

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 12 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
IN THE CASE OF
THE PROSECUTOR
*v. JEAN-PIERRE BEMBA GOMBO***

Public Document

**Decision Requesting Observations on the Defence's Application for Interim
Release**

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
Competent authorities of
the Kingdom of Belgium
the Republic of Portugal
the Kingdom of the Netherlands

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Deputy Registrar

Didier D. Preira

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”) received on 3 November 2008 an application for interim release (the “Application”)¹ from the Defence of Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”).
2. On 23 May 2008 the Chamber issued a warrant of arrest against Mr Jean-Pierre Bemba,² which was replaced by another warrant of arrest on 10 June 2008.³
3. On 24 May 2008 Mr Jean-Pierre Bemba was arrested in the Kingdom of Belgium and on 3 July 2008 he was surrendered and transferred to the seat of the Court where his first appearance took place before the Chamber on 4 July 2008.⁴
4. On 23 July 2008 the Defence filed the “Application for interim release” in which it requested *inter alia* the Chamber to “grant interim release to Mr Jean-Pierre Bemba and to designate a host country for him (...) and if the Pre-Trial Chamber deems appropriate to impose on Mr Jean-Pierre Bemba any other conditions”.⁵
5. On 20 August 2008 Judge Hans-Peter Kaul, acting as Single Judge on behalf of the Chamber,⁶ issued the “Decision on application for interim release” in which he rejected the Defence’s application and decided that Mr Jean-Pierre Bemba shall continue to be detained.⁷
6. On 3 November 2008 the Defence filed the “Requête de Mise en Liberté Provisoire” in which it requested the release of Mr Jean-Pierre Bemba or alternatively his interim release, under conditions deemed appropriate by the Chamber, to the Kingdom of Belgium or, in the alternative, to the Republic of

¹ ICC-01/05-01/08-200-Conf and its annexes.

² ICC-01/05-01/08-1.

³ ICC-01/05-01/08-15.

⁴ ICC-01/05-01/08-T-3-ENG ET.

⁵ ICC-01/05-01/08-49, p. 17.

⁶ ICC-01/05-01/08-53

⁷ ICC-01/05-01/08-80-Anx, p. 19.

Portugal or the Kingdom of the Netherlands, and to declare this decision immediately enforceable.⁸

7. The Chamber notes articles 60(2), 60(4) and 67(1) of the Rome Statute, rules 118 and 119 of the Rules of Procedure and Evidence (the "Rules"), regulations 23 *bis* (1), 23 *bis* (3), 34 and 51 of the Regulations of the Court (the "Regulations") and regulation 14 of the Regulations of the Registry.

8. According to rule 118(1) of the Rules and regulation 51 of the Regulations, the Chamber shall decide upon a request for interim release without delay, after seeking the views of the Prosecutor and observations from the host State and from the State to which the person seeks to be released. The Chamber therefore considers that in order to be in a position to decide on the Application, it is necessary to receive their observations.

9. The Chamber notes that the Application was filed as confidential without stating the factual and legal basis for the chosen classification as required by regulation 23 *bis* (1) of the Regulations. Considering that the Defence failed to justify the chosen classification and after reviewing the content of the Application, the Chamber finds no reason to maintain the existing classification as making it public is neither prejudicial to the Defence nor to the proceedings. Moreover, the Chamber considers that fairness dictates that this decision as well as the Application be made available to the public.⁹

⁸ ICC-01/05-01/08-200-Conf, paras 59 and 67 to 68.

⁹ ICC-01/05-01/08-80, para. 1.

FOR THESE REASONS THE CHAMBER

a) decides to re-classify as public documents:

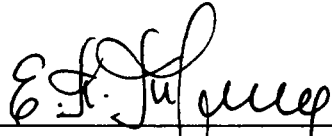
- (i) ICC-01/05-01/08-200-Conf;
- (ii) ICC-01/05-01/08-200-Conf-Anx1;
- (iii) ICC-01/05-01/08-200-Conf-Anx2;
- (iv) ICC-01/05-01/08-200-Conf-Anx3.

b) requests the Prosecutor to submit observations on the Defence's application for interim release no later than **Tuesday 18 November 2008, 16h00**;

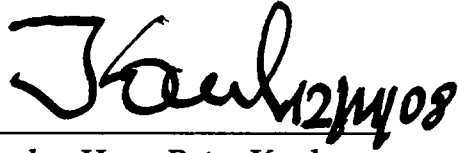
c) orders the Registrar to notify the relevant authorities of the Kingdom of Belgium, the Republic of Portugal and the Kingdom of the Netherlands of the present decision and to transmit the Defence's application for interim release of 3 November 2008 with the three annexes appended in its original language;

d) requests the relevant authorities of the Kingdom of Belgium, the Republic of Portugal and the Kingdom of the Netherlands to submit observations no later than **Monday 24 November 2008** on: (i) the application for interim release and (ii) the conditions, if any, that would have to be met to enable the States, to which Mr Jean-Pierre Bemba Gombo seeks to be released, to accept him on their territory.

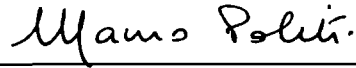
Done in both English and French, the English version being authoritative.



Judge Ekaterina Trendafilova
Presiding Judge



Judge Hans-Peter Kaul



Judge Mauro Poli

Dated this Wednesday 12 November 2008

At The Hague, The Netherlands