

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08

Date: 21 July 2009

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
v. JEAN-PIERRE BEMBA GOMBO**

Public Document

Order for Clarification of Defence-Related Issues

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

The Office of the Prosecutor

Fatou Bensouda, Deputy Prosecutor
Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence

Nkwebe Liriss
Karim A.A.Khan
Aimé Kilolo Musamba
Pierre Legros

Legal Representatives of the Victims

Marie Edith Douzima-Lawson
Paolina Massidda

Legal Representatives of the 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

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Esteban Peralta Losilla

Deputy Registrar

Didier D. Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (the "Chamber") of the International Criminal Court (the "Court"),¹ is seized of a request for stay of proceedings in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (the "Case") submitted by the Defence on 20 July 2009 (the "Request for Stay of Proceedings").²

2. The Defence recalls that on 29 June 2009 the Single Judge held a hearing pursuant to rule 118(3) of the Rules of Procedure and Evidence (the "Rules"), during which the Defence raised in closed session issues related to the non-payment of legal fees of the Defence's team constituting an impediment to effectively represent the interests of Mr Jean-Pierre Bemba Gombo ("Mr Jean-Pierre Bemba") before the Chamber.³

3. The Single Judge further notes that in paragraph 23 of the Request for Stay of Proceedings, the Defence submits that, as a result of the non-payment of legal fees, the legal assistant has resigned and the "mandate" of one of the principal counsel "has not been renewed".⁴ The Single Judge observes that this crucial information is neither substantiated nor accompanied by any relevant documents.

4. The Single Judge notes article 67 of the Rome Statute (the "Statute"), rules 8, 20(d) and 22(2) and (3) of the Rules, regulations 68 and 78 of the Regulations of the Court (the "Regulations") and articles 15(2) and 16 to 18 of the Code of Professional Conduct for counsel (the "Code of Conduct").

5. At the outset, the Single Judge recalls that, so far during the pre-trial proceedings, Mr Jean-Pierre Bemba's Defence team is composed of a lead counsel, Mr Nkwebe Liriss, engaged on a *pro bono* basis, a co-lead counsel, Mr Karim

¹ Pre-Trial Chamber II, ICC-01/05-24; ICC-01/05-01/08-393.

² « Corrigendum Requête aux fins de suspension de toute la procédure en cours », ICC-01/05-01/08-452-Corr.

³ ICC-01/05-01/08-T-13-CONF-ENG ET. The reference to this particular information raised in a closed session hearing and revealed by the Defence in its Request for Stay of Proceedings classified as "public", does not prejudice to the confidential nature of the hearing.

⁴ ICC-01/05-01/08-452-Corr, para. 23 "La Défense informe respectueusement la Cour, qu'à la suite de cet état de fait, elle a enregistré la démission de son « legal assistant » et que le mandat de l'un de ses Conseils principaux n'a pas été renouvelé ».

A.A.Khan, two associate counsels, Mr Aimé Kilolo-Musamba and Mr Pierre Legros, a legal assistant, Mrs Virginia Lindsay and a case-manager, Mr. Jean-Jacques Kabongo Magenda.

6. The Single Judge notes that pursuant to rule 22(2) of the Rule, counsel for the Defence engaged by Mr Jean-Pierre Bemba have all filed a power of attorney with the Registrar which remain valid until otherwise decided, according to the relevant provisions under the Statute, the Rules, the Regulations and the Code of Conduct. Therefore, with regard to the termination of mandate of "one of the principal counsel", the Single Judge wishes to receive further clarification on the current composition of the Defence's team, the name of the counsel whose "mandate was not renewed",⁵ and whether the termination of his mandate was at the initiative of Mr Jean-Pierre Bemba or was a personal initiative of the counsel himself.

7. The Single Judge further recalls regulation 78 of the Regulations which states that "[p]rior to withdrawal from a case, defence counsel shall seek the leave of the Chamber." The Single Judge is concerned by the fact that such leave, stating the detailed reasons for withdrawal and providing the Single Judge with sufficient elements to make her determination, has not been sought yet by the Defence.

8. Furthermore, the Single Judge wishes to receive further clarification and substantiation of the withdrawal of the legal assistant, Mrs Virginia Lindsay, such as any written communications which may be relevant for the Chamber in order to take an informed decision with regard to the pending urgent Request for Stay of Proceedings.

9. The Single Judge finally notes that the Defence's team is in constant contact with the Defence Support Section within the Registry and deems it necessary, pursuant to rule 20(1)(d) of the Rules, to receive observations of this section on the defence-

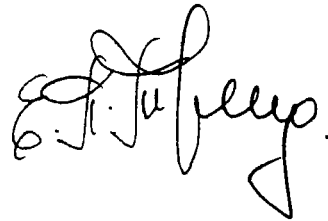
⁵ See footnote 4.

related issues at stake, *inter alia*, any further information on the current composition and status of the Defence's team and on the communications filed by the Defence in annexes to its Request for Stay of Proceedings.

FOR THESE REASONS, THE SINGLE JUDGE

- a) **orders** the Defence to clarify and provide all information as set out in paragraph 6 of the present order **no later than Thursday 23 July 2009, at 16h00**;
- b) **reminds** the Defence, in case of withdrawal of a counsel from the Case, to respect the procedure under regulation 78 of the Regulations and the provisions under the Code of Conduct related to the termination of representation of a counsel;
- c) **orders** the Defence to clarify and provide **no later than Thursday 23 July 2009, at 16h00** any relevant communications related to the reasons for the legal assistant's resignation;
- d) **orders** the Defence Support Section within the Registry to provide the Single Judge **no later than Thursday 23 July 2009, at 16h00** with its observations on the defence-related issues mentioned in paragraph 9.

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

A handwritten signature in black ink, appearing to read 'E. Trendafilova', written in a cursive style.

Judge Ekaterina Trendafilova
Single Judge

Dated this Tuesday, 21 July 2009

At The Hague, The Netherlands