



Original: French

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

Date: 23 June 2008

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra, Presiding Judge
Judge Hans-Peter Kaul
Judge Ekaterina Trendafilova

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

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

Under Seal

URGENT

**RECOMMENDATIONS TO THE *CHAMBRE DES MISES EN ACCUSATION* OF
THE BRUSSELS COURT OF APPEAL PURSUANT TO ARTICLE 59 OF THE
ROME STATUTE**

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

Office of the Prosecutor

Fatou Bensouda, Deputy Prosecutor
Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

Office of Public Counsel for Victims

Office of Public Counsel for the Defence

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. Pre-Trial Chamber III (“Chamber”) of the International Criminal Court (“Court”) received from the Registrar of the Court, pursuant to rule 176(2) of the Rules of Procedure and Evidence (“Rules”), “*Information relative à la procédure d’arrestation dans l’Etat de détention et transmission par le Greffier de documents reçus dudit Etat*”¹ dated 20 June 2008, seeking the Chamber’s recommendations for the purposes of a hearing before the *Chambre des mises en accusation* [Indictments Division] of the Brussels Court of Appeal scheduled for 24 June 2008, during which the Belgian judicial authorities will issue a decision on the application for interim release filed on 20 June 2008 by counsel for Mr Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”).
2. The Chamber recalls that on 9 May 2008, an application from the Prosecutor entitled “Application for Warrant of Arrest under Article 58” for Mr Jean-Pierre Bemba, including, annexes was put before it for consideration.²
3. On 23 May 2008, the Chamber issued a warrant of arrest against Mr Jean-Pierre Bemba³ for acts allegedly committed from 25 October 2002 to 15 March 2003 in the Central African Republic constituting rape and torture under the dual head of crimes against humanity and war crimes, and outrages upon personal dignity and pillaging of a town or place as war crimes.
4. That same day, on the basis of the warrant of arrest and in accordance with article 92 of the Rome Statute (“Statute”), the Chamber requested that the Kingdom of Belgium provisionally arrest Mr Jean-Pierre Bemba and ensure his safety until his final surrender to the Registrar of the Court.⁴ When issuing the warrant of arrest, the Chamber considered that there were reasonable grounds, within the meaning of article 58(1)(b)(i) and (ii) of the Statute, to believe that Mr Jean-Pierre Bemba’s arrest

¹ ICC-01/05-01/08-22-US-Exp

² ICC-01/05-13-US-Exp.

³ ICC-01/05-01/08-1-Anx, warrant of arrest reclassified as public pursuant to decision ICC-01/05-01/08-5, to unseal it.

to unseal ICC-01/05-01/08-5.

⁴ ICC-01/05-01/08-3-US.

appeared necessary at this stage to ensure his appearance before the Court and to ensure that he would not obstruct the investigation or the court proceedings.⁵

5. The warrant of arrest was executed by the competent authorities of the Kingdom of Belgium on 24 May 2008.

6. On 30 May 2008, counsel for Mr Jean Pierre-Bemba filed a *“requête de mise en liberté”*.

7. On 2 June 2008, in response to the *“Note d’information et demande de recommandations émises par le greffier-chef de service de la Cour d’Appel de Bruxelles”*,⁶ the Chamber made its recommendations for the purposes of the hearing before the *Chambre des mises en accusation* of the Brussels Court of Appeal on 4 June 2008,⁷ after which the Belgian judicial authorities rejected Mr Jean-Pierre Bemba’s application for interim release.

8. On 10 June 2008, following a comprehensive examination of the information submitted by the Prosecutor of the Court, the Chamber issued a new warrant of arrest to replace the one issued on 23 May 2008. The new warrant of arrest refers to the same events which took place in the Central African Republic during the same period and, in addition to the crimes already set out in the warrant of arrest of 23 May 2008, relies on two further charges, *viz.* an additional charge of murder under the dual head of crimes against humanity and war crimes.

9. On 10 June 2008, the Chamber entrusted the Registrar of the Court, pursuant to rule 176 of the Rules of Procedure and Evidence (“Rules”), with transmitting the request for the arrest and surrender of Mr Jean-Pierre Bemba to the competent authorities of the Kingdom of Belgium. The Court is currently awaiting the surrender of Mr Jean-Pierre Bemba pursuant to article 89 of the Statute. On 20 June 2008, Mr Jean-

⁵ ICC-01/05-01/08-1-Anx, para. 22, warrant of arrest reclassified as public pursuant to decision ICC-01/05-01/08-5, to unseal it.

⁶ ICC-01/05-01/08-12-US-Exp.

⁷ ICC-01/05-01/08-13-US.

Pierre Bemba filed another “*requête de mise en liberté*” with the Belgian judicial authorities.⁸

11. The Chamber considers that the factual circumstances underlying its first recommendations of 3 June 2008 remain unchanged and that Mr Jean-Pierre Bemba’s counsel have not presented any new facts or raised new arguments to substantiate their claims.

12. The Chamber notes that, in addition to the grounds of arrest set out in the decision of 10 June 2008 on the Prosecutor’s application for the issuance of a warrant of arrest for Mr Jean-Pierre Bemba (“Decision on the Prosecutor’s Application”)⁹ and in the warrant of arrest of 10 June 2008, should Mr Jean-Pierre Bemba be granted interim release, there is a risk that he will not appear before the Court as he still has an international network and substantial financial resources which would allow him to readily flee and evade the service and execution of an arrest warrant.

13. The Chamber also notes that, considering his financial resources, Mr Jean-Pierre Bemba could still obstruct the proper conduct of the proceedings and that some prospective witnesses as well as victims could be subjected to pressure or intimidation.

14. The Chamber further considers that Mr Jean-Pierre Bemba has numerous properties which could equally serve as possible places of refuge to evade the present judicial proceedings against him.

15. On account of the support still available to Mr Jean-Pierre Bemba, the Chamber also takes the view that, in the event of interim release, he may easily have the opportunity to acquire armed guards, making it very risky to execute the warrant of arrest against him, were he to abscond.

16. Furthermore, the Chamber notes that Mr Jean-Pierre Bemba still has the capacity to easily and quickly find refuge in a State which has not ratified the Rome Statute and

⁸ ICC-01/05-01/08-22-US-Exp, Annex 2.

⁹ ICC-01/05-01/08-14-tENG.

which would therefore have no obligation under Part 9 of the Statute to execute the warrant of arrest and to cooperate fully with the Court as the Kingdom of Belgium has respectfully done to date.

17. Lastly, the Chamber points out that given the gravity of the crimes alleged against Mr Jean-Pierre Bemba and his ability to quickly place himself beyond the reach of the Court, the grounds of arrest set out in the Decision on the Prosecutor's Application and in the warrant of arrest issued on 10 June 2008 remain valid and unchanged since the Chamber's last recommendations.

FOR THESE REASONS, THE CHAMBER

(a) **recommends** to the *Chambre des mises en accusation* of the Brussels Court of Appeal that it continue to detain Mr Jean-Pierre Bemba Gombo pending his surrender to the Court; and

(b) **reminds** the Kingdom of Belgium of the need to maintain the confidentiality of these recommendations which must, for the purposes of the proceedings, be transmitted to the *Chambre des mises en accusation* of the Brussels Court of Appeal and Mr Jean-Pierre Bemba Gombo's counsel.

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

[signed]

Fatoumata Dembele Diarra
Presiding Judge

[signed]

Judge Hans-Peter Kaul

[signed]

Judge Ekaterina Trendafilova

Dated this 23 June 2008
At The Hague, Netherlands

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23 June 2008

Official Court Translation