

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08
Date: 17 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

**Request for Cooperation to Initiate an Investigation Addressed to the Competent
Authorities of the Republic of Portugal**

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 for

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 Republic of
Portugal

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”) recalls that on 10 October 2008 it issued a “Decision on the Defence’s Application for Lifting the Seizure of Assets and Request for Cooperation to the Competent Authorities of Portugal”(the “Decision of 10 October 2008”)¹ which authorised, subject to review, the release of € 36,260 on a monthly basis from a Portuguese bank account of Mr Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”) in order to cover both his financial obligations to his family as well as to his counsels. On 14 November 2008 the Chamber filed a public redacted version of its Decision of 10 October 2008.²

2. The present decision refers to decisions and documents which were originally classified confidential or under seal but were re-classified as public in the “Decision on the Second Defence’s Application for Lifting the Seizure of Assets and Request for Cooperation to the Competent Authorities of the Republic of Portugal”.³

3. On 27 May 2008 the Chamber issued a request for cooperation addressed to the Republic of Portugal to identify, trace, freeze and seize any property and assets of Mr Jean-Pierre Bemba located on its territory, subject to the rights of *bona fide* third parties (the “Request for Cooperation”).⁴ This request was executed by the competent authorities of the Republic of Portugal.

4. On 9 July 2008 Mr Jean-Pierre Bemba submitted to the Registry an application for legal assistance to be paid by the Court (the “Application for Legal Assistance”) which was provisionally rejected by the Registrar on 25 August 2008, pending the

¹ ICC-01/05-01/08-149-Conf.

² ICC-01/05-01/08-251.

³ ICC-01/05-01/08-249.

⁴ ICC-01/05-01/08-8.

completion of a financial investigation for the purpose of determining indigence (the “Registrar’s Provisional Decision”)⁵.

5. On 25 July 2008 the Chamber received information by the competent authorities of the Republic of Portugal on the frozen amount of money in Portuguese bank accounts of Mr Jean Pierre Bemba.

6. On 13 October 2008 the Chamber was informed by the same national authorities that a significantly lower amount of money was available in those bank accounts of Mr Jean-Pierre Bemba although the said bank accounts had been frozen at the request of the Chamber since June 2008.

7. On 28 October 2008 the Defence filed an application entitled “Requête en main levée de saisie” (the “Defence Application”)⁶ requesting for the second time the partial lifting of the seizure on Mr Jean-Pierre Bemba’s assets, in particular the lifting of the seizure of € 78,900 per month instead of € 36,260 previously authorised by the Chamber and an additional amount of € 334,000 supposedly held in a Portuguese bank account of Mr Jean-Pierre Bemba.

8. On 14 November 2008 the Chamber dismissed the Defence’s Application⁷, recalled its Decision of 10 October 2008 and thus requested the competent authorities of the Republic of Portugal to urgently release on a monthly basis the amount of € 36,260 in case they had not done so yet.

⁵ Registrar, “Registrar’s Decision on the Application for Legal Assistance paid by the Court Filed by Mr Jean-Pierre Bemba Gombo”, ICC-01/05-01/08-76-tENG.

⁶ ICC-01/05-01/08-193-Conf.

⁷ ICC-01/05-01/08-249.

9. The Chamber notes articles 57(3)(e), 67, 93(1)(k), 96 and 97 of the Rome Statute (the “Statute”) and rules 99 and 176(2) of the Rules of Procedure and Evidence (the “Rules”).

10. The Chamber notes that it has not received any further information to date from the Portuguese competent authorities or from the Defence with regard to possible problems of implementing its Decision of 10 October 2008.

11. In this regard, the Chamber notes with concern that, despite the seizure and freezing measures executed by the competent authorities of the Republic of Portugal at the request of the Chamber transmitted on 27 May 2008, a significant difference can be discerned between the amount of money in Mr Jean-Pierre Bemba’s bank accounts in the Republic of Portugal reported as frozen on 25 July 2008 and the amount of money in the said bank accounts reported as frozen on 13 October 2008. The Chamber thus concludes that an important amount of money initially reported to be available in the said bank accounts allegedly disappeared. Therefore, the Chamber deems it necessary to request the competent judicial authorities of the Republic of Portugal to initiate an investigation into this alleged disappearance of money in Mr Jean-Pierre Bemba’s bank accounts reported to be frozen in the Republic of Portugal.

FOR THESE REASONS, THE CHAMBER

a) requests the competent judicial authorities of the Republic of Portugal to urgently initiate an investigation into the alleged disappearance of money frozen in the seized bank accounts belonging to Jean-Pierre Bemba Gombo in the Republic of Portugal in order to determine if the alleged disappearance did indeed occur and under which circumstances;

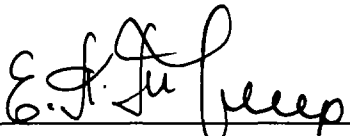
b) requests the competent judicial authorities of the Republic of Portugal to consult with the Chamber in accordance with article 97 of the Statute on any problems which may impede or prevent the execution of the present request;

c) requests the competent judicial authorities of the Republic of Portugal to inform the Chamber in accordance with article 96(3) of the Statute of any specific requirements under its national law in order to execute the present request;

d) orders the Registrar to urgently transmit the present request to the competent authorities of the Republic of Portugal;

e) orders the Registrar to report to the Chamber no later than 28 November 2008 on the status of implementation of the present request, and particularly, on any difficulties the competent authorities of the Republic of Portugal may have encountered in the said implementation.

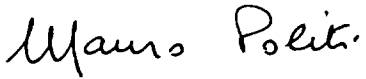
Done in both English and French, the English version being authoritative.



Judge Ekaterina Trendafilova
Presiding Judge



Judge Hans-Peter Kaul



Judge Mauro Politi

Dated this Monday, 17 November 2008

At The Hague, The Netherlands