of his release has been shown by either the Netherlands or France.[40] The Arido Defence recalls that this should not be relevant as to whether or not conditional release can be granted. What is relevant is whether the

---

[35] *Patsuria v Georgia* (30779/04), European Court of Human Rights (2007), paras 75-76, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83070. (Emphasis added)
[36] *See Kaszczyniec v Poland* (59526/00), European Court of Human Rights (2007), para. 57, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-80577; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), A/RES/65-229, para. 5. and rules 57, 58 and 62, available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/65/229.
[37] *Mangouras v Spain* (12050/04), Grand Chamber, European Court on Human Rights, 2010, paras 78-3, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-100686; *Hristova v Bulgaria* (60859/00), European Court on Human Rights, 2006, para. 111, available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-78368.
[38] UN on pre-trial detention adopted by the Eighth UN congress on the prevention of crime and the treatment of offenders, p. 157, para. 2 (e), available at: http://www.asc41.com/UN_congress/8th%20UN%20Congress%20on%20the%20Prevention%20of%20Crime/026%20ACONF.144.28.Rev.1%20Eighth%20United%20Nations%20Congress%20on%20the%20Prevention%20of%20Crime%20and%20the%20Treatment%20of%20Offenders.pdf.
[39] ICC-01/05-01/13-477-Conf, para. 59.
[40] ICC-01/05-01/13-588, para. 27.

fundamental human rights of the suspect are protected. In addition, the Court has the power to order State parties to cooperate, which should include ordering a state to put into place certain measures to ensure that suspects released on their territory appear for trial and do not obstruct justice or further commit crimes.

37. Furthermore the Single Judge misinterpreted the position of the French authorities. [REDACTED].[41]

38. It is submitted that these undertakings, in light of the far less gravity of Article 70-charges and bearing in mind the very limited criminal responsibility allegedly attributed to Mr. Arido in the overall alleged criminal scheme, as well as the time already spent in custody by Mr. Arido, should be regarded as sufficient in the present circumstances.

39. It is also submitted that in light of a correct reading of the French position - namely that [REDACTED], the Single Judge has erred in the exercise of his discretion to reject Mr. Arido's alternative proposal to be provisionally released with conditions.

40. In this respect, it must be borne in mind that in case of any established violation of conditions applicable to Mr. Arido, he can be re-arrested pursuant to French law and practice. In light – again - of the time already served and the nature of Article 70-offences, the possibility of successful re-arrest outweighs any potential risk that could be the result of conditional release.

41. As a final note, it should be pointed out that failure to properly explore the possibility of conditional release does not only violate Mr. Arido's right to liberty - detention being limited to exceptional and absolutely necessary situations - but also results in unnecessary spending of the Court's scarce resources on Mr. Arido's detention at the ICC Detention Centre.

VI. CONCLUSION

42. In light of the above, the Arido Defence respectfully request the Appeals Chamber to reverse the Single Judge's Impugned Decision and order the immediate release of Mr. Arido.

43. Alternatively, the Arido Defence requests the Appeals Chamber to reverse the impugned decision and remand the matter to the Pre-Trial Chamber fully constituted.

---

[41] [REDACTED].

Chief Charles Achaleke Taku, Counsel for Mr. Arido

Dated this 16th Day of June 2015

The Hague, The Netherlands