

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/05-01/08 OA 9

Date: 17 October 2011

THE APPEALS CHAMBER

Before:
Judge Erkki Kourula, Presiding Judge
Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Anita Ušacka
Judge Daniel David Ntanda Nsereko

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO

Public

**Decision on “Application for leave to reply to the Office of the Prosecutor’s
response of 10 October 2011 to the document in support of the Defence appeal”**

No: ICC-01/05-01/08 OA 9

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Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Fabricio Guariglia

Counsel for the Defence
Mr Nkwebe Liriss
Mr Aimé Kilolo Musamba

REGISTRY

Registrar
Ms Silvana Arbia

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III entitled “Decision on the accused’s application for provisional release in light of the Appeals Chamber’s judgment of 19 August 2011” of 26 September 2011 (ICC-01/05-01/08-1789-Conf),

Having before it the “Application for leave to reply to the Office of the Prosecutor’s response of 10 October 2011 to the document in support of the Defence appeal” of 13 October 2011 (ICC-01/05-01/08-1841-tENG),

Unanimously,

Renders the following

DECISION

The “Application for leave to reply to the Office of the Prosecutor’s response of 10 October 2011 to the document in support of the Defence appeal” is rejected.

REASONS

1. On 26 September 2011, Trial Chamber III rendered the “Decision on the accused's application for provisional release in light of the Appeals Chamber's judgment of 19 August 2011”, rejecting Mr Jean-Pierre Bemba Gombo’s (hereinafter: “Mr Bemba”) application for provisional release.¹
2. On 27 September 2011, Mr Bemba filed the “Defence appeal against Trial Chamber III’s decision of 26 September 2011 entitled ‘*Decision on the accused’s application for provisional release in light of the Appeals Chamber’s judgment of 19 August 2011*’”.²

¹ ICC-01/05-01/08-1789-Conf. A public redacted version was filed on 27 September 2011 as ICC-01/05-01/08-1789-Red.

² ICC-01/05-01/08-1793-Conf.

3. On 3 October 2011, Mr Bemba submitted his “Document in support of Defence appeal against Trial Chamber III’s decision of 26 September 2011 entitled: *Decision on the accused’s application for provisional release in light of the Appeals Chamber’s judgment of 19 August 2011*”.³

4. On 10 October 2011, the Prosecutor filed the “Prosecution’s Response to the ‘Document in support of Defence Appeal against Trial Chamber III’s decision of 26 September 2011 entitled “*Decision on the accused’s application for provisional release in light of the Appeals Chamber’s judgment of 19 August 2011*”” (hereinafter: “Prosecutor’s Response to the Document in Support of the Appeal”).⁴

5. On 13 October 2011, Mr Bemba filed an “Application for leave to reply to the Office of the Prosecutor’s response of 10 October 2011 to the document in support of the Defence appeal” (hereinafter: “Application”).⁵ The Application states that Mr Bemba wishes to “address the legal and factual issues raised” in the Prosecutor’s Response to the Document in Support of the Appeal.⁶

6. The Appeals Chamber observes that Mr Bemba seeks leave to reply under regulation 24 (5) of the Regulations of the Court. The Appeals Chamber recalls that it has consistently held that for appeals brought under rule 154 and 155 of the Rules of Procedure and Evidence, an appellant does not have the right under regulation 24 (5) of the Regulations of the Court to apply for leave to reply to the document in support of appeal.⁷ Therefore, the Application is rejected.

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


³ ICC-01/05-01/08-1812-Conf-tENG.

⁴ ICC-01/05-01/08-1836-Conf.

⁵ ICC-01/05-01/08-1841-tENG.

⁶ ICC-01/05-01/08-1841-tENG, para. 5.

⁷ *Prosecutor v. Thomas Lubanga Dyilo*, “Decision on the Prosecutor’s ‘Application for Leave to Reply to ‘Conclusions de la défense en réponse au mémoire d’appel du Procureur’””, 12 September 2006, ICC-01/04-01/06-424 (OA 3), para. 6; as cited in *Prosecutor v. Germain Katanga*, “Decision on the Prosecution’s Request for Leave to Reply”, 18 January 2008, ICC-01/04-01/07-148 (OA), para. 6, and *Prosecutor v. Ruto et al.*, “Decision on the Application on behalf of the Government of Kenya for Leave to Reply to the ‘Prosecution’s response to the ‘Appeal of the government of Kenya against the Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19(2)(b) of the Statute’””, ICC-01/09-01/11-239, para. 8.



Judge Erkki Kourula
Presiding Judge

Dated this 17th day of October 2011

At The Hague, The Netherlands