



Original: **English**

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

Date: 23 January 2015

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

Decision on “Mr Bemba’s Request for provisional release”

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

Melinda Taylor

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

Other

Trial Chamber III

REGISTRY

Registrar

Herman von Hebel, Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

Patrick Craig

I, Judge Cuno Tarfusser, having been designated as Single Judge of Pre-Trial Chamber II of the International Criminal Court;

NOTING the “Warrant of arrest for Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidele Babala Wandu and Narcisse Arido” issued on 20 November 2013¹;

NOTING the “Decision ordering the release of Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido” dated 21 October 2014 (“21 October 2014 Decision”)²;

NOTING “Mr Bemba’s Request for provisional release” dated 11 December 2014 (“Mr Bemba’s Request” or “Request”)³;

NOTING the “Prosecution response to the Bemba Defence request for interim release” dated 2 January 2015⁴, opposing the Request;

NOTING the “Defence Request for Leave to Reply to ‘Prosecution Response to the Bemba Defence Request for Interim Release’, ICC-01/05-01/13-787-Conf” dated 12 January 2015 (“Defence Request for Leave to Reply”)⁵;

NOTING articles 21, 58(1), 60(3), 60(4) and 67(1) of the Statute, rules 118(1), (2) and (3) and 119(1) of the Rules of Procedure and Evidence and regulation 51 of the Regulations of the Court;

CONSIDERING that the other four suspects in this case (Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido), all of whom had been detained since their arrest on 23 November 2013, have been released by way of implementation of the 21 October 2014 Decision;

CONSIDERING that the 21 October 2014 Decision was premised on the paramount need to avoid that the duration of pre-trial detention – as enshrined *inter alia* in article 60(4) of the Statute - become unreasonable, which need made it necessary for

¹ ICC-01/05-01/13-1-Red2-tENG.

² ICC-01/05-01/13-703.

³ ICC-01/05-01/13-782-Red.

⁴ ICC-01/05-01/13-787-Conf.

⁵ ICC-01/05-01/13-794-Conf.

the Chamber to review such detention *motu proprio*, also in light of the stage reached by the proceedings, the documentary nature of the relevant evidence and the fact that such evidence had by then already been acquired in the record, all of which also resulted in reducing the risks that the proceedings or the investigations might be obstructed or endangered, as well as that the alleged crimes be continued or related offences be committed;

CONSIDERING, more specifically, that – as stated in the 21 October 2014 Decision - the reasonableness of the duration of the detention has to be balanced *inter alia* against the statutory penalties applicable to the offences at stake in these proceedings and that, accordingly, the further extension of the period of the pre-trial detention would have resulted in making its duration disproportionate;

CONSIDERING that, as far as proceedings in case 01/05-01/13 are concerned, the same reasoning applies to Jean-Pierre Bemba's situation and that, accordingly, it is necessary and appropriate to grant his release;

CONSIDERING that the nature of the reasons warranting Mr Bemba's release for the purposes of these proceedings makes it unnecessary for the Chamber to obtain additional submissions from the Defence for Mr Bemba;

CONSIDERING, by the same token, that at the time of his arrest pursuant to the Warrant Jean-Pierre Bemba was already detained at the Detention Centre of the Court in connection with ongoing proceedings in case ICC-01/05-01/08 before Trial Chamber III;

CONSIDERING that, in light of the fact that the granting of the Request in respect of these proceedings cannot result in Mr Bemba being actually released absent a decision to the same effect to be taken by Trial Chamber III, requesting and obtaining observations from the relevant States at this stage would serve no practical or meaningful purpose;

CONSIDERING that this decision is obviously without prejudice to any determination which might be made by Trial Chamber III in respect of proceedings in case 01/05-01/08;

FOR THESE REASONS, THE SINGLE JUDGE

REJECTS the Defence Request for Leave to Reply;

GRANTS Mr Bemba's Request;

ORDERS that Jean-Pierre Bemba Gombo be released from the Detention Centre of the Court, unless his detention is otherwise required.

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



Judge Cuno Tarfusser
Single Judge

Dated this Friday, 23 January 2015

The Hague, The Netherlands