



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
Aprodec asbl

REGISTRY

Registrar
Silvana Arbia

Defence Support Section

Deputy Registrar
Didier D. Preira

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".⁸

7. On 15 July 2009 Apropdec asbl, a non-governmental organisation, submitted the "Demande d'autorisation d'intervenir comme Amicus Curiae dans l'Affaire le Procureur c. Jean-Pierre Bemba Gombo, en vertu de la Règle 103 du Règlement de Procédure et de Preuve de la Cour",⁹ in which it requested leave to provide observations (i) on the issues of the relevance, probative value and admissibility of the evidence as determined by the Chamber, and (ii) the question of the inadmissibility of the case according to article 17(1)(d) of the Rome Statute (the "Statute").

8. The Single Judge notes rule 103(1) of the Rules pursuant 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, in writing or orally, any observation on any issue that the Chamber deems appropriate".¹⁰

9. Noting the duties and powers of the Prosecutor according to articles 42(1) and 54 of the Statute, the powers of the Pre-Trial Chamber as enshrined, *inter alia*, in articles 15 and 56 to 61 of the Statute, recalling that the Chamber rendered its Decision Confirming the Charges on 15 June 2009, as well as the current stage of the proceedings in the present case, the Single Judge is of the view that the observations offered by Apropdec asbl are not desirable for the proper determination of the case.

⁸ ICC-01/05-01/08-427 and its annex.

⁹ ICC-01/05-01/08-450.

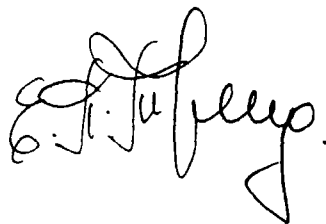
¹⁰ The Single Judge also recalls Appeals Chamber, "Decision on 'Motion for Leave to File Proposed Amicus Curiae Submission of the International Criminal Bar Pursuant to Rule 103 of the Rules of Procedure and Evidence'", ICC-01/04-01/06-1289.

10. The Single Judge clarifies that, while referring to the relevance, probative value and admissibility of the evidence as determined by the Chamber, Aprocdec asbl in fact raises the issue of selection of cases by the Prosecutor and that of his prosecutorial policy, which are not dealt with by the Chamber. Likewise, the issue of admissibility of the case and the related question of "sufficient gravity", as set out in article 17(1)(d) of the Statute, is not an issue of which the Chamber is seized at this stage of the proceedings.

FOR THESE REASONS, THE SINGLE JUDGE

a) does not grant Aprocdec asbl leave to submit *amicus curiae* observations pursuant to rule 103(1) of the Rules.

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