



Original: English

No.: ICC-01/05-01/08 OA7

Date: 30 September 2011

THE APPEALS CHAMBER

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO

Public Redacted version

Prosecution's Response to the Observations of Victims' Legal Representative Mr Zarambaud Assingambi to the Defence Appeal Trial Chamber III's Decision on Applications for Provisional Release (ICC-01/05-01/08-1609-Conf)

Source: Office of the Prosecutor

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

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Other

Submissions

1. On 27 June 2011 Trial Chamber III issued its “Decision on Application for Provisional Release” (“Decision”), whereby it rejected the three applications for release filed by the Defence for Jean Pierre Bemba (the “Appellant”) and ruled that he was to remain in detention.¹
2. On 1 July 2011 the Appellant sought to appeal the Decision on three grounds (“Appeal Brief”): first, that the Trial Chamber misapprehended REDACTED; second, that the Chamber erred when it found that he may interfere with witnesses; and third, that the Chamber erred when it dismissed his request for a one-day release to DRC to register for vote.²
3. On 11 July 2011 the Prosecution responded to the Appeal Brief and requested the Appeals Chamber to dismiss it as the Appellant had failed to identify any error in the Chamber’s reasoning and findings that would merit the intervention of the Appeals Chamber (“Prosecution’s Response”).³ Among other points, the Prosecution submitted that the Appellant’s arguments misrepresented REDACTED.⁴
4. On 19 July 2011 Mr Zarambaud Assingambi, a legal representative of victims (“Legal Representative”), after being granted leave by the Appeals Chamber, provided observations on the Appeal Brief (“Victims’ Observations”).⁵
5. The Legal Representative argues, inter alia, that REDACTED are “insignificant” and further questions REDACTED willingness to return the Appellant to the seat of the Court. In particular, the Legal Representative REDACTED.⁶

¹ ICC-01/05-01/08-1565-Conf.

² ICC-01/05-01/08-1586-ConfOA7.

³ ICC-01/05-01/08-1592-ConfOA7.

⁴ Pursuant to Regulation 23bis(2) of the Regulations of the Court, the Prosecution files this document confidentially due to references to information contained in confidential filings. The Appeal Brief, Prosecution’s Response and Victims’ Observations were also filed on confidential basis.

⁵ ICC-01/05-01/08-1609-ConfOA7.

⁶ Victims’ Observations, paras.17-18. REDACTED

6. The Prosecution refers to the arguments advanced in its Response, citing relevant Appeals Chamber's jurisprudence, on the need to specify the guarantees that a State who offers to host an accused person is willing and able to implement.⁷ The Prosecution stresses the importance that the State indicates in detail the concrete measures that it is in a position to implement to ensure the monitoring of the accused person while in its soil, as well as his return to trial. In addition, the State has to explain and demonstrate that it is capable to enforce the relevant measures and how it intends to implement them. Only comprehensive and detailed State guarantees will permit the Chamber to assess their reliability and issue an informed decision on whether those guarantees can mitigate the Chamber's concern with respect to the accused's risk of flight and/ or interfering with witnesses.

Relief Sought

7. The Prosecution requests the Appeals Chamber to consider the Victims' Observations and reiterates its request for dismissal of the Appeal Brief.



Luis Moreno-Ocampo,
Prosecutor

Dated this 30th day of September 2011

At The Hague, The Netherlands

⁷ Prosecution's Response, paras.26-28, and ICC-01/05-01/08-631OA2, paras.104,106,108-109.