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

Date: 13 April 2010

TRIAL CHAMBER III

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge Joyce Aluoch

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

**IN THE CASE OF
THE PROSECUTOR
*v. Jean-Pierre Bemba Gombo***

**Public Document
Urgent
With Four Public Annexes**

**Defence Application Informing Trial Chamber III of New Developments in
Judicial Proceedings in the Central African Republic**

Source: Defence Team for Mr Jean-Pierre Bemba Gombo

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

The Office of the Prosecutor

Fatou Bensouda
Petra Kneuer

Counsel for the Defence

Nkwebe Liriss
Aimé Kilolo Musamba

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Marie-Edith Douzima Lawson

Unrepresented Applicants

(participation/representation)

**The Office of Public Counsel for
Victims**

Paolina Massidda

**The Office of Public Counsel for the
Defence**

Xavier-Jean Keita

States' Representatives

Amicus Curiae

REGISTRY

Registrar and Deputy Registrar

Silva Arbia and Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 25 February 2010, the Defence filed an application challenging the admissibility of the case pursuant to articles 17 and 19(2)(a) of the Rome Statute.¹
2. On 29 March 2010, the Office of the Prosecutor filed its observations.²
3. On 29 March 2010, one of the Legal Representatives of certain victims filed her observations.³
4. On 6 April 2010, the Defence received notice of the observations of the Office of Public Counsel for Victims.⁴
5. In the meantime, there have been further developments in the criminal proceedings brought against Patassé *et al* in the Central African Republic.
6. Thus Mr Jean-Pierre Bemba Gombo's Defence team has been in contact with a local law firm in the Central African Republic to ascertain the true status of the judicial proceedings in that country.
7. From this it has become apparent that all the decisions of the Indictments Chamber, as well as that of the Court of Cassation, were rendered by default as far as Mr Jean-Pierre Bemba Gombo was concerned, and were never notified to him. He is therefore entitled to exercise the legal remedies open to him under the Central African Code of Criminal Procedure.
8. He immediately filed an application for review and annulment [*recours en opposition*] against the decision of the Indictments Chamber⁵ and an application for revocation [*requête en rétractation*] against the decision of the Court of Cassation.⁶

¹ ICC-01/05-01/08-704-Conf-Exp.

² ICC-01/05-01/08-739.

³ ICC-01/05-01/08-740.

⁴ ICC-01/05-01/08-742 + Anxs.

⁵ See Annexes A and B.

⁶ See Annexes C and D.

9. The purpose of these various applications is to ask the Court of Cassation to revoke its earlier decision and to find that the current situation of the applicant entitles the Central African courts to retain their jurisdiction to try the case of Jean-Pierre Bemba Gombo, which is currently before the International Criminal Court (ICC), and to resume the proceedings against the applicant on an adversarial basis.
10. The Defence appends hereto the relevant documents, which were received today from Bangui.⁷
11. The effect of the applications filed in Bangui is that the Bangui case file is pending before the Principal Public Prosecutor of the Appeals Court, who is required to file submissions within the next few days, and hence the investigations or proceedings are currently in progress in the Central African Republic.
12. Moreover, the only decision not under appeal is the decision of the Bangui Senior Investigating Judge to dismiss the charges.
13. The Bangui Indictments Chamber and the Court of Cassation will reach their decisions in consequence of the various applications filed.⁸ These judicial decisions may have a significant impact on the question of *ne bis in idem* and complementarity currently before the International Criminal Court.
14. The Defence further contends that, already at this stage, the applications filed constitute new evidence in support of the challenge to the admissibility of the case, not only in relation to the *ne bis in idem* principle but also to that of complementarity.

⁷ See Annexes A, B, C and D.

⁸ See Annexes A and C.

As to the urgency of this matter

15. Given the imminence of the status conference scheduled for 27 April 2010, and the need to enable the other participants urgently to submit their observations on the new developments in the proceedings in the Central African Republic, in all likelihood before the hearing on 27 April 2010, the Defence respectfully requests Trial Chamber III to treat this application as a matter of extreme urgency.

For these reasons,

- a. The Defence respectfully requests Trial Chamber III to join the present application to that filed on 25 February 2010, treating it as an integral part thereof, and to take account of the new developments in judicial proceedings in the Central African Republic;
- b. To declare this application admissible;
- c. To rule, following the hearing scheduled for 27 April 2010, that the proceedings brought by the Office of the Prosecutor of the ICC in the case of Jean Pierre Bemba Gombo are inadmissible.

[signed]

Aimé Kilolo Musamba

Associate Counsel

[signed]

Nkwebe Liriss

Lead Counsel

Dated this 13 April 2010

At The Hague, The Netherlands