



Original: **English**

No.: **ICC-01/05**
Date: **27 May 2008**

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra (Presiding Judge)
Judge Hans-Peter Kaul
Judge Ekaterina Trendafilova

Registrar: Ms Silvana Arbia

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

**Public Redacted Version of ICC-01/05-01/08-29-US-Exp
Prosecutor's Submission on Further Information and Materials**

Source: The 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

Legal Representatives of Victims

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
Ms Silvana Arbia**

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 9 May 2008 the Office of The Prosecutor (hereinafter referred to as “OTP”) filed its application (hereinafter referred to as “the Application”) in the situation in the Central African Republic (hereinafter referred to as “CAR”) requesting, *inter alia*, for the issuance of a warrant of arrest for Jean-Pierre BEMBA (hereinafter referred to as “BEMBA”) under Article 58 of the Rome Statute.¹

2. On 21 May 2008, the Pre-Trial Chamber rendered the “Decision Requesting Additional Information in Respect of the Prosecutor’s Application for Warrant of Arrest under Article 58” (hereinafter referred to as “The Decision”). In The Decision, the Pre-Trial Chamber requested that the Prosecution provide additional information and supporting materials concerning the Application as soon as possible, but not later than 27 May 2008.

3. In an effort to provide clarity to the issues presented in the Application, the Prosecution attached selected witness statements and Non-Governmental Agency (hereinafter referred to as NGO”) Reports to the Application. The witness statements and the NGO Reports were provided to the Chamber in an effort to present a complete and accurate representation of the events in question.

4. Pursuant to Article 58(2)(d) of the Rome Statute, an application seeking issuance of a warrant of arrest shall contain, “a summary of the evidence and any other information which establishes reasonable grounds to believe that the person committed those crimes”.

5. At this stage in the proceedings, the OTP submits a “summary of evidence and information” and would provide evidence, including witness statements, during the confirmation stage. In order to facilitate the review of the Application submitted

¹ A draft courtesy translation will be provided as soon as possible.

under Article 58 of the Rome Statute, the OTP hereby submits the following requested additional information and supporting material to the Pre-Trial Chamber.

6. The Prosecution provides the following additional information and supporting material in the order they were requested by the Pre-Trial Chamber:

c) (i): Request for the Document Containing the Referral by the Central African Republic:

The Prosecution hereby provides the following documents: *Affaire Etat Centrafricain/Patasse*, CAR-OTP-0001-0135 and *Saisine de la Cour Pénale Internationale par l'Etat Centrafricain d'un Renvoi en Application des Articles 13 et 14 du Statut de Rome*, CAR-OTP-0001-0139. Both documents are attached hereto as Annex "1".

c) (ii): Request for Additional Information and supporting material concerning the alleged offences committed by the MLC troops referred to in paragraphs 117 and 118 of the Application:

The Prosecution submits that the MLC troops which intervened in Bangui for two weeks to rebuff the coup d'Etat attempt of 28 May 2001 committed a number of crimes against the civilian population. These crimes were reported by Amnesty International in a report dated January 2002. In particular, rapes were perpetrated against minors. The Amnesty International Report regarding the 2001 incident, CAR-OTP-0004-0577 is attached hereto as Annex "2".

In addition, [REDACTED] confirmed the commission of these crimes in his statement [REDACTED]
[REDACTED] which is attached hereto as Annex "3".

With regard to the offences committed in Mambasa (Democratic Republic of Congo), the Prosecution underlines the findings of the MONUC Special Investigation Team (SIT) which investigated in January 2003 the two attacks in Mambasa carried out by MLC troops allied with troops from the *Rassemblement Congolais pour la Démocratie – National* (RCD-N) in October and December 2002 respectively (the *Union des Patriotes Congolais* (UPC) also provided additional support in December). The MONUC SIT interviewed a total of 502 persons in the region and met with local civil society and religious leaders. The MONUC SIT hence indicated that MLC-RCD(N) troops committed systematic looting of social structures, widespread rapes (in particular rapes of young girls), and a number of summary executions, including killings of children. MONUC SIT also found out that the majority of rapes were committed during the first attack on Mambasa, between 12-29 October, i.e. slightly before MLC troops were ordered to intervene in CAR. MONUC SIT documented 102 cases of violations of physical integrity, including 69 cases of witnessed rapes and 33 cases of cruel or inhuman treatment. The MONUC report *Rapport de l'Équipe spéciale d'enquête sur les événements de Mambasa 31 décembre 2002 - 10 janvier 2003*, CAR-OTP-0005-0038 is provided to the Chamber as supporting material (Annex "4").

Last, the Prosecution also submits the statement of [REDACTED] [REDACTED] with respect to the offences referred to in paragraph 118. This statement is attached hereto as Annex "5".

c) (iii): Request for the FIDH Report referred to in paragraphs 60, 105 and 106 of the Application or its exact reference:

The Prosecution hereby provides the report of the *Fédération Internationale des Droits de l'Homme* (hereinafter referred to as "FIDH"), *Forgotten, stigmatised: the double suffering of victims of international crimes*, October 2006, CAR-OTP-0004-0409 (English), CAR-OTP-0004-0881 (French). The report is attached hereto as Annex "6".

c) (iv): Supporting material concerning the allegations in paragraphs 26, 27, 29, 45 (last sentence), 68 (including the speech delivered by Mr. Patasse on 25 November 2002), 84, 94 (including the interview of Mr. Bemba in the newsmagazine *Jeune Afrique*), 106 (concerning the visit of Mr. Bemba in Bangui) and 111 ([REDACTED]) of the Application:

