

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 29 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
With Confidential Annexes**

**Transmission of additional observations of the Republic of Portugal on defence's
application for interim release of Mr. Jean-Pierre Bemba Gombo**

Source: Registrar

Document 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
Aimé Kilolo-Musamba
Karim A.A. Khan
Pierre Legros

Legal Representatives of Victims

Marie Edith Douzima-Lawson
Paolina Massidda

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

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Deputy Registrar

Didier Preira

Victims and Witnesses Unit

Detention Section

Anders Backman

**Victims Participation and Reparations
Section**

Other

THE REGISTRAR of the International Criminal Court (the "Court");

NOTING the "*Mandat d'arrêt à l'encontre de Jean-Pierre Bemba Gombo remplaçant le mandat d'arrêt décerné le 23 mai 2008*" ("the Warrant of arrest of 10 June") issued by Pre-Trial Chamber III on 10 June 2008¹;

NOTING the "*Application for interim release*" submitted by the Defence on 23 July 2008²;

NOTING the "*Decision Requesting Observations on the Defence's Application for Interim Release*" issued by the Chamber on 4 August 2008³;

NOTING the "*Report of the Registrar concerning the Observations Received on the Defence's Application for Interim Release of Mr. Jean-Pierre Bemba Gombo*" dated 15 August 2008⁴;

NOTING the "*Decision on the application for interim release*" issued by the Chamber on 20 August 2008⁵;

NOTING the "*Decision concerning the public version of the "Decision on application for interim release" of 20 August 2008*" issued by the Chamber on 26 August 2008⁶;

NOTING the "*Requête de Mise en liberté Provisoire*" submitted by the Defence on 3 November 2008⁷;

NOTING the "*Decision requesting Observations on the Defence's Application for Interim release*" issued by the Chamber on 12 November 2008⁸;

¹ ICC-01/05-01/08-15

² ICC-01/05-01/08-49

³ ICC-01/05-01/08-61

⁴ ICC-01/05-01/08-71

⁵ ICC-01/05-01/08-73-Conf

⁶ ICC-01/05-01/08-80

⁷ ICC-01/05-01/08-200 and its annexes 1 to 3

⁸ ICC-01/05-01/08-238

NOTING the "*Second report of the Registrar concerning the Observations Received on the Defence's Application for Interim Release of Mr. Jean-Pierre Bemba Gombo*" dated 24 November 2008⁹;

NOTING the "*Additional Observations in relation to the "Second Report of the Registrar concerning the Observations received on the Defence's application for Interim Release of Mr. Jean Pierre Bemba Gombo" "* of 25 November 2008¹⁰;

NOTING the "*Decision on application for Interim Release*" of 16 December 2008¹¹;

NOTING the "*Final Observations received in relation to the "Second Report of the Registrar concerning the Observations Received on the Defence's Application for Interim Release of Mr. Jean-Pierre Bemba Gombo"*", submitted by the Registrar on 17 December 2008¹²;

NOTING "*Corrigendum Demande de Mise en Liberté Provisoire*" submitted by the Defence on 23 December 2008¹³;

NOTING the "*Decision Requesting Observations on the Defence's Application for Interim Release*" issued on 23 December 2008¹⁴;

NOTING the "*Prosecution's Observations on the Defence's Third Application for Interim Release*" dated 9 January 2009¹⁵;

NOTING the "*Third Report of the Registrar concerning the Observations Received on the Defence's Application for Interim Release of Mr. Jean-Pierre Bemba Gombo*" dated 16 January 2009¹⁶;

⁹ ICC-01/05-01/08-280

¹⁰ ICC-01/05-01/08-288

¹¹ ICC-01/05-01/08-321

¹² ICC-01/05-01/08-326

¹³ ICC-01/05-01/08-333-Conf-Corr

¹⁴ ICC-01/05-01/08-334

¹⁵ ICC-01/05-01/08-354-Conf

NOTING the *"Transmission of the Observations of the Republic of Portugal in relation to the Third Report of the Registrar concerning the Observations Received on the Defence's Application for Interim Release of Mr. Jean-Pierre Bemba Gombo"* submitted by the Registrar on 19 January 2009¹⁷;

NOTING the *"Decision on the constitution of Pre-Trial Chambers and on the assignment of the Central African Republic situation"* issued by the Presidency on 19 March 2009¹⁸;

NOTING the *"Decision on Application for Interim Release"* issued by the Pre-Trial Chamber II (the "Chamber") on 14 April 2009¹⁹;

NOTING the *"Decision to Hold a Hearing pursuant to Rule 118(3) of the Rules of Procedure and Evidence"* issued by the Chamber on 16 June 2009²⁰;

NOTING the oral Order issued by the Chamber during the hearing on 29 June 2009²¹;

NOTING the *"Prosecution's Additional Observations on Interim Release pursuant to Rule 118(3) of the Rules of Procedure and Evidence"* submitted by the Office of the Prosecutor on 2 July 2009²²;

