

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 20 June 2008

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra, Presiding Judge
Judge Hans-Peter Kaul
Judge Ekaterina Trendafilova

**SITUATION OF THE CENTRALAFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
v. JEAN-PIERRE BEMBA GOMBO**

PUBLIC

Decision on unsealing and re-classification of certain documents and decisions

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

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

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”), seized of the case the Prosecutor v. Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”), convened a confidential *ex parte* status conference on 19 June 2008 with a view to prepare both the first appearance of Mr Jean-Pierre Bemba and the hearing on the confirmation of charges and to take any appropriate decision.¹

2. In its decision convening the status conference it sought observations from the Prosecutor with regard to the unsealing of certain documents in the situation and case record.² At that hearing the Prosecutor did not raise any objections to the unsealing of the documents concerned.³

3. The Chamber recalls that it was seized of a request by the Prosecutor entitled “Application for Warrant of Arrest under Article 58” with annexes for Mr Jean-Pierre Bemba on 9 May 2008.⁴ After the issuance of a warrant of arrest under article 58 of the Rome Statute (the “Statute”) on 23 May 2008,⁵ and the provisional arrest of Jean-Pierre Bemba pursuant to article 92 of the Statute, the Prosecutor submitted further information and materials on 27 May 2008.⁶ Based on the entirety of information received, the Chamber issued a new warrant of arrest under article 58 of the Statute on 10 June 2008 which replaced the warrant of arrest dated 23 May 2008.⁷

4. The Chamber notes articles 57(3)(c), 67, 68(1) of the Statute, rule 15 of the Rules of Procedure and Evidence, regulations 8(c), 20 and 23*bis* of the Regulations and regulations 14, 20, 22 and 36 of the Regulations of the Registry.

¹ ICC-01/05-01/08-17-Conf-Exp.

² ICC-01/05-01/08-17-Conf-Exp, p. 6.

³ Transcript of the status conference on 19 June 2008, ICC-01/05-01/08-T-2-CONF-ENG, p. 21, lines 20-21. While this was raised during the confidential *ex parte* status conference, the Chamber is of the view that lifting the restriction on this particular quotation is not inconsistent with the confidential *ex parte* nature of the submissions.

⁴ ICC-01/05-13-US-Exp.

⁵ ICC-01/05-01/08-1.

⁶ ICC-01/05-16-US-Exp

⁷ ICC-01/05-01/08-15.

5. While the Chamber notes its obligations to provide for the protection and privacy of victims and witnesses in accordance with articles 57(3)(c) and 68(1) of the Statute, it also notes the rights of Mr Jean-Pierre Bemba under article 67 of the Statute. In particular, the Chamber recalls the principle of public proceedings before the Court as enshrined in article 67(1) of the Statute.

6. The Chamber further notes regulation 23*bis* (3) of the Regulations of the Court (“Regulations”) which provides that the Chamber may re-classify a document upon request by any participant or on its own motion where the basis for the classification no longer exists. The Chamber observes that the documents concerned are either publicly available or they refer to events which have become public knowledge. Therefore the Chamber considers that there is no longer a need to keep certain documents and decisions under seal.

FOR THESE REASONS, THE CHAMBER DECIDES

a) in the *record of the situation* to **unseal and re-classify** as public:

ICC-01/05-10-US-Exp entitled “Notification to Pre-Trial Chamber III and Request for Extension of Page Limit and Expedited Consideration”;

ICC-01/05-12-US-Exp entitled “Decision on the Prosecutor’s ‘Notification to pre-Trial Chamber III and Request for Extension of Page Limit and Expedited Consideration’”;

ICC-01/05-13-US-Exp-Anx6 entitled “Central African Republic: Five months of war against women”, 10 November 2004 (Amnesty International);

ICC-01/05-13-US-Exp-Anx9-A entitled “Central African Republic Weekly Humanitarian Update – 10 Nov 02” (UNRC);

ICC-01/05-13-US-Exp-Anx9-B entitled “Central African Republic Weekly Humanitarian Update – 17 Dec 02” (UNRC);

ICC-01/05-13-US-Exp-Anx9-C entitled “Central African Republic Weekly Humanitarian Update – 07 Mar 2003” (UNRC);

ICC-01/05-13-US-Exp-Anex14 containing a video “Interview with Jean-Pierre Bemba” by Al Jazeera on 3 August 2007;

