



Original: **French**

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

Date: **10 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**

Public Document

**WARRANT OF ARREST FOR JEAN-PIERRE BEMBA GOMBO REPLACING
THE WARRANT OF ARREST ISSUED ON 23 MAY 2008**

Decision/Order/Judgment to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor
Ms Petra Kneuer, Trial Lawyer

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. Pre-Trial Chamber III (“the Chamber”) of the International Criminal Court (“the Court”) was seized by the Prosecutor on 9 May 2008 of an “Application for Warrant of Arrest Under Article 58” with annexes (“Prosecutor’s Application”) for Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”).¹
2. The Chamber recalls that on 21 May 2008 it rendered a decision requesting additional information from the Prosecutor in respect of his application,² in which the Chamber requested the Prosecutor to provide additional information and supporting material on various aspects of his application, in particular on the counts of other forms of sexual violence and murder, both offences being characterised under the dual head of crimes against humanity and war crimes.
3. On 23 May 2008, the Prosecutor filed a “Prosecutor's Application for Request for Provisional Arrest under Article 92”, in which he emphasized the urgency of the Chamber considering his application, in view of the risk that Mr Jean-Pierre Bemba might flee.³
4. On 23 May 2008, pursuant to article 58 of the Rome Statute (“the Statute”), the Chamber issued a warrant of arrest for Mr Jean-Pierre Bemba (“Warrant of Arrest of 23 May 2008”),⁴ and on the basis of this warrant of arrest requested that the Kingdom of Belgium provisionally arrest Mr Jean-Pierre Bemba and hold him secure until his final surrender to the Registrar of the Court.⁵

¹ ICC-01/05-13-US-Exp.

² ICC-01/05-14-US-Exp

³ ICC-01/05-15-US-Exp.

⁴ ICC-01/05-01/08-1-Anx, warrant of arrest reclassified as public pursuant to decision to unseal ICC-01/05-01/-08-5.

⁵ ICC-01/05-01/08-3-US.

5. The Chamber recalls that the Warrant of Arrest of 23 May 2008 states that there are reasonable grounds to believe that Mr Jean-Pierre Bemba is criminally responsible, jointly with another person or through other persons under article 25(3) of the Statute, for:⁶

- (i) rape as a crime against humanity, punishable under article 7(1)(g) of the Statute;
- (ii) rape as a war crime, punishable under article 8(2)(e)(vi) of the Statute;
- (iii) torture as a crime against humanity, punishable under article 7(1)(f) of the Statute;
- (iv) torture as a war crime, punishable under article 8(2)(c)(i) of the Statute;
- (v) committing outrages upon personal dignity, in particular humiliating and degrading treatment, as a war crime, punishable under article 8(2)(c)(ii) of the Statute;
- (vi) pillaging a town or place as a war crime, punishable under article 8(2)(e)(v) of the Statute.

6. In the Warrant of Arrest of 23 May 2008, the Chamber also noted articles 19(1) and 58(1) of the Statute and observed that an analysis of the evidence and information submitted by the Prosecutor would be set out in a decision to be issued later.⁷

⁶ ICC-01/05-01/08-1-Anx-tENG, para. 22.

⁷ ICC-01/05-01/08-1-Anx-tENG, para. 7.

