

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 31 December 2008

PRE-TRIAL CHAMBER III

Before: Judge Ekaterina Trendafilova, Single Judge

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

Public

**PUBLIC REACTED VERSION OF ICC-01/05-01/08-339-Conf
Decision on the Defence's Urgent Application for Lifting the Seizure dated 29
December 2008 and Request for Cooperation to the Competent Authorities of
Portugal**

Decision 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

Legal Representatives of the Victims

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

Competent authorities of the Republic of
Portugal

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber III (the “Chamber”) of the International Criminal Court (the “Court”),¹ has been seized on an urgent basis on 29 December 2008 by the Defence of Mr Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”) of an application for lifting the seizure of certain assets (“Requête de Mainlevée de la Saisie”: the “Defence’s Application”)².

1. The present decision is classified as confidential consistently with the Chamber’s “Decision on the Defence’s Application for Lifting the Seizure of Assets and Request for Cooperation to the Competent Authorities of Portugal” dated 10 October 2008 (the “10 October 2008 Decision”)³.
2. The Single Judge recalls that, by its 10 October 2008 Decision, the Chamber requested the competent authorities of the Republic of Portugal to authorise temporarily the release of the amount of € 36,260 on a monthly basis from account [REDACTED] “until a decision on the confirmation of charges [had] been issued”, with a view to allowing Mr Jean-Pierre Bemba to cover the expenses for his defence (estimated at € 30,150 per month) and to honour his support obligations *vis-à-vis* his wife and children (estimated at € 6,109.84 per month).
3. The Defence maintains that, although such amount has been duly transferred for the months of October, November and December 2008, [REDACTED] indicates that the overall current balance of account [REDACTED] amounts to [REDACTED], this making it impossible for it to proceed to further transfers of money in the amount specified by the 10 October 2008 Decision. It further states that Mr Jean-Pierre Bemba equally holds an additional account [REDACTED]. Accordingly, it requests that, with a view to allowing Mr Jean-Pierre Bemba to continue to receive the monthly allowance required for the costs of his defence as

¹ “Decision Designating a Single Judge”, ICC-01/05-01/08-293.

² ICC-01/05-01/08-337-Conf.

³ ICC-01/05-01/08-149-Conf

well as for the support of his family, the Chamber amend its authorisation, to the effect that the relevant monthly amount be released from account [REDACTED] instead of account [REDACTED], effective 1 January 2009.

4. The Single Judge notes articles 57(3)(e), 67, 75, 93(1)(k), 96 and 97 of the Statute of the Court (the "Statute"), and rules 99 and 176(2) of the Rules of Procedure and Evidence (the "Rules").
5. The Single Judge notes that, pursuant to her decision dated 29 December 2008⁴, the hearing on the confirmation of the charges is now scheduled to begin on 12 January 2009.
6. The Single Judge recalls that, in its 10 October 2008 Decision, the Chamber reserved the right to review the determinations taken at that stage "in case of any change of circumstances especially in the event that additional information [was] provided to the Chamber with regard to the financial resources of Mr Jean-Pierre Bemba".
7. The Defence's Application states that Mr Jean-Pierre Bemba's account [REDACTED], without however clarifying whether this is a subsidiary of [REDACTED] still subject to the jurisdiction of the authorities of the Republic of Portugal. It seems to rely on the assumption that an order to modify the number of the account from which the relevant monthly amount should be withdrawn starting from 1 January 2009 is all which is required from the Chamber to make such order effective. The Single Judge notes that [REDACTED].
8. The Single Judge also notes that no mention of account [REDACTED]⁵. Furthermore, the Defence's Application fails to provide any information as to the

⁴ ICC-01/05-01/08-335.

⁵ [REDACTED].

nature of the seizure which allegedly affects account [REDACTED], in particular as regards the authority which ordered it, the date on which it was executed and the amount of money which was available on it at the time of the seizure. As a consequence, the Single Judge is not in a position to exclude that such seizure might be outstanding as a result of the order of an authority other than the Court, which would deprive the Court's order to lift the seizure for the relevant amount of any binding effect. Accordingly, it appears necessary that specific information on the account, as well as on the nature of the seizure allegedly affecting it, be provided to the Chamber.

9. Notwithstanding the above, the Single Judge is mindful of the critical need at this stage for Mr Jean-Pierre Bemba to be able to rely on the full efficiency of his Defence team, in particular in light of the imminence of the date set for the hearing on the confirmation of the charges, as well as to continue to duly support his wife and children. Accordingly, for the purposes of the present decision, the Single Judge will rely on the following assumptions:

- a. [REDACTED], is subject to the jurisdiction of the authorities of the Republic of Portugal;
- b. that the information submitted by the Defence as regards the existence of account [REDACTED] and its current balance are accurate; and
- c. that the alleged seizure on the account was implemented as a consequence of the Chamber's decision to freeze the assets belonging to Mr Jean-Pierre Bemba.

10. On the basis of the above, the Single Judge partially grants the Defence's request on an urgent and provisional basis and authorises the competent authorities of the Republic of Portugal to release the amount of €36,260 from account [REDACTED], for the month of January 2009 and on a monthly basis until the issuance of the decision on the confirmation (or not) of the charges.

11. On the other hand, however, the Single Judge is equally mindful of the Chamber's obligation to ensure that any available assets of Mr Jean-Pierre Bemba be preserved for the sake of any reparation orders which might be made to the benefit of victims at a later stage of the proceedings. The fact that incomplete information seems to have been submitted to the Chamber is source of great concern. The Single Judge strongly reaffirms the Chamber's duty and power to retain control over any assets and/or financial resources which might be available to Mr Jean-Pierre Bemba.

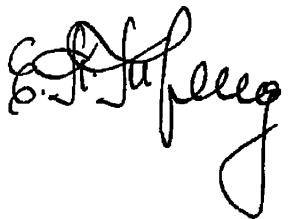
12. Accordingly, the Single Judge requests the Defence to submit detailed and accurate information as to the nature of the seizure existing on account [REDACTED], in particular as regards the authority which ordered it and the amount which was outstanding on such account at the time of the seizure. The Single Judge also reserves her right to take any additional steps which might be necessary or appropriate to obtain information which might clarify the financial situation of Mr Jean-Pierre Bemba, to review the present decision and to make any further determination which may result necessary or appropriate in this respect.

FOR THESE REASONS, THE SINGLE JUDGE

- a) **requests** the competent authorities of the Republic of Portugal to authorise the release of the amount of €36,260 from account [REDACTED] for the month of January 2009 and on a monthly basis until the issuance of the decision on the confirmation (or not) of the charges, on the assumption that [REDACTED] falls within the scope of their jurisdiction;

- b) **requests** the competent authorities of the Republic of Portugal to inform the Court in accordance with article 96(3) of the Statute of any specific requirements under its national law in order to execute the present request;
- c) **requests** the competent authorities of the Republic of Portugal to consult with the Court in accordance with article 97 of the Statute of any difficulty encountered in implementing the present decision;
- d) **orders** the Registrar to transmit the present decision to the competent authorities of the Republic of Portugal and to promptly report to the Chamber on the status of its implementation;
- e) **orders** the Defence to submit information as to the nature of the seizure allegedly affecting account [REDACTED] no later than Monday, 5 January 2009.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Wednesday, 31st December 2008

At The Hague, The Netherlands