In support of paragraph 26 of the Application, the Prosecution hereby submits *Congolese rebel troops to quit CAR next month*, Joseph Benamse, Associated Press, 21 January 2003, CAR-OTP-0004-0667 at 0680 to 0681, said article is attached hereto as Annex "7";

In support of paragraph 27 and 45 (last sentence) of the Application, the Prosecution submits *DR Congo rebel leader BEMBA explains "gradual withdrawal" of his troops in CAR*, 14 February 2003, BBC, CAR-OTP-0008-0383 at 0383, said article is attached hereto as Annex "8";

In support of paragraph 29 of the Application, the Prosecution submits *Congolese rebel leader turns down PATASSE request for continued support from his fighters*, Associated Press Newswires, 21 February 2003, CAR-OTP-0004-0667 at 0690 to 0691, said article is attached hereto as Annex "7";

In support of paragraph 68 of the Application, the Prosecution submits *Crimes de Guerre en République Centrafricaine, Quand les éléphants se battent, c'est l'herbe qui souffre*, FIDH, February 2003, CAR-OTP-0004-0808 cited at CAR-OTP-0004-0812, said report is attached hereto as Annex "9";

In support of paragraph 84 of the Application, the Prosecution submits *La rébellion du MLC "envisage" de se retirer de Centrafrique*, AFP, 27 December 2002, CAR-OTP-0008-0426, said article is attached hereto as Annex "10";

In support of paragraph 94 of the Application, the Prosecution submits *Jean-Pierre Bemba, La page de la lutte armée est tournée*, Jeune Afrique, 4-10 Mai 2003, CAR-OTP-0010-0471 at 0471, said article is attached hereto as Annex "11";

In support of paragraph 106 of the Application, the Prosecution submits *Central African Republic, Forgotten, Stigmatised: The Double suffering of victims of international crimes*, FIDH, October 2006, CAR-OTP-0004-0409 at 0427, said article is attached hereto as Annex "6";

In support of paragraph 111 of the Application, the Prosecution submits the [REDACTED], said statement is attached hereto as Annex "12"; the [REDACTED], said statement is attached hereto as Annex "13"; the [REDACTED], said statement is attached hereto as Annex "14"; the [REDACTED], said statement is attached hereto as Annex "15".

c)(v): Additional information, as precise as possible, and supporting material to substantiate counts number 2 and 4 (other crimes related to other forms of sexual violence):

The legal basis for the definition of other crimes of sexual violence under the Elements of Crimes is the perpetration of acts "of a sexual nature". The crime of sexual violence is therefore distinguished from the crime of rape which requires an element of invasion resulting in

penetration of any part of the body as defined under the Elements of Crimes Article 7(1)(g)-1 and Article 8(2)(b)(xxii)-1. The crime of sexual violence can therefore be considered as acts of a sexual nature which do not involve an element of invasion of the body.

In support of Counts 2 and 4, the Prosecution hereby provides the

██████████ said statement is attached hereto as Annex "16". Further, the Amnesty International Report regarding the 2002-2003 conflict, *Five months of war against women*, CAR-OTP-0004-0503 specifically refers to two separate instances of other crimes of sexual violence. The first instance reported that the MLC women combatants ordered a government minister to strip naked. These women apparently told him that they wanted to see a naked government minister because they had not seen one before. The women combatants' main reason for forcing the minister to undress appears to have been to humiliate him. The second incident referenced in the Amnesty International Report reflects that a man, who was sexually assaulted by a MLC woman, was thereafter told by another MLC woman to undress and threatened to have him beaten by her male colleagues if he refused.

One additional example of the commission of other forms of sexual violence is included in the [REDACTED], where she describes that MLC men forced her uncle's wife to take off her dress in their attempt to rape her. However, when she undressed they saw scabies and did not rape her, CAR-OTP-0007-0500.

c) (vi): Additional information, as precise as possible, and supporting material to substantiate counts number 8 and 9 ([REDACTED] [REDACTED], referred to in paragraph 59).

The Prosecution hereby submits that civilians were killed by MLC soldiers in Bangui in the course of their attack, especially those civilians who resisted looting or attempted to protect relatives who were targets of rape. This proposition is supported by the FIDH Report, *Crimes de Guerre en République Centrafricaine, Quand les éléphants se battent, c'est l'herbe qui souffre* », February 2003, CAR-OTP-0001-0034, said report is attached hereto as Annex "9".

The Prosecution hereby provides the [REDACTED]
[REDACTED]
[REDACTED], said statement is attached hereto as Annex "14". The Prosecution also submits the [REDACTED]
[REDACTED]
[REDACTED], said statement is attached hereto as Annex "13".

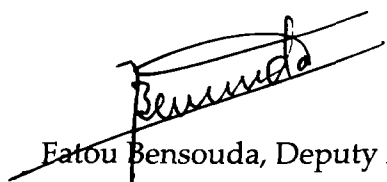
c)(vii): The last 7 pages (pages 83 to 89) missing in Annex 2B to the Application.

The Prosecution hereby submits in its entirety [REDACTED]
[REDACTED] said document is attached hereto as Annex "17".

c)(viii): Information as to why Annex 6 to the Application, which is a public document, is submitted to the Chamber in redacted form.

Public versions of the document attached to the Application as Annex 6, Amnesty International, *Central African Republic, Five months of war against women*, 10 November 2004, are available in Ringtail in both redacted and unredacted forms. The fact that the report in question was submitted in a redacted form was due to an oversight. The Prosecution hereby submits in its entirety said Report (English and French) in its unredacted form, CAR-OTP-0011-0504 (Annex "18").

7. This document is filed under seal on the basis that the Application filed is under seal.



Fatou Bensouda, Deputy Prosecutor,
On behalf of
Luis Moreno Ocampo, Prosecutor

Dated this 27th day of May 2008
At The Hague, The Netherlands