

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 29 May 2009

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

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

Public Document

**Decision on the Application for Leave to Submit *Amicus Curiae* Observations
Pursuant to Rule 103 of the Rules of Procedure and Evidence**

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
Karim Khan
Aimé Kilolo-Musamba
Pierre Legros

Legal Representatives of the Victims

Marie Edith Douzima-Lawson
Paolina Massidda

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 & Deputy Registrar
Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (“the Chamber”) of the International Criminal Court (the “Court”),¹ is seized of an application for leave to submit *amicus curiae* observations under rule 103 of the Rules of Procedure and Evidence (the “Rules”) in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (the “Case”).

1. Following the hearing on the confirmation of charges in the Case, Pre-Trial Chamber III² issued on 3 March 2009 the “Decision Adjourning the Hearing pursuant to Article 61(7)(c)(ii) of the Rome Statute” (the “Decision Adjourning the Hearing”),³ by which it requested the Prosecutor to consider amending the document containing the charges addressing article 28 of the Rome Statute (the “Statute”) as possible mode of criminal liability no later than 30 March 2009.

2. The Single Judge further recalls that in its Decision Adjourning the Hearing the Chamber had established a precise time-schedule according to which the Defence had been invited to respond last to the Prosecutor’s new amended document containing the charges no later than 24 April 2009.

3. The Chamber had further decided that the 60-day period required for the issuance of the decision on the confirmation of charges pursuant to regulation 53 of the Regulations of the Court would start running anew as of the date of receipt of the last written submission.⁴ Hence, the Single Judge notes that the decision pursuant to article 61(7)(a) or article 61(7)(b) of the Statute is to be issued by the Chamber no later than 24 June 2009.

4. On 25 May 2009 the association Aprodec asbl (the “Aprodec”) submitted the “Demande d’autorisation d’intervenir comme Amicus Curiae dans l’Affaire le

¹ Pre-Trial Chamber II, “Decision Designating Single Judges”, ICC-01/05-01/08-393.

² It is recalled that by decision of the Presidency dated 18 March 2009, Pre-Trial Chamber III was dissolved and the situation in the Central African Republic was assigned to Pre-Trial Chamber II, ICC-01/05-01/08-390.

³ Pre-Trial Chamber III, ICC-01/05-01/08-388.

⁴ *Ibid*, letter e) of the operative part.

Procureur c. Jean-Pierre Bemba Gombo, en vertu de la Règle 103 du Règlement de Procédure et de preuve de la Cour” (the “Application”), in which it requested to provide observations on the question of “sufficient gravity” set out in article 17(1) of the Statute and the issue of imprecision of the charges presented by the Prosecutor in the Case.⁵ This filing was notified to the Chamber and to the parties, the Prosecutor and the Defence, on 27 May 2009.

5. The Single Judge notes, in particular rule 103(1) of the Rules pursuant to which the Chamber may, at any stage of the proceedings, “if it considers it desirable for the proper determination of the case, (...) grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate”. According to rule 103(2) of the Rules, the Prosecutor and the Defence shall have the opportunity to respond to the *amicus curiae* observations submitted under rule 103(1) of the Rules.

6. The Single Judge underlines that the Application was notified only on 27 May 2009, shortly before the issuance of the decision pursuant to article 61(7)(a) or article 61(7)(b) of the Statute, thus not allowing the Chamber to duly follow the procedure as specified above, in particular to guarantee the right of the parties to respond as well as to properly consider the submitted *amicus curiae* observations and the responses of the parties thereto. Therefore, in light of the principle of expeditiousness of the proceedings, the Single Judge does not consider the submission of *amicus curiae* observations by Aprodec, at this advanced stage, desirable for the proper determination of the Case.

⁵ ICC-01/05-01/08-420.

FOR THESE REASONS, THE SINGLE JUDGE

does not grant Aprodec leave to submit *amicus curiae* observations pursuant to rule 103(1) of the Rules.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Friday, 29 May 2009

At The Hague, The Netherlands