7. The Warrant of Arrest of 23 May 2008 was executed by the competent authorities of the Kingdom of Belgium on 24 May 2008. On that same day, the Chamber decided to make the Warrant of Arrest of 23 May 2008 public.⁸
8. On 27 May 2008, in accordance with the Chamber's Decision of 21 May 2008, "*Informations supplémentaires soumises par le Procureur*" were filed, in which the Prosecutor provided additional supporting material.⁹
9. On 10 June 2008, the Chamber rendered its *Decision on the Prosecutor's Application for a Warrant of Arrest against Jean-Pierre Bemba Gombo* ("Decision on the Prosecutor's Application") in which, following an analysis of all the supporting material submitted by the Prosecutor, the Chamber considered it necessary to issue a warrant of arrest to replace the Warrant of Arrest of 23 May 2008.
10. Accordingly, the present warrant of arrest issued on 10 June 2008 refers to the same events which took place in the Central African Republic ("CAR") during the same period, namely from 25 October 2002 to 15 March 2003, and adds to the crimes already set out in the Warrant of Arrest of 23 May 2008 two further counts of murder, characterised under the dual head of crimes against humanity and war crimes.
11. The Chamber considers that, on the basis of all of the evidence and information submitted by the Prosecutor, and without prejudice to the filing of a challenge to the admissibility of the case under articles 19(2)(a) and (b) of the Statute and to any subsequent decision in connection therewith, the case against Mr Jean-Pierre Bemba falls within the jurisdiction of the Court and is admissible.
12. The Chamber is of the opinion that there are reasonable grounds to believe that from 25 October 2002 to 15 March 2003 there was an armed conflict in the CAR

⁸ ICC-01/05-01/08-5-tENG.

⁹ ICC-01/05-01/16-US-Exp.

and that a segment of the national armed forces of Mr Ange-Félix Patassé, President of the Central African Republic at the time, fought a rebel movement led by Mr François Bozizé, former Chief of Staff of the armed forces of the CAR. The Chamber considers that there are reasonable grounds to believe that this conflict was a protracted confrontation between armed groups based on this territory and having a hierarchical organisation and the ability to plan and carry out sustained military operations. The Chamber considers that the opposing forces were essentially, on the one hand, a segment of the armed forces of the Central African Republic which remained loyal to Mr Ange-Félix Patassé and which allied with the combatants of the *Mouvement de Libération du Congo* (“MLC”) led by Mr Jean-Pierre Bemba and commonly referred to as the “Banyamulengue”, and, on the other hand, the forces of Mr François Bozizé.

13. The Chamber also considers that there are reasonable grounds to believe that other foreign armed forces were involved in the conflict, in particular combatants referred to as the *Bataillon de sécurité frontalière* or *Brigade anti-Zaraguina* led by Mr Abdoulaye Miskine and composed, *inter alia*, of Chadian mercenaries.
14. The Chamber is of the opinion that there are reasonable grounds to believe that a protracted armed conflict took place in the CAR at least from 25 October 2002 until 15 March 2003 and that this conflict can be described as a conflict of a non-international character or, alternatively, as a conflict of an international character.
15. The Chamber considers that there are reasonable grounds to believe that, in the context of this armed conflict, MLC forces composed mainly of Banyamulengue and led by Mr Jean-Pierre Bemba, responding to the call of Mr Ange Félix Patassé to support part of the national army of the Central African Republic, committed from 25 October 2002 to 15 March 2003: (i) rape, in, but not limited to, the places known as Point Kilomètre 12 (“PK 12”), Point Kilomètre 22 (“PK 22”), Damara and Mongoumba, (ii) torture, in, but not limited to, PK12 and PK 22, (iii) outrages

upon personal dignity, in particular humiliating and degrading treatment, in, but not limited to, Bangui, PK12 and Mongoumba, (iv) murder, in, but not limited to, PK 12, PK 22, Bossangoa and Damara and (v) pillaging, in, but not limited to, Bossangoa, Mongoumba, Bangui, PK12, Bossembélé and Damara.

16. Accordingly, the Chamber considers that there are reasonable grounds to believe that, throughout the period of the presence of MLC combatants in the CAR, war crimes falling within the jurisdiction of the Court under article 8(2)(c)(i), 8(2)(c)(ii), 8(2)(e)(v) and 8(2)(e)(vi) of the Statute, as described in the Decision on the Prosecutor's Application, were committed.
17. The Chamber is further of the opinion that there are reasonable grounds to believe that, between 25 October 2002 and 15 March 2003, MLC combatants attacked the civilian population and committed criminal acts constituting murder, torture and rape and that these crimes were committed on a systematic or widespread scale.
18. Accordingly, the Chamber considers that there are reasonable grounds to believe that, between 25 October 2002 and 15 March 2003, MLC combatants committed crimes against humanity falling within the jurisdiction of the Court under article 7(1)(a), 7(1)(f) and 7(1)(g) as described in the Decision on the Prosecutor's Application.
19. The Chamber considers that there are reasonable grounds to believe that Mr Jean-Pierre Bemba was the President and Commander-in-Chief of the MLC and that he was vested with *de jure* and *de facto* authority by members of the movement to take all political and military decisions.
20. The Chamber is of the opinion that there are reasonable grounds to believe that there was an agreement between Mr Jean-Pierre Bemba and Mr Ange-Félix Patassé and that this agreement was based on a reciprocal commitment whereby

