

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date: **7 January 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 AND URGENT WITH CONFIDENTIAL ANNEXES 19 TO 36

**ADDENDUM TO AIMÉ KILOLO MUSAMBA'S APPLICATION FOR INTERIM
RELEASE FILED ON DECEMBER 2013 (ICC-01/05-01/13-42)**

Source: Defence for Aimé Kilolo Musamba

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

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I. INTRODUCTION

1. On 16 December 2013, Mr Aimé Kilolo Musamba (“the Applicant”) filed an application for interim release with Pre-Trial Chamber II (“the Chamber”).¹
2. On 17 December 2013, the Chamber invited the Prosecutor, the relevant authorities of the Kingdom of the Netherlands and the relevant authorities of the Kingdom of Belgium to submit their views on the application no later than Friday, 3 January 2014.²
3. On 20 December 2013, at the request of Belgium, the Chamber granted the Prosecutor and the Belgian and Dutch authorities an extension of time limits allowing them to submit their views on Monday, 13 January 2014.³
4. In the intervening period, the Applicant has noted a number of new developments since he filed his application for release, consideration of which will enable the Chamber to make an informed decision on his application. The new developments relate to (A) the receipt of two new character references signed by two Brussels-based lawyers; (B) the surrender of the Applicant’s Belgian passport to the International Criminal Court; (C) additional evidence pertaining to the Applicant’s Belgian citizenship, and (D) his wife’s health. Further details regarding his children’s schooling (E) are also provided.

¹ ICC-01/05-01/13-42: “*Demande de mise en liberté provisoire de Maître Aimé Kilolo Musamba*”.

² ICC-01/05-01/13-46: *Decisions requesting observations on the “Demande de mise en liberté provisoire de Maître Aimé Kilolo Musamba”*.

³ ICC-01/05-01/13-60: *Decision granting an extension of time for submitting observations on the “Demande de mise en liberté provisoire de Maître Aimé Kilolo Musamba”*.

II. SUBMISSIONS

A. Character references signed by two Brussels-based lawyers

5. The first lawyer speaks highly of the Applicant's "[TRANSLATION] professionalism and technical expertise, as well as his personal ethics and respect for the ethical standards of [the legal] profession".⁴
6. The second lawyer avers that he has "[TRANSLATION] never had any issues of a personal or other nature in dealing with the Applicant". He even highlights that "[TRANSLATION] a few years ago, [the Applicant] stood for election to the *Conseil de l'Ordre des avocats du Barreau de Bruxelles* and won a significant number of votes."⁵

B. Surrender of the Applicant's Belgian passport to the International Criminal Court

7. At paragraph 69 of his aforementioned application for interim release, the Applicant clearly undertook that if released, he would surrender his passport to the Registry, were this to be one of the conditions for release.
8. Eager to show that he was determined to keep his word, he did not wait for the Chamber to issue a decision and on 27 December 2013, through his counsel, he surrendered his Belgian passport – the only passport he holds – to the officials of the Detention Centre in Scheveningen, who acknowledged receipt thereof.⁶

⁴ Annex 19.

⁵ Annex 20.

⁶ Annex 34.

C. Additional evidence pertaining to the Applicant's Belgian citizenship

9. Proof of the Applicant's Belgian citizenship lies not only in his certificate of citizenship which is referenced in paragraph 62 of his application for interim release (Annex 7 thereof), but also in the irrefutable fact that he has had to obtain an entry visa whenever he has travelled to the Democratic Republic of the Congo, citizenship of which he relinquished upon acquiring Belgian citizenship, as Congolese citizenship is exclusive.⁷

D. Health of the Applicant's wife

10. The Applicant's wife has been indisposed since suffering a dislocated right shoulder, as stated by her attending physician. She has thus been incapacitated since 11 December 2013 and will remain so until 26 January 2014. During this period, she requires home care, as recommended by her doctor at the *Cliniques Universitaires Saint-Luc*.⁸ Moreover, even after this period, it is ill-advised for her to resume household chores immediately, as this could provoke a recurrence of the injury. Only the Applicant can provide her with the help and support she needs.

E. Further details regarding the children's schooling

11. As shown in annexes 15, 16 and 17, the Applicant's children are schooled in Dutch. Dutch is primarily spoken only in Belgium, the country of citizenship of his children,⁹ and in the Netherlands.¹⁰

⁷ Annexes 21 to 32.

⁸ Annex 33.

⁹ Annex 12.

¹⁰ Annex 35.

12. In light of this, it would not occur to the Applicant to abscond if granted interim release. As the party having parental responsibility, he is required to ensure that his children attend school, failing which he would be subject to prosecution, because schooling is mandatory in Belgium pursuant to the Law of 29 June 1983 on compulsory education.¹¹ His children can now only be schooled in Dutch, which is the language they have used since kindergarten. This in itself is a key incentive for him to fully comply with the conditions of his interim release, if granted.

¹¹ Annex 36. Read specifically articles 1 (page 4, regarding Belgium's Flemish population) and 5 (page 9) regarding the jurisdiction of the district court [*tribunal de police*] to penalise infringements of the obligations laid down by articles 1, 2 and 3 thereof.

FOR THESE REASONS

and all those already expounded in the application for interim release dated 16 December 2013, which are considered to be reproduced here in full,

MAY IT PLEASE THE CHAMBER TO

TAKE DUE NOTE of the four new developments and the further details regarding the schooling of the Applicant's children;

GRANT the Applicant interim release.

AND JUSTICE WILL BE DONE.

RESPECTFULLY SUBMITTED.

[signed]

Jean-Pierre Kilenda Kakengi Basila
Counsel for Mr Aimé Kilolo Musamba

Dated this 7 January 2014

At The Hague, The Netherlands