



Original: English

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

Date: 22 October 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,
AIMÉ KILOLO MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDÈLE
BABALA WANDU AND NARCISSE ARIDO***

Public

Decision on the Prosecutor's "Urgent Motion for Interim Stay of the 'Decision ordering the release of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido'"

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

Counsel for Jean-Pierre Bemba Gombo

Nicholas Kaufman

Counsel for Aimé Kilolo Musamba

Paul Djunga Mudimbi

Counsel for Jean-Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Göran Sluiter

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel, Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

PRE-TRIAL CHAMBER II (the “Chamber”) of the International Criminal Court (the “Court”) renders this decision on the Prosecutor’s “Urgent Motion for Interim Stay of the ‘Decision ordering the release of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido’”(the “Prosecutor’s Motion” or the “Motion”).

1. On 21 October, 2014 the Prosecutor filed the Prosecutor’s Motion¹, whereby she seeks from the Chamber “an interim stay” of the execution of the “Decision ordering the release of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidele Babala Wandu and Narcisse Arido” dated 21 October 2014².

2. The Chamber notes the “Prosecution’s Notice of Appeal of the ‘Decision ordering the release of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido’ of 21 October 2014 and Urgent Request for Suspensive Effect of the Decision pending Appeal” filed on the same day³.

3. The Chamber observes that, in violation of regulation 23(1)(d) of the Regulations of the Court, the Prosecutor’s Motion fails to indicate the applicable legal basis. It merely states that such interim stay would be “necessary ... to preserve the object of the Prosecutor’s Request” and “until such time as the Appeals Chamber has decided on whether an order for suspensive effect is merited”.⁴

4. In regard of the reference made by the Prosecutor in her Motion to a Trial Chamber I’s decision⁵, the Chamber clarifies that it was rendered under different circumstances specific to that case and is not relevant as a precedent to the issue at stake in the current proceedings.

5. The Chamber further clarifies that an appropriate and specific remedy for the “needs” evoked by the Prosecutor’s Motion exists in the statutory documents. In

¹ ICC-01/05-01/13-705.

² ICC-01/05-01/13-703.

³ ICC-01/05-01/13-706.

⁴ ICC-01/05-01/13-705, paras 2 and 6.

⁵ ICC-01/05-01/13-705, para. 5.

particular, a request for suspensive effect addressed to the Appeals Chamber is provided in article 82(3) of the Rome Statute and rule 156(5) of the Rules of Procedure and Evidence. Moreover, as highlighted by the Prosecutor, “the Appeals Chamber has previously ordered suspensive effect of ... release decisions once it is seized of the case”.⁶ Since the Appeals Chamber is now seized of the Motion, and will therefore take in due course all measures which it will deem warranted and necessary under the present circumstances, the Chamber considers that the Prosecutor’s Motion is without merit.

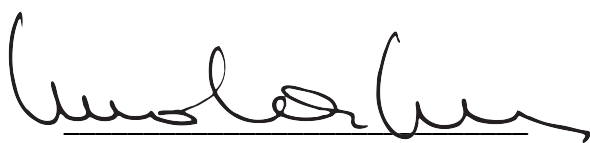
FOR THESE REASONS, THE CHAMBER

DISMISSES the Prosecutor’s Motion.

Done in both English and French, the English version being authoritative.



Judge Ekaterina Trendafilova
Presiding Judge



Judge Cuno Tarfusser



Judge Christine van den Wyngaert

Dated this Wednesday, 22 October 2014

The Hague, The Netherlands

⁶ ICC-01/05-01/13-705, para. 3.