

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 10 July 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 Seeking Observations on the Defence's Request 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
Karim A.A.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

Competent authorities of
the Federal Republic of Germany,
the Italian Republic,
the Republic of South Africa.

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. **Judge Ekaterina Trendafilova**, acting as Single Judge on behalf of Pre-Trial Chamber II of the International Criminal Court (the “Court”), is seised of the “Requête aux fins d’extension de la demande initiale en rapport avec les pays d’accueil dans le cadre de la demande de mise en liberté de Mr Jean-Pierre Bemba Gombo lors de l’audience du 29 Juin 2009” submitted by the Defence on 2 July 2009 (the “Defence’s Request”).¹
2. On 23 May 2008 Pre-Trial Chamber III issued a warrant of arrest against Mr Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”),² and on 24 May 2008 he was arrested in the Kingdom of Belgium.
3. On 10 June 2008 Pre-Trial Chamber III issued the “Decision on the Prosecutor’s Application for a Warrant of Arrest against Jean-Pierre Bemba Gombo”.³ On the same date, Pre-Trial Chamber III issued a new warrant of arrest, which entirely replaced the one of 23 May 2008.⁴
4. On 3 July 2008 Mr Jean-Pierre Bemba was surrendered to the seat of the Court where his first appearance took place before Pre-Trial Chamber III on 4 July 2008.⁵
5. On 20 August and 16 December 2008 the Single Judge acting on behalf of Pre-Trial Chamber III issued two decisions on the Defence’s applications concerning Mr Jean-Pierre Bemba’s interim release, in which, it was decided that the suspect shall continue to be detained.⁶

¹ ICC-01/05-01/08-433.

² ICC-01/05-01/08-1.

³ ICC-01/05-01/08-14-tENG.

⁴ ICC-01/05-01/08-15.

⁵ ICC-01/05-01/08-T-3-ENG ET.

⁶ Pre-Trial Chamber III, ICC-01/05-01/08-73-Conf; ICC-01/05-01/08-321.

6. On 19 March 2009 the Presidency decided to merge Pre-Trial Chamber III with Pre-Trial Chamber II and to assign the situation in the Central African Republic (the “CAR”) to Pre-Trial Chamber II (the “Chamber”).⁷

7. On 23 March 2009 the Chamber issued the “Decision Designating Single Judges” in which *inter alia* it designated Judge Ekaterina Trendafilova as Single Judge of this Chamber with respect to the situation in the CAR and the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, except for all victims’ issues, until decided otherwise.⁸

8. On 14 April 2009 Judge Ekaterina Trendafilova, acting as Single Judge on behalf of the Chamber issued the “Decision on Application for Interim Release” in which she *inter alia* rejected the Defence’s third application for interim release and decided that Mr Jean-Pierre Bemba shall continue to be detained.⁹

9. On 15 June 2009 the Chamber issued the “Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo”, in which, it was decided *inter alia* that there is sufficient evidence to establish substantial grounds to believe that the accused is criminally responsible under article 28(a) of the Statute for two counts of crimes against humanity and three counts of war crimes and to commit him to a Trial Chamber.¹⁰

10. On 16 June 2009 the Single Judge issued the “Decision to Hold a Hearing pursuant to Rule 118(3) of the Rules of Procedure and Evidence” (the “Rules”).¹¹

11. On 29 June 2009, the Single Judge held the hearing, during which, the Defence requested Mr Jean-Pierre Bemba’s interim release to the Kingdom of Belgium, the

⁷ Presidency, ICC-01/05-22; ICC-01/05-01/08-390.

⁸ Pre-Trial Chamber II, ICC-01/05-24; ICC-01/05-01/08-393.

⁹ Pre-Trial Chamber II, ICC-01/05-01/08-403.

¹⁰ Pre-Trial Chamber II, ICC-01/05-01/08-424.

¹¹ ICC-01/05-01/08-425.

Republic of France and the Republic of Portugal.¹² Accordingly, the Single Judge requested the Republic of Portugal, the Kingdom of Belgium, the Republic of France, and the Kingdom of the Netherlands, as a host State, to submit their observations on “[...] Mr. Jean-Pierre Bemba’s interim release; and [...], the conditions if any, that would need to be imposed pursuant to Rule 119 of the Rules of Procedure and Evidence to enable the states in which Mr. Bemba seeks to be released to accept him on their territory”.¹³ The Single Judge also ordered the Registrar to “notify the relevant authorities of [...] [these States] of [the] hearing and to transmit [to them][...][the] public transcript in its original language” as well as the Defence’s written submissions that was filed on 2 July 2009.¹⁴

12. On 2 July 2009 the Defence submitted its “Notes supplétives aux Soumissions Orales de la Défense lors de l’Audience du 29 Juin 2009” (the “Defence’s Written Submissions”),¹⁵ and on the same date, the Single Judge received the Defence’s Request, in which, it requested adding the Federal Republic of Germany, the Italian Republic and the Republic of South Africa to the list of States where Mr Jean-Pierre Bemba seeks to be released.¹⁶

13. The Single Judge notes article 60(2), (3) of the Rome Statute, rules 118 and 119 of the Rules, and regulation 51 of the Regulations of the Court (the “Regulations”).

14. According to regulation 51 of the Regulations, the Chamber shall decide upon a request for interim release after seeking observations from the host State and from the State to which the person seeks to be released. The Single Judge therefore considers that in order to be in a position to decide on the request for interim release, it is necessary to receive observations from the Federal Republic of Germany, the Italian Republic and the Republic of South Africa.

¹² ICC-01/05-01/08-T-13-ENG WT 29-06-2009, p.22, line 6 and p.31, lines 5-8.

¹³ ICC-01/05-01/08-T-13-ENG WT 29-06-2009, p.64, lines 11-20.

¹⁴ ICC-01/05-01/08-T-13-ENG WT 29-06-2009, p. 64, lines 21-25 and p. 65, line 1.

¹⁵ ICC-01/05-01/08-432.

¹⁶ ICC-01/05-01/08-433.

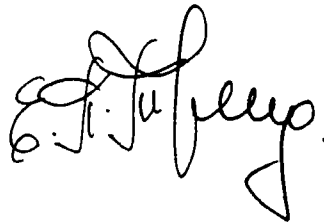
FOR THESE REASONS, THE SINGLE JUDGE

a) **grants** the Defence's Request.

b) **orders** the Registrar to notify the relevant authorities of the Federal Republic of Germany, the Italian Republic and the Republic of South Africa of the present decision and to transmit to the relevant authorities of these States, the public transcript of the hearing held on 29 June 2009 (ICC-01/05-01/08-T-13-ENG WT 29-06-2009) in its original language as well as the Defence's Written Submissions.

c) **requests** the relevant authorities of the Federal Republic of Germany, the Italian Republic and the Republic of South Africa to submit observations no later than Friday 7 August 2009, at 16h00 on: (i) the request 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
Single Judge

Dated this Friday 10 July 2009

At The Hague, The Netherlands