ICC-01/05-14-US-Exp entitled “Decision Requesting Additional Information in Respect of the Prosecutor’s Application for Warrant of Arrest under Article 58”;

ICC-01/05-15-US-Exp entitled “Prosecutor’s Application for Request for Provisional Arrest under Article 92”;

ICC-01/05-16-US-Exp-Anx4 entitled “Rapport de l’Equipe spéciale d’enquête sur les événements de Mambasa 31 décembre 2002 – 10 janvier 2003” (MONUC);

ICC-01/05-16-US-Exp-Anx6-A entitled “International Fact Finding Mission, Central African Republic, Forgotten, Stigmatised: the double suffering of victims of international crimes”, October 2006 (FIDH);

ICC-01/05-16-US-Exp-Anx6-B entitled “Mission internationale d’enquête: République centrafricaine, Oubliées, stigmatisées: la double peine des victims de crimes internationaux”, octobre 2006 (FIDH);

ICC-01/05-16-US-Exp-Anx7 containing press articles;

ICC-01/05-16-US-Exp-Anx8 containing a press article;

ICC-01/05-16-US-Exp-Anx9 entitled “Mission internationale d’enquête, crimes de guerre en République centrafricaine: Quand les elephants se battent, c’est l’ herbe qui souffre”, février 2003 (FIDH);

ICC-01/05-16-US-Exp-Anx10 containing a press article;

ICC-01/05-16-US-Exp-Anx11 containing a press article;

ICC-01/05-16-US-Exp-Anx18-A entitled “Central African Republic, Five months of war against women”, 10 November 2004 (Amnesty International);

ICC-01/05-16-US-Exp-Anx18-B entitled “République centrafricaine, Cinq mois de guerre contre les femmes” 10 novembre 2004 (Amnesty International).

b) in the *record of the case* to **unseal and re-classify** as public:

ICC-01/05-01/08-3-US-Exp entitled “Demande d’arrestation provisoire de M. Jean-Pierre Bemba Gombo adressée au Royaume de Belgique”;

ICC-01/05-01/08-4-US-Exp entitled “Prosecutor’s Application for Unsealing the Arrest Warrant against Jean-Pierre BEMBA”;

ICC-01/05-01/08-13-US entitled “Recommandations adressées à la chambre des mises en accusation de la Cour d’Appel de Bruxelles en vertu de l’article 59 du Statut de Rome”.

- c) **to order** the Registrar to transfer the following documents from the situation record to the pertinent case record while maintaining the same classification, unless otherwise ordered by the Chamber:

ICC-01/05-10-US-Exp, entitled "Notification to Pre-Trial Chamber III and request for Extension of Page Limit and Expedited Consideration";

ICC-01/05-12-US-Exp, entitled "Decision on the Prosecutor's 'Notification to Pre-Trial Chamber III and Request for Extension of Page Limit and Expedited Consideration'";

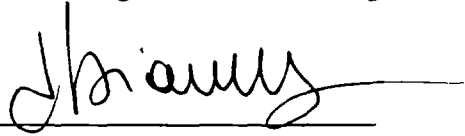
ICC-01/05-13-US-Exp, entitled "Prosecutor's Application for Warrant of Arrest under Article 58" and Annexes 1-14;

ICC-01/05-14-US-Exp, entitled "Decision Requesting Additional Information in Respect of the Prosecutor's Application for Warrant of Arrest under Article 58";

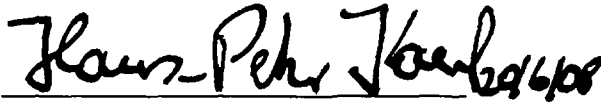
ICC-01/05-15-US-Exp, entitled "Prosecutor's Application for Request for Provisional Arrest under Article 92";

ICC-01/05-16-US-Exp, entitled "Prosecutor's Submission on Further Information and Materials" and Annexes 1-18.

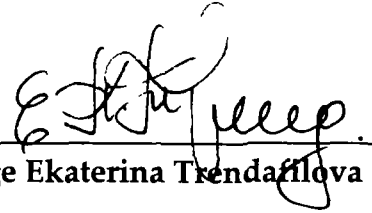
Done in both English and French, the English version being authoritative.



Judge Fatoumata Dembele Diarra
Presiding Judge



Judge Hans-Peter Kaul



Judge Ekaterina Trendafilova

Dated this 20 June 2008

At The Hague, the Netherlands