

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: **English**

No.: ICC-01/05-01/08  
Date: **7 December 2018**

**TRIAL CHAMBER III**

**Before:** Judge Geoffrey Henderson, Presiding Judge  
Judge Chang-ho Chung  
Judge Kimberly Prost

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC**

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

**Public**

**Public Redacted Version of “Registry’s Submissions in relation to Protective  
Measures imposed on Mr Bemba’s Assets”, 21 September 2018**

**Source:** Registrar

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

**The Office of the Prosecutor**

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**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**The Office of Public Counsel for  
Victims**

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

**States' Representatives**

**Amicus Curiae**

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**REGISTRY**

**Registrar**

Mr Peter Lewis

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**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Mr Ennis McBride, Registry Financial  
Investigator

## **I. Introduction**

1. Following the “Response to Redacted version of the Registry’s Observations on Mr. Bemba’s Request for Reclassification of Information relating to Mr Jean-Pierre Bemba Gombo’s Assets”<sup>1</sup> (“Response”) filed by the defence for Mr Jean-Pierre Bemba Gombo (“Mr Bemba”) and the “Decision Re-sentencing Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba and Mr Jean-Jacques Mangenda Kabongo” (“Art 70 Decision”),<sup>2</sup> the Registry submits, in accordance with regulation 24 *bis*(1) of the Regulations of the Court (“RoC”), the following observations in relation to the protective measures imposed on Mr Bemba’s assets.

## **II. Classification**

2. In accordance with regulation 23 *bis*(2) of the RoC, the present submissions are classified as under seal *ex parte*, only available to the Registry as it refers to documents filed with that same level of classification. The Registry stands ready to file a redacted version of these submissions should the Chamber deem it appropriate.

## **III. Applicable Law**

3. The following provisions are of particular relevance to the present submissions: articles 57(3)(e) and 93(1)(k) of the Rome Statute (“Statute”), rules 21(5) and 176(2)

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<sup>1</sup> Defence, Response to Redacted version of the Registry’s Observations on Mr. Bemba’s Request for Reclassification of Information relating to Mr Jean-Pierre Bemba Gombo’s Assets, 13 September 2018, ICC-01/05-01/08-3657-Conf-Exp.

<sup>2</sup> Trial Chamber VII, Decision Re-sentencing Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba and Mr Jean-Jacques Mangenda Kabongo, 17 September 2018, ICC-01/05-01/13-2312.

of the Rules of Procedure and Evidence (“Rules”), regulations 23 *bis*(2) and 24 *bis* of the RoC and regulation 35 *bis* of the Regulations of the Registry (“RoR”).

#### IV. Submissions

4. The Registry notes the defence’s submissions at paragraphs 5 and 6 of its Response and in particular its submission that “the Court’s responsibility [of accounting Mr Bemba’s property] in this instance is borne by Registry”.<sup>3</sup> The Registry further notes that Trial Chamber VII now ordered Mr Bemba “to pay the full amount of €300,000” to the Court within three months of the Art 70 Decision. In this respect, Trial Chamber VII clarified that “Mr Bemba may use his frozen assets to pay his fine, and once it is paid the asset freezing order issued in this case ceases to have effect with respect to him”.<sup>4</sup>
5. The Registry takes note of the fact that the Appeals Chamber, in its 8 June 2018 Appeals Judgment acquitting Mr Bemba (“Judgment”), made no determination regarding the fact that the protective measures imposed on Mr Bemba’s assets would cease to have effect as a result of the Judgment.<sup>5</sup> Neither was the Registry instructed to notify accordingly any relevant states (i.e. states with pending cooperation requests from the Court) of the Judgment.<sup>6</sup>

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<sup>3</sup> Defence, Response, paragraphs 5 and 6.

<sup>4</sup> Trial Chamber VII, Decision, 17 September 2018, ICC-01/05-01/13-2312, para. 128.

<sup>5</sup> See also Registry, Redacted version of the “Registry’s Observations on the Defence Request for Reclassification of Information relating to Mr Jean-Pierre Bemba Gombo’s Assets”, ICC-01/05-01/08-3656-US-Exp-Red, para. 7.

<sup>6</sup> The Registry’s notification obligation is regulated under regulation 35 *bis* of the RoR. The Registry is mindful of the fact that considering the level of classification of information relating to Mr Bemba’s assets (i.e. under seal), no states were included in the notification page of the public Judgment. However, neither did the Appeals Chamber issue a confidential instruction (e.g. by email) to the Registry to notify the relevant states with the effect that the protective measures imposed on Mr Bemba’s assets would cease.

6. It is the Registry's understanding that the judicial authority that lies with a Chamber, pursuant to articles 57(3)(e) and 93(1)(k) of the Statute, to issue requests for cooperation to impose protective measures on assets at the domestic level necessarily also includes the authority to lift such protective measures. Unless otherwise instructed, the Registry understands its role in this context to be limited to the transmission of the requests for cooperation between the Chamber and the relevant states, in accordance with rule 176(2) of the Rules. This appears to correspond to the understanding of the defence insofar as it has seized the Chamber of, *inter alia*, a request for lifting the protective measures [REDACTED].<sup>7</sup>
7. The matter of lifting the protective measures imposed on Mr Bemba's assets is further complicated as Mr Bemba still owes the Court €1,886,736.87 as a result of a contractual debt,<sup>8</sup> and now, in the Article 70 case, is ordered to pay a fine of €300,000.00, possibly using his frozen assets.<sup>9</sup>
8. Notwithstanding the foregoing, now that the Art 70 Decision has been issued, for the sake of good order, the Registry informs the Chamber that it intends to notify the relevant states of the closure of the proceedings in both the present case and the Art 70 case.
9. Furthermore, the Registry hereby seeks guidance from the Chamber as to whether the notification to the relevant states of the closure of the proceedings due to the acquittal of Mr Bemba in the present case would mean that the

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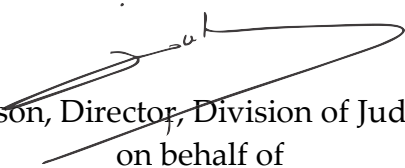
<sup>7</sup> See for similar examples: [REDACTED], "Decision on the Defence's Application for Lifting the Seizure of Assets and Request for Cooperation to the Competent Authorities of Portugal", 10 October 2008, ICC-01/05-01/08-149-Conf and "Decision on the Second Defence's Application for Lifting the Seizure of Assets and Request for Cooperation to the Competent Authorities of Portugal", 14 November 2008, ICC-01/05-01/08-249.

<sup>8</sup> Trial Chamber III, Public redacted version of "Order in relation to advanced legal assistance fees", 17 July 2018, ICC-01/05-01/08-3651-Red.

<sup>9</sup> See footnote 4 above.

protective measures taken on the basis of the Chamber's requests would be null and void, [REDACTED].<sup>10</sup> Such clarification would assist the Registry in approaching these states and addressing any clarification they may seek.

10. [REDACTED].<sup>11</sup> [REDACTED].<sup>12</sup> [REDACTED].<sup>13</sup>[REDACTED].<sup>14</sup>



Marc Dubuisson, Director, Division of Judicial Services  
on behalf of  
Peter Lewis, Registrar

Dated this 7 December 2018

At The Hague, the Netherlands

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<sup>10</sup> [REDACTED].

<sup>11</sup> [REDACTED].

<sup>12</sup> [REDACTED].

<sup>13</sup> [REDACTED].

<sup>14</sup> [REDACTED].