Mr Ange-Félix Patassé would receive military assistance from Mr Jean-Pierre Bemba in order to maintain himself in power and Mr Jean-Pierre Bemba would, *inter alia*, receive strategic and logistical support from Mr Ange-Félix Patassé and be able to avoid the formation of an alliance between the CAR and the incumbent Government in Kinshasa.

21. The Chamber further considers that there are reasonable grounds to believe that, in his capacity as Commander-in-Chief of the MLC, Mr Jean-Pierre Bemba made an essential contribution to the military operation in the CAR in accordance with the abovementioned agreement, in particular by deciding to send MLC combatants to the CAR and maintaining them there.
22. The Chamber considers that there are reasonable grounds to believe that Mr Jean-Pierre Bemba knew that the despatch of his troops would, in the normal course of events, lead to the commission of crimes and that he accepted this risk through his decision to send MLC combatants to the CAR and to maintain them there, despite the commission of criminal acts of which he had been informed.
23. The Chamber considers that there are reasonable grounds to believe that, when Mr Jean-Pierre Bemba implemented his decision to withdraw MLC troops, that withdrawal marked the end of the criminal acts perpetrated against civilians in the CAR by MLC troops and the collapse of the regime which they had come to defend.
24. For the foregoing reasons, the Chamber considers that there are reasonable grounds to believe that Mr Jean-Pierre Bemba is criminally responsible, jointly with another person or through other persons, under article 25(3)(a) of the Statute, for:
 - (i) rape as a crime against humanity, punishable under article 7(1)(g) of the Statute;

- (ii) rape as a war crime, punishable under article 8(2)(e)(vi) of the Statute;
- (iii) torture as a crime against humanity, punishable under article 7(1)(f) of the Statute;
- (iv) torture as a war crime, punishable under article 8(2)(c)(i) of the Statute;
- (v) committing outrages upon personal dignity, in particular humiliating and degrading treatment, as a war crime, punishable under article 8(2)(c)(ii) of the Statute;
- (vi) murder as a crime against humanity, punishable under article 7(1)(a) of the Statute;
- (vii) murder as a war crime, punishable under article 8(2)(c)(i) of the Statute;
- (viii) pillaging a town or place as a war crime, punishable under article 8(2)(e)(v) of the Statute.

25. Lastly, the Chamber considers that there are reasonable grounds to believe that the arrest of Mr Jean-Pierre Bemba appears necessary at this stage in order to ensure, within the meaning of article 58(1)(b)(i) and (ii) of the Statute, that he appears before the Court and does not obstruct the investigation or court proceedings.

FOR THESE REASONS, THE CHAMBER

issues a warrant of arrest, replacing the Warrant of Arrest of 23 May 2008 in its entirety, for Jean-Pierre BEMBA GOMBO, whose photograph is attached hereto; who is believed to be a national of the Democratic Republic of the Congo, born on 4 November 1962 in Bokada, Équateur Province, in the Democratic Republic of the

Congo; who is believed to be of Ngwaka ethnicity; son of Jeannot Bemba Saolana; married to Lilia Teixeira, daughter of Antonio Teixeira.

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

[signed]

Judge Fatoumata Dembele Diarra
Presiding Judge

[signed] 10/6/08

Judge Hans-Peter Kaul

[signed]

Judge Ekaterina Trendafilova

Dated this 10 June 2008

At The Hague, The Netherlands