

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 31 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 annexes**

Transmission of Requests from the Italian Republic, the Federal Republic of Germany, the Kingdom of Belgium, the Republic of France and the Republic of Portugal for postponement of the hearings scheduled in the Decision on the Interim Release of Jean-Pierre Bemba Gombo on 14 August 2009

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

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

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*" 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 the "*Transmission of the observations of the Republic of South Africa received on the Defence request for interim release of Mr. Jean-Pierre Bemba Gombo*" submitted by the Registry on 12 August 2009³⁴;

NOTING 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*

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

³⁴ ICC-01/05-01/08-473

Federal Republic of Germany, the Italian Republic, and the Republic of South Africa" (the "Decision") issued by the Chamber on 14 August 2009³⁵;

NOTING the "*Prosecution's Appeal against "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 Africa"* submitted by the Office of the Prosecutor on 14 August 2009³⁶;

NOTING the "*Observations des représentants légaux des victimes sur la participation des victimes à l'appel interlocutoire déposé par le Bureau du Procureur en vertu de l'article 81(2)b du Statut de Rome*" submitted by the Office of the Public Counsel for Victims on 18 August 2009³⁷;

NOTING the "*Decision on the Presiding Judge of the Appeals Chamber in the appeal of the Prosecutor against the decision of Pre-Trial Chamber II of 14 August 2009 on the Interim Release of Mr Jean-Pierre Bemba Combo and Convening of 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 Africa*" issued by the Appeals Chamber on 20 August 2009³⁸;

NOTING the "*Réplique de la Défense conformément à la Décision de la Chambre Préliminaire II du 14 août 2009 et Requêtes Incidentes de la Défense*" submitted by the Defence on 24 August 2009³⁹;

³⁵ ICC-01/05-01/08-475

³⁶ ICC-01/05-01/08-476

³⁷ ICC-01/05-01/08-477

³⁸ ICC-01/05-01/08-481

³⁹ ICC-01/05-01/08-484-Conf

NOTING the public redacted version of the *“Prosecution’s Document in support of the Appeal against Decision on the Interim Release of Jean-Pierre Bemba Gombo”* submitted by the Office of the Prosecutor on 24 August 2009⁴⁰;

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 invites the competent authorities of 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 Africa to discuss the issue of the implementation of the Decision in public hearings scheduled from 7 September to 14 September 2009;

CONSIDERING that on 17 August 2009, the Registry notified the Decision to the competent authorities of the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, the Republic of South Africa and the Kingdom of the Netherlands⁴¹. In the notes verbales sent to the 6 States invited to the public hearings, the Registry requests these States to provide the Registry with the lists of States representatives who will attend the public hearings no later than 31 August 2009;

INFORMS the Chamber that the Registry received letters from the competent authorities of the Italian Republic⁴², the Federal Republic of Germany⁴³, the Kingdom

⁴⁰ ICC-01/05-01/08-485

⁴¹ Annex 1, Notes verbales communicated to the competent authorities of the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, the Republic of South Africa and the Kingdom of the Netherlands on 17 August 2009 along with the memoranda of service

⁴² Annex 2, Letter from the Italian Embassy in the Kingdom of the Netherlands received by the Registry on 27 August 2009

⁴³ Annex 3, Letter from the Germany Embassy in the Kingdom of the Netherlands received by the Registry on 27 August 2009

of Belgium⁴⁴, the Republic of France⁴⁵ and the Republic of Portugal⁴⁶ to request the Chamber to postpone the hearings scheduled respectively with these States;

INFORMS the Chamber that the Belgian authorities confirmed that a list of the people who are going to represent the Kingdom of Belgium in the hearing on 7 September 2009 will be provided to the Registry no later than 31 August 2009 in its letter sent to the Registry on 25 August 2009⁴⁷;

INFORMS the Chamber that, in the same letter communicated to the Registry on 28 August 2009 by the Kingdom of Belgium, a list of State representatives who will attend the public hearing is provided to the Registry without prejudice to the request for the postponement of the hearing scheduled on 7 September 2009;

SUBMITS the present document classified *public* and its annexes classified *confidential* as they contain sensitive information in relation to the communication between the States and the Registry;

TRANSMITS respectfully to the Chamber,

- Annex 1: Notes verbales sent to the competent authorities of the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, the Republic of South Africa and the Kingdom of the Netherlands on 17 August 2009 along with the memoranda of service;

⁴⁴ Annex 4, Letter from the Belgian authorities received by the Registry on 28 August 2009

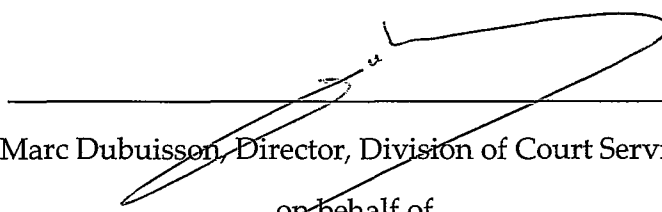
⁴⁵ Annex 5, Letter from the French Embassy in the Kingdom of the Netherlands received by the Registry on 28 August 2009

⁴⁶ Annex 6, Letter from the Portuguese Embassy in the Kingdom of the Netherlands received by the Registry on 31 August 2009.

⁴⁷ Annex 7, Letter from the Belgian authorities received by the Registry on 25 August 2009

- Annex 2: Letter from the Embassy of the Italian Republic in the Kingdom of the Netherlands received by the Registry on 27 August 2009;
- Annex 3: Letter from the Embassy of the Federal Republic of Germany in the Kingdom of the Netherlands received by the Registry on 27 August 2009;
- Annex 4: Letter from the Belgian authorities received by the Registry on 28 August 2009;
- Annex 5: Letter from the Embassy of the Republic of France in the Kingdom of the Netherlands received by the Registry on 28 August 2009;
- Annex 6: Letter from the Embassy of the Portuguese Republic in the Kingdom of the Netherlands received by the Registry on 31 August 2009;
- Annex 7: Letter from the Kingdom of Belgium received by the Registry on 25 August 2009;

RESPECTFULLY SUBMITTED,



Marc Dubuissson, Director, Division of Court Services
on behalf of
Silvana Arbia, Registrar

Dated this 31 August 2009

At The Hague in the Netherlands