NOTING the *"Corrigendum Notes Supplétives aux Soumissions Orales de la Défense lors de l'Audience du 29 Juin 2009"* dated on 2 July 2009 and submitted by the Defence on 9 July 2009²³;

¹⁶ ICC-01/05-01/08-370

¹⁷ ICC-01/05-01/08-372

¹⁸ ICC-01/05-01/08-390

¹⁹ ICC-01/05-01/08-403

²⁰ ICC-01/05-01/08-425

²¹ ICC-01/05-01/08-T-13-ENG, pages 64 and 65

²² ICC-01/05-01/08-431

²³ ICC-01/05-01/08-432-Corr

NOTING the *“Requête aux fins d’extension de la demande initiale en rapport avec les pays d’accueil dans le cadre de la demande de mise en liberté de Mr Jean-Pierre Bemba Gombo lors de l’audience du 29 Juin 2009”* dated 2 July 2009²⁴;

NOTING the *“Transmission of the request of the Kingdom of Belgium for extension of time limit to submit observations on the request for interim release of Mr. Jean-Pierre Bemba Gombo submitted during the hearing on 29 June 2009”* dated 6 July 2009²⁵;

NOTING the *“Decision on the Belgian Authorities’ Request for Extension of Time Limit”* issued by the Chamber on 8 July 2009²⁶;

NOTING the *“Transmission of the Observations of the Republic of Portugal, the Republic of France and the Kingdom of the Netherlands Received on the Defence’s Application for Interim Release of Mr. Jean-Pierre Bemba Gombo”* dated 13 July 2009;

NOTING the *“Transmission of the Observations of the Kingdom of Belgium Received on the Defence’s Application for Interim Release of Mr. Jean-Pierre Bemba Gombo”* submitted by the Registrar on 24 July 2009;

NOTING article 60 (2)(3) and 87 of the Rome Statute; rules 118, 119 and 176 (2) of the Rules of Procedure and Evidence; regulation 23 *bis*, 24 *bis*, and 51 of the Regulations of the Court;

CONSIDERING that, during the hearing on 29 June 2009 held by the Pre-Trial Chamber II (the “Hearing”), the Chamber requested the Republic of Portugal, the Kingdom of Belgium, the Republic of France, and the Kingdom of the Netherlands, as a host state, to submit their observations on, first, Mr. Jean-Pierre Bemba's interim release; and second, the conditions, if any, that would need to be imposed pursuant to

²⁴ ICC-01/05-01/08-433

²⁵ ICC-01/05-01/08-438

²⁶ ICC-01/05-01/08-442

Rule 119 of the Rules of Procedure and Evidence to enable the states in which Mr. Bemba seeks to be released to accept him on their territory, no later than 10th of July at 16 hours²⁷;

CONSIDERING that on 3 July 2009, the Registry notified the oral Order of the Chamber issued during the Hearing along with the public transcript of the Hearing and the "*Notes Supplétives aux Soumissions Orales de la Défense lors de l'Audience du 29 Juin 2009*" to the Portuguese authorities, the Belgian authorities, the French authorities and the Dutch authorities²⁸;

CONSIDERING that the Portuguese authorities submitted their observations on the application of Mr. Bemba for his interim release on 10 July 2009 which was transmitted to the Chamber on 13 July 2009²⁹;

SUBMITS the present document *public* and its annexes classified *confidential* as they contain confidential information;

REPORTS to the Chamber,

1. Due to an oversight during translation, a sentence³⁰ was omitted in the note verbale³¹ sent to the Portuguese authorities on 3 July 2009. Having been informed by the Defence of this omission, the Registry communicated a corrigendum of the note verbale where the omitted sentence was added, to the Portuguese Embassy, on 21 July 2009.

²⁷ ICC-01/05-01/08-T-13-ENG, pages 64 and 65

²⁸ ICC-01/05-01/08-438-Anx1

²⁹ ICC-01/05-01/08-448-Conf-Anx1

³⁰ The sentence "*The Registrar would like to express her wish for further discussion on the modalities of the cooperation for implementing the decision on the interim release of Mr. Jean-Pierre Bemba Gombo, if positively decided by the Pre-Trial Chamber II.*" was omitted in the note verbale sent to the Portuguese authorities on 3 July 2009.

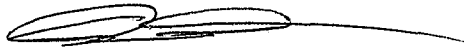
³¹ ICC-01/05-01/08-438-Anx1

2. On 28 July 2009, the Registry received additional observations from the Portuguese authorities reiterating its position regarding the application of Mr. Bemba's application for interim release as stated in the previous observations communicated to the Chamber on 10 July 2009³².

TRANSMITS respectfully to the Chamber, in annex 1, the corrigendum of the note verbale communicated to the Portuguese authorities on 21 July 2009 and in annex 2, the additional observations transmitted by the Portuguese authorities on 28 July 2009;

RESPECTFULLY SUBMITTED,

P/o



Marc Dubuisson, Director, Division of Court Services

on behalf of

Silvana Arbia, Registrar

Dated this 29 July 2009

At The Hague in the Netherlands

³² ICC-01/05-01/08-448-Conf-Anx1