



Original: **French**

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

Date: **29 July 2010**

THE APPEALS CHAMBER

Before: Judge Anita Ušacka, Presiding Judge
Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Daniel David Ntanda Nsereko

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
*v. Jean-Pierre Bemba Gombo***

Public Document

Defence Notice of Appeal Against the Decision of Trial Chamber III of 28 July 2010 entitled *Decision on the review of the Detention of Mr Jean-Pierre Bemba Gombo pursuant to Rule 118(2) of the Rules of Procedure and Evidence*

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:

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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Victims and Witnesses Unit

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**Victims Participation and Reparations
Section**

Other

1. By an order dated 7 July 2010,¹ Trial Chamber III invited the parties to submit their observations on the review of the detention of Mr Jean-Pierre Bemba Gombo.
2. Having received the parties' observations, on 28 July 2010 Trial Chamber III issued a decision refusing to order the release of Mr Jean-Pierre Bemba Gombo or to modify his custody regime.²
3. The Defence for Mr Jean-Pierre Bemba Gombo hereby appeals the said decision of Trial Chamber III, entitled *Decision on the review of the detention of Mr Jean-Pierre Bemba Gombo pursuant to Rule 118(2) of the rules of Procedure and Evidence*.
4. This appeal is entered against the impugned decision in its entirety, on both legal and factual grounds, which will be set out in a separate document in accordance with regulation 64(5) of the Regulations of the Court.
5. In particular, the Defence challenges the finding in the impugned decision that the requirements of article 58(1)(b)(i) of the Rome Statute continue to be met, and that it is accordingly necessary to keep Mr Jean-Pierre Bemba Gombo in custody in order to ensure his appearance at trial.
6. The Defence also challenges the statement regarding as irrelevant the request that the Chamber order the Registry to assist the Defence for Mr Jean-Pierre Bemba Gombo in obtaining a guarantee that the accused will appear at trial and in initiating discussions with States Parties in order to seek such guarantee.
7. The Defence further challenges the impugned decision with respect to the refusal to modify Mr Bemba Gombo's custody regime.

¹ ICC-01/05-01/08-811, para.7.

² ICC-01/05-01/08-843.

8. In accordance with article 82(1)(b) of the Rome Statute, the parties may appeal any decision granting or denying release of the person being investigated or prosecuted.
9. In accordance with rule 154 of the Rules of Procedure and Evidence, the appeal in question may be filed not later than five days from the date upon which the party filing the appeal is notified of the decision.
10. The said decision was in fact brought to the attention of the defence this Wednesday, 28 July 2010; therefore the present appeal has been filed within the time limit.
11. Furthermore, regulation 64(5) of the Regulations of the Court provides that the document in support of the appeal shall be filed by the appellant within seven days of notification of the impugned decision.

For these reasons:

12. In accordance with article 83(2)(a) of the Rome Statute, the Defence respectfully requests the Appeals Chamber to set aside the impugned International decision, *Decision on the review of the detention of Mr Jean-Pierre Bemba Gombo pursuant to Rule 118(2) of the rules of Procedure and Evidence* of 28 July 2010.

And accordingly,

As principal request:

13. To order the immediate release of Mr Jean-Pierre Bemba Gombo, with or without conditions, under rule 119 of the Rules of Procedure and Evidence.

In the alternative:

14. To order a relaxation of Mr Jean-Pierre Bemba Gombo's custody regime, so as to allow him out of prison every weekend, from Friday morning until Sunday

evening, but only within the territory of the Host State, the Netherlands, and to permit him to spend his nights there with his wife and children, entirely at his own expense.

In the further alternative:

15. To order the Registry to assist the Defence for Mr Jean-Pierre Bemba Gombo in obtaining a guarantee that the accused will appear at trial and in initiating discussions with States Parties in order to seek such guarantee.

If appropriate:

16. To refer the matter back to Trial Chamber III for a ruling in accordance with the terms of your decision.

[signed]

Aimé Kilolo Musamba
Associate Counsel

Dated this 29 July 2010

At The Hague, The Netherlands