

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/13
Date: 20 November 2013

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**

**Under Seal
Ex parte only available to the Office of the Prosecutor**

**Request for cooperation to the Kingdom of the Netherlands in relation to Article 70
of the Rome Statute**

Source: Registrar

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Kingdom of the Netherlands

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court (“the Court”);

NOTING the under Seal *Prosecution’s Application for Warrant of Arrest* submitted by the Office of the Prosecutor on 19 November 2013;¹

NOTING the under seal *Decision on the urgent application of the Single Judge of Pre-Trial Chamber II of 19 November 2013 for the waiver of the immunity of lead defence counsel and the case manager for the defence in the case of The Prosecutor v Jean-Pierre Bemba Gombo* issued by the Presidency on 20 November 2013;²

NOTING the *Mandat d’arrêt à l’encontre de Jean-Pierre BEMBA GOMBO, Aimé KILOLO MUSAMBA, Jean-Jacques MANGENDA KABONGO, Fidèle BABALA WANDU et Narcisse ARIDO* (the “Warrant of Arrest”) issued by Pre-Trial Chamber II (the “Chamber”) on 20 November 2013;³

NOTING articles 70, 89, 91, 93(h)(k), 96 and 97 of the Rome Statute (the “Statute”), rules 162 to 168, 176(2), 184 and 187 of the Rules of Procedure and Evidence (the “Rules”), regulation 23bis of the Regulations of the Court and regulations 79 to 96 of the Regulations of the Registry;

CONSIDERING that Article 89(1) of the Statute allows the Court to present a request for cooperation to arrest and surrender a person, to any State on the territory of which that person may be found;

CONSIDERING that the Chamber ordered the Registrar to serve the Warrant of Arrest against Jean-Pierre BEMBA GOMBO at the Detention Centre of the Court or in the Courtroom;⁴

¹ ICC-01/05-67-US-Exp.

² ICC-01/05-68-US-Exp.

³ ICC-01/05-01/13-1-US-Exp.

⁴ ICC-01/05-01/13-1-US-Exp, page 16.

CONSIDERING that the Chamber ordered the Registrar, in coordination with the Office of the Prosecutor, to prepare one or more requests for cooperation to the competent authorities of the States concerned for the arrest and surrender of Aimé KILOLO MUSAMBA, Jean-Jacques MANGENDA KABONGO, Fidèle BABALA WANDU and Narcisse ARIDO;⁵

CONSIDERING that the Chamber ordered the Registrar to identify, in consultation and cooperation with the Prosecutor, the States to which a request for cooperation for the arrest and surrender of the above-mentioned four persons should be transmitted, as well as to determine the timing and the circumstances of the transmission and notification of the warrant of arrest to said persons;⁶

CONSIDERING that, after consultation with the Office of the Prosecutor, it has been determined that the Kingdom of Belgium, the Democratic Republic of the Congo, the French Republic and the Kingdom of the Netherlands are the most appropriate States to execute the requests for cooperation for the arrests and surrender of the above-mentioned four persons;

CONSIDERING that the Presidency decided that the immunity of the counsel and the case manager is waived to the extent necessary for the issuance and execution of the warrant of arrest against Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA for alleged crimes committed against the administration of justice and for their potential detention on remand pending investigation or prosecution of those offences;⁷

CONSIDERING that the Chamber ordered the Registrar to prepare requests for cooperation to the competent authorities of the States identified for the purposes of

⁵ *Ibid.*

⁶ *Ibid.*

⁷ ICC-01/05-68-US-Exp, page 7.

executing a search of Aimé KILOLO MUSAMBA, Jean-Jacques MANGENDA KABONGO, Fidèle BABALA WANDU and Narcisse ARIDO's person as well as other relevant locations, in the presence of an investigator of the Office of the Prosecutor, and to transmit to the Court all seized evidence;⁸

CONSIDERING that the Chamber ordered the Registrar to prepare requests for cooperation to the competent authorities of the States effecting the arrests or other States considered appropriate for the purposes of the identification, localisation and freezing of the assets of the five persons targeted by the Warrant of Arrest;⁹

CONSIDERING that the Chamber ordered the Registrar to prepare requests for cooperation to the competent authorities of the States identified, requesting said States to prohibit all communication between the five persons targeted by the Warrant of Arrest and their communication with any other third person, with the exception of their respective counsels for a period not exceeding 72 hours;¹⁰

FOR THESE REASONS:

NOTIFIES the competent authorities of the Kingdom of the Netherlands of the Warrant of Arrest against Jean-Pierre BEMBA GOMBO and informs the authorities that the Registrar of the Court will serve the Warrant of Arrest against Jean-Pierre BEMBA GOMBO at the Detention Centre of the Court or in the Courtroom;

REQUESTS the competent authorities of the Kingdom of the Netherlands (the "Requested State") to execute the following four requests for cooperation:

- I. *Request for arrest and surrender of Aimé KILOLO MUSAMBA, Jean-Jacques MANGENDA KABONGO*

⁸ ICC-01/05-01/13-1-US-Exp, pages 16 and 17.

