



Original: English

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

Date: 28 June 2016

TRIAL CHAMBER III

Before: Judge Sylvia Steiner, Presiding Judge
Judge Joyce Aluoch
Judge Kuniko Ozaki

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

**Public Redacted Version of “Decision requesting observations on the «
Requête ampliative de Mise en liberté provisoire de M. Jean-Pierre Bemba
Gombo suite à la lettre de garantie étatique émanant de la République du
Sénégal »”, ICC-01/05-01/08-1492 of 8 June 2011**

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr Jean-Jacques Badibanga

Counsel for the Defence

Mr Peter Haynes
Ms Kate Gibson
Ms Melinda Taylor

Legal Representatives of the Victims

Ms Marie Edith Douzima-Lawson

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

Mr Xavier-Jean Keïta

States Representatives

Competent authorities of
the Republic of Senegal

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Ms Isabelle Guibal

Other

Trial Chamber III (“Trial Chamber” or “Chamber”) of the International Criminal Court (“Court” or “ICC”), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, (“Bemba case”) issues the following Decision requesting observations on the « Requête ampliative de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo suite à la lettre de garantie étatique émanant de la République du Sénégal ».

I. Background and submissions

1. On 3 July 2008, Mr Jean-Pierre Bemba Gombo (“Mr Bemba”) was surrendered to the seat of the Court by the authorities of the Kingdom of Belgium. He has since then been detained at the ICC detention centre.
2. On 22 November 2010, the trial against Mr Bemba commenced, as had been scheduled at a status conference on 21 October 2010.¹
3. On 17 December 2010, the Chamber issued its “Decision on the review of detention of Mr Jean-Pierre Bemba Gombo pursuant to the Appeals Judgment on 19 November 2010”,² by which it ordered that Mr Bemba remain in detention for the course of the proceedings in his case.³
4. On 3 May 2011, the defence filed its « Requête de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo » (“Request for Interim Release”),⁴ requesting the interim release of Mr Bemba. The defence notes that at the present stage of the proceedings, all but one of the Office of the

¹ Transcript of hearing on 21 October 2010, ICC-01/05-01/08-T-30-ENG ET, page 4, lines 18 to 20.

² Decision on the review of detention of Mr Jean-Pierre Bemba Gombo pursuant to the Appeals Judgment on 19 November 2010, 17 December 2010, ICC-01/05-01/08-1088.

³ ICC-01/05-01/08-1088, paragraph 48.

⁴ Requête de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo, 3 May 2011, ICC-01/05-01/08-1387-Conf and five annexes; Corrigendum Requête de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo, 3 May 2011, ICC-01/05-01/08-1387-Conf-Corr and annex; and English translation Corrigendum to Application for the interim release of Mr Jean-Pierre Bemba Gombo, 3 May 2011, ICC-01/05-01/08-1387-Conf-Corr-tENG and five annexes.

Prosecutor (“prosecution”) vulnerable witnesses have testified before the Chamber and there has been no indication that vulnerable witnesses have been intimidated by Mr Bemba or by any person with whom he is associated to.⁵ The accused seeks interim release into the Kingdom of Belgium, to spend time with his wife and young children [REDACTED]. The request is limited to the Court’s summer judicial recess (from Friday 15 July 2011 at 17.30 to Monday 8 August 2011 at 9.00) and every weekend or every other weekend which, in the view of the defence, will not disrupt the efficient conduct of the proceedings.⁶

5. On 6 June 2011, the defence further filed its « Requête ampliative de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo suite à la lettre de garantie étatique émanant de la République du Sénégal » (“Additional Request for Interim Release”),⁷ in which it requests, as an alternative to the Request for Interim Release on the territory of the Kingdom of Belgium, the interim release of Mr Bemba to the Republic of Senegal.⁸ The defence submits that its Additional Request for Interim Release is limited to the duration of Court’s judicial recesses as well as periods where the Chamber does not sit for at least three consecutive days, including long weekends.⁹

II. Relevant provisions

6. In accordance with Article 21 (1) of the Rome Statute (“Statute”), the Chamber has considered the following provisions of the Rules of Procedure and Evidence (“Rules”) and the Regulations of the Court:

⁵ ICC-01/05-01/08-1387-Conf, paragraphs 6 and 9.

