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No.: ICC-01/05-01/08
Date: 14 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***

URGENT

Public

**Prosecution request for re-classification of submissions by the authorities of the
Republic of South Africa**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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

Competent authorities of:
The Kingdom of Belgium,
The Republic of France,
The Federal Republic of Germany,
The Italian Republic,
The Kingdom of the Netherlands,
The Republic of Portugal,
The Republic of South Africa

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Maria-Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. On 29 June 2009, the Single Judge of Pre-Trial Chamber II (“Single Judge”) held a hearing “for the sake of considering any issue related to the pre-trial detention of Mr. Bemba”.¹ At the hearing the Defence requested the interim release of the Accused to the Kingdom of Belgium, the Republic of France and the Republic of Portugal.² On 2 July 2009, the Defence added the Federal Republic of Germany, the Italian Republic and the Republic of South Africa to the list of States to which the Accused seeks to be released.³
2. The Single Judge requested the competent authorities of the six States seeks to be released to submit their observations in accordance with Regulation 51 on (i) the request for interim release; and (ii) the conditions, if any, that would have to be met to enable these States to accept him on their territory.⁴
3. The competent authorities of all the above States submitted their observations to the Court.⁵ While the Prosecution has been notified of most of these submissions, the submissions of the Republic of South Africa have been filed confidentially and on an *ex parte* basis.⁶
4. On 14 August 2009, the Single Judge issued the “Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South

¹ ICC-01/05-01/08-T-13-ENG WT. See also ICC-01/05-01/08-425, Decision to Hold a Hearing pursuant to Rule 118(3) of the Rules of Procedure and Evidence.

² ICC-01/05-01/08-T-13-ENG WT, p. 22, lines 2-6 and p. 31, lines 22-23.

³ ICC-01/05-01/08-433.

⁴ ICC-01/05-01/08-T-13-ENG WT, p. 64, lines 11-20; ICC-01/05-01/08-446.

⁵ ICC-01/05-01/08-448-Conf-Anx1, and ICC-01/05-01/08-465-Conf-Anx2 (Observations of the Republic of Portugal); (Observations of the Republic of Portugal); ICC-01/05-01/08-448-Conf-Anx2 (Observations of the Republic of France); ICC-01/05-01/08-448-Conf-Anx3 (Observations of the Kingdom of the Netherlands); ICC-01/05-01/08-461-Conf-Anx2 (Observations of the Kingdom of Belgium); ; ICC-01/05-01/08-472-Conf-Anx2 (Observations of the Federal Republic of Germany); ICC-01/05-01/08-472-Conf-Anx1 (Observations of the Italian Republic); ICC-01/05-01/08-473-Conf-Exp-Anx2 (Observations of the Republic of South Africa).

⁶ ICC-01/05-01/08-473-Conf-Exp-Anx2.

Africa" ("Interim Release Decision").⁷ In this decision the Single Judge ruled, among other things, that the Accused be granted conditional release.

5. On 14 August 2009, the Prosecution filed an appeal against the Interim Release Decision pursuant to Article 82(1)(b), Rule 154(1) and Regulation 64(1).⁸
6. The Prosecution will, in due course, file a document in support of the appeal pursuant to Regulations 64(2) and (5).
7. The Prosecution submits that in order to fully elaborate on the legal and factual reasons in support of its appeal, it must be able to examine the observations made by each of the States to which the Accused seeks to be released. These include the observations made by the authorities of the Republic of South Africa on the Accused's request for interim release and on the conditions, if any, that would have to be met to enable the Republic of South Africa to accept the Accused on its territory.

⁷ ICC-01/05-01/08-475.

⁸ ICC-01/05-01/08-476 OA2.

Request

8. For the above reasons, the Prosecution requests the Single Judge, pursuant to Regulation 23*bis* of the Regulations of the Court, to reclassify the submissions presented by the authorities of the Republic of South Africa (ICC-01/05-01/08-473-Conf-Exp-Anx2), so as to permit the Prosecution access to them.
9. Given the Prosecution's time limit under Regulation 64(5) to file the document in support of the appeal, the Prosecution requests the Single Judge to rule on the matter on an urgent basis.



**Luis Moreno-Ocampo,
Prosecutor**

Dated this 14th day of August 2009
At The Hague, The Netherlands