

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 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 on Request 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 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

**Amicus Curiae
Women's Initiatives for Gender Justice**

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Deputy Registrar

Didier D. Pereira

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 (the “Chamber”) of the International Criminal Court (the “Court”) with respect to the situation in the CAR and the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (“Mr Jean-Pierre Bemba”), except for all victims’ issues, until decided otherwise,¹ is seized of a request for leave to submit *amicus curiae* observations under rule 103 of the Rules of Procedure and Evidence (the “Rules”).²
2. On 23 May 2008 Pre-Trial Chamber III issued a warrant of arrest against Mr Jean-Pierre Bemba,³ 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”.⁴ On the same date, Pre-Trial Chamber III issued a new warrant of arrest, which entirely replaced the one of 23 May 2008.⁵
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 2008.⁶
5. 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” (“Decision Confirming the Charges”), 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.⁷

¹ Pre-Trial Chamber II, ICC-01/05-24; ICC-01/05-01/08-393.

² ICC-01/05-01/08-447.

³ ICC-01/05-01/08-1.

⁴ ICC-01/05-01/08-14-tENG.

⁵ ICC-01/05-01/08-15.

⁶ ICC-01/05-01/08-T-3-ENG ET.

⁷ Pre-Trial Chamber II, ICC-01/05-01/08-424.

6. On 22 June 2009 the Prosecutor submitted his "Application for Leave to Appeal the Decision Pursuant to Article 61(7)(a) and (b) on the Charges against Jean-Pierre Bemba Gombo" (the "Prosecutor's Application").⁸

7. On 13 July 2009 the Women's Initiative for Gender Justice filed the "Request for Leave to Submit Amicus Curiae observations pursuant to Rule 103 of the Rules of Procedure and Evidence" (the "Request"), in which it mainly requested to provide observations on cumulative charging and its impact on the rights of the accused to a fair trial in light of article 21 of the Statute, as aspects that are neither allegedly addressed in the Prosecutor's Request nor in the OPCV's Response.⁹

8. On 14 July 2009 the Chamber received the "Observations de la Défense à la demande du l'ONG 'Women's initiatives for Gender Justice' concernant l'autorisation de participer comme Amicus Curiae",¹⁰ followed in the same day by a corrigendum thereto, in which the Defence stated that it is not in a position to respond to any possible observations related to the subject-matter of the Request before receiving the French translation of the Decision Confirming the Charges and the Prosecutor's Application.¹¹

9. The Single Judge notes rule 103 of the Rules, and regulation 37(1) of the Regulations of the Court (the "Regulations").

10. The Single Judge notes in particular, rule 103(1) of the Rules, according 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 any observation on any issue that the Chamber deems appropriate".

⁸ ICC-01/05-01/08-427 and its annex.

⁹ ICC-01/05-01/08-447.

¹⁰ ICC-01/05-01/08-449.

¹¹ ICC-01/05-01/08-449-Corr.

11. The Single Judge also recalls that in the “Decision on ‘Motion for Leave to File Proposed Amicus Curiae Submission of the International Criminal Bar Pursuant to Rule 103 of the Rules of Procedure and Evidence’”, the Appeals Chamber underlined that, when acting within the sphere of rule 103 of the Rules, the respective Chamber should take into consideration whether the proposed submission of observations may assist it “in the proper determination of the case”.¹²

12. Having considered the Request submitted by the Women’s Initiatives for Gender Justice, the Single Judge is of the view that the proposed *amicus curiae* brief tends to provide legal information that the Chamber may find useful in the context of the present case. The Single Judge considers, therefore, that granting the Request is both desirable and appropriate for the proper determination of the case.

13. The Single Judge notes that, in accordance with rule 103(2) of the Rules, the Prosecutor and the Defence shall have the opportunity to respond to the observations submitted under rule 103 of the Rules.

14. The Single Judge also notes rule 103(3) of the Rules and regulation 37(1) of the Regulations, according to which the Chamber is entitled to set a time and page limit for the filing of *amicus curiae* observations and the parties’ responses for the purpose of these proceedings.

15. The Single Judge considers, however, that both the time and page limit to be granted to the applicant and the parties have to be determined in light of the duty of the Chamber to ensure the expeditiousness of the proceedings as one of the fundamental tenets of their fairness.

¹² Appeals Chamber, ICC-01/04-01/06-1289, para. 8.

16. The Single Judge considers, accordingly, that the Women's Initiatives for Gender Justice shall be granted leave to submit written observations which do not exceed 20 pages, no later than 31 July 2009, and that the Prosecutor shall have the opportunity to respond by 10 August 2009, while the Defence is expected to do so within ten days after receipt of the French translation of the Decision Confirming the Charges.

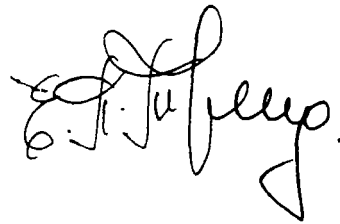
FOR THESE REASONS, THE SINGLE JUDGE

a) grants the Request of the Women's Initiatives for Gender Justice to submit written observations which do not exceed 20 pages, no later than 31 July 2009;

b) orders the Registrar to provide copies of the written observations submitted by the Women's Initiatives for Gender Justice to the Prosecutor and the Defence;

c) grants the Prosecutor and the Defence the opportunity to respond to the observations submitted under rule 103(1) of the Rules within the time limits specified in paragraph 16 of this decision.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Friday 17 July 2009

At The Hague, The Netherlands