⁶ ICC-01/05-01/08-1387-Conf, paragraph 32.

⁷ Requête ampliative de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo suite à la lettre de garantie étatique émanant de la République du Sénégal, 6 June 2011, ICC-01/05-01/08-1479-Conf and confidential annexes A and B.

⁸ ICC-01/05-01/08-1479-Conf, paragraph 3.

⁹ ICC-01/05-01/08-1479-Conf, paragraphs 2 and 19.

Rule 118 of the Rules**Pre-trial detention at the seat of the Court**

[...]

3. After the first appearance, a request for interim release must be made in writing. The Prosecutor shall be given notice of such a request. The Pre-Trial Chamber shall decide after having received observations in writing of the Prosecutor and the detained person. The Pre-Trial Chamber may decide to hold a hearing, at the request of the Prosecutor or the detained person or on its own initiative. A hearing must be held at least once every year.

Rule 119 of the Rules**Conditional release**

[...]

3. Before imposing or amending any conditions restricting liberty, the Pre-Trial Chamber shall seek the views of the Prosecutor, the person concerned, any relevant State and victims that have communicated with the Court in that case and whom the Chamber considers could be at risk as a result of a release or conditions imposed.

Regulation 34 of the Regulations of the Court**Time limits for documents filed with the Court**

Unless otherwise provided in the Statute, Rules or these Regulations, or unless otherwise ordered:

[...]

(b) A response referred to in regulation 24 shall be filed within 21 days of notification in accordance with regulation 31 of the document to which the participant is responding;

Regulation 51 of the Regulations of the Court**Decision on interim release**

For the purposes of a decision on interim release, the Pre-Trial Chamber shall seek observations from the host State and from the State to which the person seeks to be released.

III. Analysis and Conclusions

7. Pursuant to Rule 119 of the Rules, before deciding upon a request for interim release, the Chamber shall seek the views of (i) the prosecution, (ii) the victims

that have communicated with the Court in the case and whom the Chamber considers could be at risk as a result of the release or conditions imposed, and (iii) the State to which the person seeks to be released.

8. The Chamber further notes that Mr Bemba has requested the interim release to spend time with his wife and children in the Republic of Senegal.
9. For these reasons, the Trial Chamber hereby:

(a) REQUESTS the prosecution, legal representatives of victims authorised to participate in the trial proceedings, and the Office of the Public Counsel for Victims acting on behalf of the victims' applicants whose applications for participation in the proceedings have not yet been decided by the Chamber, to submit their views on the Additional Request for Interim Release by 16.00 on Monday 20 June 2011;

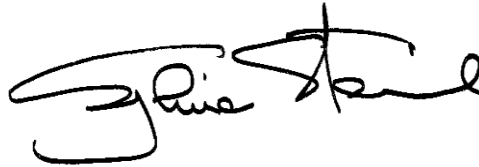
(b) ORDERS the Registrar to notify the Office of the Public Counsel for Victims of the Additional Request for Interim Release with confidential Annexes thereto;

(c) ORDERS the Registrar to notify the competent authorities of the Republic of Senegal of the present Decision and the Additional Request for Interim Release with confidential Annexes thereto;

(d) INVITES the competent authorities of the Republic of Senegal to submit, by 16.00 on Monday 20 June 2011, observations on the Additional Request for Interim Release, and, in particular, on the issues of (i) whether there would be

any legal impediment for Mr Bemba to enter and leave the territory of the Republic of Senegal, should he be conditionally released by the Chamber during the duration of the Court's judicial recesses and/or periods where the Chamber does not sit for at least three consecutive days, including long weekends; and (ii) whether the Republic of Senegal would be in a position to impose one or more of the conditions listed in Rule 119 of the Rules, should the Chamber order the interim release of Mr Bemba on the territory of the Republic of Senegal.

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 28 June 2016

At The Hague, The Netherlands