⁹ ICC-01/05-01/13-1-US-Exp, page 17.

¹⁰ *Ibid.*

1. The Court hereby requests the competent authorities of the Requested State
 - i. to execute the warrant of arrest rendered by the Chamber against Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO;
 - ii. to inform immediately the Registry of the Court when Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO are available to be surrendered to the Court pursuant to Rule 184 of the Rules; and
 - iii. to ensure the safety of Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO until their eventual surrender to the Court.

II. Request for searches and seizure

2. The Court hereby requests the competent authorities of the Requested State
 - i. to execute a search, in the presence of an investigator of the Office of the Prosecutor, of Jean-Pierre BEMBA GOMBO's person as well as his cell located in the Detention Centre of the Court;
 - ii. to seize all the evidential materials after the search of the cell of Jean-Pierre BEMBA GOMBO at the Detention Centre of the Court and to transmit to the Court all the seized materials; and
 - iii. to execute a search, in the presence of an investigator of the Office of the Prosecutor, of Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO's person, the place(s) where they reside at the time of their arrests, their vehicle(s) and other relevant locations (offices at the premises of the Court, other offices and their residences), *inter alia* the following locations and vehicles:

Aimé KILOLO MUSAMBA

- 1) Offices at the premises of the Court:

[REDACTED]

- 2) Residences at

[REDACTED]

- 3) Vehicle:

[REDACTED]

[REDACTED]

I

Jean-Jacques MANGENDA KABONGO

- 1) Offices at the premises of the Court:

[REDACTED]

- 2) Residences at

[REDACTED]

- 3) Vehicle:

[REDACTED]

[REDACTED]

- iv. to seize all materials

[REDACTED]

[REDACTED]

[REDACTED] after

the search of all the locations executed by the competent authorities of the Requested State and to transmit to the Court all the seized materials.

III. Request for freezing of assets

3. The Court hereby requests the competent authorities of the Requested State

- i. to take all necessary measures, in accordance with its domestic legislations, to identify, locate and freeze the property and assets of Jean-Pierre BEMBA GOMBO, Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO located on the Dutch territory, subject to the rights of *bona fide* third parties.

IV. Request to prohibit communication

4. The Court hereby requests the competent authorities of the Requested State

- i. to prohibit communication between Jean-Pierre BEMBA GOMBO, Fidèle BABALA WANDU, Aimé KILOLO MUSAMBA, Jean-Jacques MANGENDA KABONGO and Narcisse ARIDO for a period not exceeding 72 hours; and
- ii. to prohibit communication by Jean-Pierre BEMBA GOMBO, Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO with any other third party with the exception of their respective counsels for a period not exceeding 72 hours.

Confidentiality

REQUEST the competent authorities of the Requested State, in accordance with Article 87(3) of the Statute, to respect the confidentiality of the present request for cooperation as well as its annexes, unless the disclosure is necessary for execution of the request;

REQUEST that, in accordance with Article 87(4) of the Statute, any information that is disclosed for the execution of the present request be treated by the competent authorities of the Requested State in a manner in view of the protection of the safety and physical or psychological well-being of the victims, potential witnesses and their families;

Execution of the requests for cooperation

REQUEST the competent authorities of the Requested State to inform the Court, in accordance with article 91(c)(2) of the Statute, any document, statement or information in relation to the existence of a warrant of arrest or a judgement of conviction against Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO;

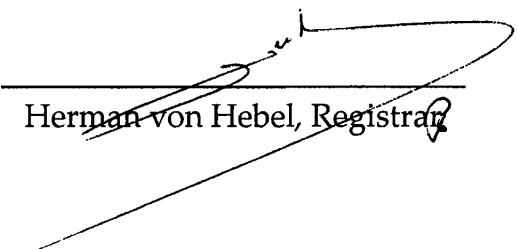
REQUESTS the competent authorities of the Requested State to inform the Court of any difficulties that may impede or prevent the execution of the present request for cooperation in accordance with Article 97 of the Statute, or of any difficulties that could delay the execution of the present request for cooperation as indicated in Article 89(4) of the Statute;

ATTACHES to the present request for cooperation, in accordance with Rule 187 of the Rules, the following documents to be notified to Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO:

- i. A copy of the Warrant of Arrest rendered by the Chamber on 20 November 2013 in its original French language which is the language fully understood and spoken by Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO; and
- ii. A copy of the relevant provisions of the Rome Statute and the Rules of Procedure and Evidence in French language;

ATTACHES to the present request for cooperation, in accordance with Articles 87 and 91 of the Statute:

- i. A copy of the Warrant of Arrest in English;
- ii. Photos of Aimé KILOLO MUSAMBA and Jean-Jacques MANGENDA KABONGO as well as their identifying information.



Herman von Hebel, Registrar

Dated this 20 November 2013
At The Hague, The Netherlands