

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: French

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

Date: 24 May 2011

TRIAL CHAMBER III

Before: Judge Sylvia Steiner, Presiding Judge
Judge Joyce Aluoch
Judge Kuniko Ozaki

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

**IN THE CASE OF
*THE PROSECUTOR v. Jean-Pierre BEMBA GOMBO***

Public redacted version

**Ms Douzima-Lawson's observations on the application for the interim release of
Mr Jean-Pierre Bemba Gombo**

Source: Ms Douzima-Lawson, Legal Representative of Victims

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

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Unrepresented Victims

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I. INTRODUCTION

On 15 June 2009, Chamber II issued a decision confirming five charges against Jean-Pierre Bemba Gombo.¹

On 4 November 2009, the Prosecutor filed his "Second Amended Document Containing the Charges" against Jean-Pierre Bemba Gombo.²

On 8 December 2009, Chamber III decided to maintain Jean-Pierre Bemba Gombo in detention.³

On 24 February 2010, the Legal Representatives of the Victims submitted observations on the review of Jean-Pierre Bemba Gombo's detention.⁴

On 20 July 2010, Trial Chamber III issued a decision ordering the Prosecution to revise the "Second Amended Document Containing the Charges".⁵

On 28 July 2010, the Chamber decided to extend Jean-Pierre Bemba Gombo's detention.⁶

On 18 August 2010, the Prosecutor filed his "Revised Second Amended Document Containing the Charges".⁷

On 10 November 2010, Chamber III issued its decision on common legal representation.⁸

¹ *Decision Pursuant to Article 61(7)(a) of the Rome Statute on the Charges of the Prosecutor v. J.P. Bemba Gombo.*

² Second amended document the charges as confirmed by the Pre-Trial Chamber filed in accordance with the Chamber's Order of 7 October 2009, 4 November 2009 ICC-01/05-01/08-593, conf-Anx and Anx.

³ Transcripts of the status conference, Trial Chamber III ICC-01/05-01/08 T-18-Red, 8 December 2009.

⁴ Observations of the legal Representatives of victims regarding the review of detention for Mr. JPBG, ICC-01/05-01/08-703, 24 February 2010.

⁵ Decision of 20 July 2010, ICC-01/05-01/08-836.

⁶ ICC-01/05-01/08-836 28 July 2010.

⁷ "Revised Second Amended Document Containing the Charges", 18 August 2010, ICC-01/05-01/08-856.

On 19 November 2010, the Appeals Chamber decided to remit the decision impugned by the Defence to the Chamber for a fresh review of the detention of Jean-Pierre Bemba Gombo.⁹

On 17 December 2010, Trial Chamber III issued a decision on the review of the detention of Jean-Pierre Bemba Gombo in accordance with the judgment of 19 November 2010.¹⁰

On 3 May 2011, the Defence for Jean-Pierre Bemba filed an application for the interim release of Jean-Pierre Bemba Gombo pursuant to article 60(3) of the Rome Statute.

The Defence seeks interim release, limited to weekends and the Court's judicial recess, subject to a guarantee from a State Party that he will appear at trial.

The Defence submits that in its findings of 17 December 2011, Trial Chamber III ruled that Mr Jean-Pierre Bemba Gombo would remain in detention on the grounds that there had not been a sufficient change of circumstances since the last review of detention and that it was satisfied that the requirements of article 58(1)(b)(i) of the Rome Statute were fulfilled.

The Defence argues that the sole ground for Jean-Pierre Bemba Gombo's continued detention is the risk that he will abscond, or rather, the need to secure his appearance at trial.

The Defence considers the fact that the Prosecutor has already called almost all of his vulnerable witnesses to testify before the Chamber and that the remaining witnesses in no way meet the vulnerability criteria of the Victims and Witnesses Unit constitute a material change in the circumstances.

⁸ ICC-01/05-01/08-1005.

⁹ ICC-01/05-01/08-843.

¹⁰ ICC-01/05-01/08-1088.

The Defence further argues that [REDACTED] indicates its willingness to receive the Accused on its territory and to propose a protocol for securing his appearance at trial by means of some monitoring system in the event of his interim release.

The Defence therefore considers that [REDACTED]'s willingness is in and of itself a new development.

Moreover, the chief of the police district in which Jean-Pierre Bemba's Gombo family resides in [REDACTED] raised the possibility of setting up a monitoring and protection system if he was assigned additional manpower from the [REDACTED] police force and the State Security Service. The Defence also views this as a new development that substantiates the changed circumstances.

II. THE CHANGED CIRCUMSTANCES VIS-A-VIS THE WITNESSES

The fact that the Prosecutor has already called almost all of his vulnerable witnesses, who have actually testified before the Chamber, is indeed a material change in circumstances, but rather one that argues in favour of Jean-Pierre Bemba Gombo's continued detention.

The Accused and his supporters are now apprised not only of the identity of all the witnesses, several of whom have dual status, but also of the content of their written and oral evidence through their examination in court.

Furthermore, the release of the Accused – even only for a few days well into the trial – can only pose a serious threat to the security of the victims and witnesses and may obstruct the proper conduct of the proceedings, since the accused is already capable of mobilising his fanatical supporters, even from prison.

Yet, article 64(2) of the Rome Statute requires the Chamber to afford due regard “for the protection of victims and witnesses” during the trial.

III. THE CHANGED CIRCUMSTANCES VIS-A-VIS THE [REDACTED] POSITION

Under article 60(3) of the Rome Statute, upon reviewing its ruling on interim release, the Chamber may modify its decision, if satisfied that changed circumstances so require.

The changed circumstances relied on by the Defence will fail to satisfy the Chamber since there has been no actual change in the instant case.

There is no indication in the documents from the [REDACTED] that it would be willing to receive the Accused on its territory and to propose to him a protocol for securing his appearance at trial.

On the contrary, the government even requests clarification of the status of the case and calls for dialogue to be initiated on the matter which it rightly describes as delicate.

What is more, it has been stressed that the police force of the [REDACTED] where Jean-Pierre Bemba Gombo's family residence is found is already overextended (See Annex 2 to the Defence application).

Further still, the [REDACTED] consider that it would be premature for them to impart their views on any conditions which may be imposed on a conditional release of Mr Jean-Pierre Bemba Gombo (See Annex 1 to the Defence application).

Accordingly, the Defence has failed to produce any concrete material to corroborate its submissions. In any event, there has been no change in favour of the Accused as concerns the detention conditions set forth in article 58(1)(b) of the Rome Statute, which continue to be met in his case.

The Accused, moreover, does not dispute this, nor has he disputed the charges confirmed against him.

The gravity of the charges and the severity of the possible sentence are further factors for consideration by the Chamber in this regard.

FOR THESE REASONS

And any others that may be inferred therefrom, or submitted in supplement or in addition, the Legal Representative of the Victims respectfully prays Trial Chamber III to take account of her observations and to deny the Defence application as without merit.

[signed]

Ms Marie-Edith Douzima-Lawson

Dated this 24 May 2011
At The Hague, the Netherlands