

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 4 November 2008

PRE-TRIAL CHAMBER III

**Before: Judge Ekaterina Trendafilova, Presiding Judge
Judge Hans-Peter Kaul
Judge Mauro Politi**

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

**Public Document
URGENT**

Request for Clarification on Document Containing the Charges

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

The Office of the Prosecutor
 Fatou Bensouda, Deputy Prosecutor
 Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence
 Nkwebe Liriss
 Tjarda E. Van der Spoel
 Aimé Kilolo-Musamba

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
 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”) notes regulation 28 (1) of the Regulations of the Court (the “Regulations”) and requests the Prosecutor to clarify his position in respect of the legal characterisation of the armed conflict in the Central African Republic (the “CAR”) between 25 October 2002 and 15 March 2003 as referred to in the amended document containing the charges.

2. On 1 October 2008 the Prosecutor filed the “Prosecution’s Submission of Public Redacted Version of the Document Containing the Charges against Jean-Pierre Bemba Gombo” to which he appended the “Document containing the charges” as annex A.¹

3. On 17 October 2008 the Prosecutor filed the “Prosecution’s Submission of Amended Document Containing the Charges and Amended List of Evidence” to which he appended the “Amended Document Containing the Charges” (the “DCC”) as annex 3A.²

4. The Chamber notes regulation 28 of the Regulations, according to which it “may order the participants to clarify or to provide additional details on any document within a time limit specified by the Chamber”.

5. The Chamber recalls that, in paragraph 44 of the DCC, the Prosecutor stated that the “war crimes alleged in Counts 2, 4, 5, 6 and 8 of the DCC” took place in the context of a “protracted armed conflict between Bozizé troops

¹ ICC-01/05-01/08-136-AnxA.

² ICC-01/05-01/08-169-Anx3A.

and Pro-Patassé troops”, and that it was “immaterial whether the conflict (...) be characterized as international or non-international”.³

6. Having reviewed the counts referred to in the Prosecutor’s submissions, the Chamber observes that, despite the Prosecutor claims that the legal characterisation of the armed conflict is “immaterial”, he charges Jean-Pierre Bemba Gombo with war crimes committed within the context of a non-international armed conflict.⁴

7. The Chamber therefore considers it necessary for the Prosecutor to clarify whether his legal characterisation of the armed conflict in CAR between 25 October 2002 and 15 March 2003 is non-international, international or both.

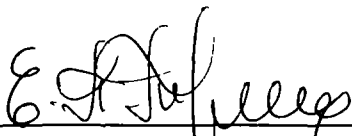
FOR THESE REASONS, THE CHAMBER

orders the Prosecutor to clarify his position with respect to the legal characterisation of the armed conflict in Central African Republic between 25 October 2002 and 15 March 2003, in particular in relation to counts 2, 4, 5, 6 and 8 referred to in the Amended Document Containing the Charges no later than 6 November 2008.

³ ICC-01/05-01/08-169-Anx3A, para. 44.

⁴ ICC-01/05-01/08-169-Conf-Exp Anx3A, pp. 38-43.

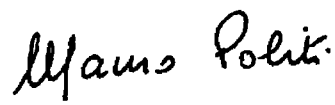
Done in both English and French, the English version being authoritative.



Judge Ekaterina Trendafilova
Presiding Judge



Judge Hans-Peter Kaul



Judge Mauro Politi

Dated this Tuesday, 4 November 2008

At The Hague, The Netherlands