



Original: English

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

Date: 12 August 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 Annex 1 and Annex 2 and
With Annex 2 ex parte only available to the Registry**

**Transmission of the observations of the Republic of South Africa received on the
Defence request 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
Karim A.A. Khan
Aimé Kilolo-Musamba
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

Giovanni Bassu

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 Pre-Trial Chamber III 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 Pre-Trial Chamber III 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 Pre-Trial Chamber III on 26 August 2008⁶;

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

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

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

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;

⁸ ICC-01/05-01/08-238

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

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;

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 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 2009 (the "Hearing")²¹;

¹⁵ ICC-01/05-01/08-354-Conf

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

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;

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 "*Decision Seeking Observations on the Defence's Request for Interim Release*" (the "Decision") issued by the Chamber on 10 July 2009²⁷;

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 2009²⁸;

²² ICC-01/05-01/08-431

²³ ICC-01/05-01/08-432-Corr

²⁴ ICC-01/05-01/08-433

²⁵ ICC-01/05-01/08-438

²⁶ ICC-01/05-01/08-442

²⁷ ICC-01/05-01/08-446

²⁸ ICC-01/05-01/08-448

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*" dated 24 July 2009²⁹;

NOTING the "*Transmission of additional observations of the Republic of Portugal on defence's application for interim release of Mr. Jean-Pierre Bemba Gombo*" dated 29 July 2009³⁰;

NOTING the "*Transmission of the request of the Republic of South Africa for extension of time limit to submit observations on the request for interim release of Mr. Jean-Pierre Bemba Gombo*" dated 5 August 2009³¹;

NOTING the "*Decision on the Request for Extension of Time*" issued by the Chamber on 6 August 2009³²;

NOTING the "*Transmission of the observations of the Federal Republic of Germany and the Italian Republic received on the Defence request for interim release of Mr. Jean Pierre Bemba Gombo*" submitted by the Registrar on 7 August 2009³³;

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, in the Decision, the Chamber requested the relevant authorities of the Federal Republic of Germany, the Italian Republic and the Republic of South Africa to submit observations on, first, the request for interim release of Mr. Jean-Pierre Bemba; and second, the conditions, if any, that would have to be met to

²⁹ ICC-01/05-01/08-461

³⁰ ICC-01/05-01/08-465

³¹ ICC-01/05-01/08-468

³² ICC-01/05-01/08-470

³³ ICC-01/05-01/08-472

enable the States to accept him on their territory, no later than Friday 7 August 2009, at 16h00³⁴;

CONSIDERING that on 14 July 2009, the Registry notified the Decision of the Chamber along with the public transcript of the Hearing and the "*Notes Supplétives aux Soumissions Orales de la Defense lors de l'Audience du 29 Juin 2009*" to the Federal Republic of Germany, the Italian Republic and the Republic of South Africa³⁵;

CONSIDERING that, on 5 August 2009, the Republic of South Africa submitted a request for an extension of time limit until 28 August 2009 to submit its observations on the request for interim release of Mr. Bemba³⁶. Accordingly, on 6 August 2009, the Chamber granted the Republic of South Africa an extension of time limit until 12 August 2009³⁷;

CONSIDERING that the Registry notified the "*Decision on the Request for Extension of Time*", dated 6 August 2009, to relevant authorities of the Republic of South Africa on 7 August 2009³⁸;

CONSIDERING that the Registry received the observations of the Republic of South Africa on the request for interim release of Mr. Bemba on 12 August 2009 at 14:25³⁹;

SUBMITS the present document *public* and its annex 1 classified *confidential* as it contains sensitive information as well as its annex 2 classified *confidential ex parte only available to the Registry* as requested by the Republic of South Africa⁴⁰;

³⁴ ICC-01/05-01/08-446, page 6

³⁵ ICC-01/05-01/08-468-Conf-Anx1

³⁶ ICC-01/05-01/08-468-Conf-Exp-Anx2

³⁷ ICC-01/05-01/08-470

³⁸ Annex 1 attached hereto, the note verbale communicated to the Embassy of the Republic of South Africa in the Kingdom of the Netherlands and its memorandum of service

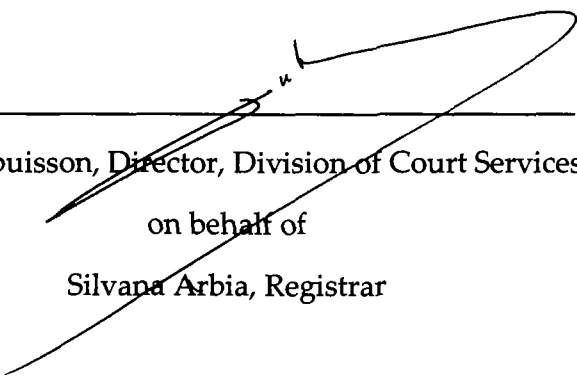
³⁹ Annex 2 attached hereto, letter transmitted by the Embassy of the Republic of South Africa in the Kingdom of the Netherlands received on 12 August 2009 at 14:25

⁴⁰ Annex 2, page 3, paras. 2 and 3

TRANSMITS respectfully to the Chamber,

- Annex 1: Note verbale sent to the Embassy of the Republic of South Africa in the Kingdom of the Netherlands on 6 August 2009 along with its memorandum of service;
- Annex 2: Letter from the relevant authorities of the Republic of South Africa received on 12 August 2009 at 14:25;

RESPECTFULLY SUBMITTED,



Marc Dubuisson, Director, Division of Court Services

on behalf of

Silvana Arbia, Registrar

Dated this 12 August 2009

At The Hague in the Netherlands