

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 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

**PUBLIC REDACTED VERSION OF ICC-01/05-01/08-437-Conf
Decision on the Defence's Urgent Request concerning Mr Jean-Pierre Bemba's
Attendance of his Father's Funeral**

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

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

Kingdom of the Netherlands

Kingdom of Belgium

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Anders Backman

**Victims Participation and Reparations
Section**

Other

1. Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II of the International Criminal Court with respect to the situation of the Central African Republic and the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* ("Mr Jean-Pierre Bemba"), except for all victims' issues,¹ is seized of an urgent request filed by the Defence of Mr Jean-Pierre Bemba for the purpose of attending his father's funeral.

2. On 23 May 2008 Pre-Trial Chamber III issued a warrant of arrest against Mr Jean-Pierre Bemba,² 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".³ On the same date, Pre-Trial Chamber III issued a new warrant of arrest, which entirely replaced the one of 23 May 2008.⁴

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 2008.⁵

5. On 2 July 2009 the Defence submitted the "Requête de Mise en liberté provisoire sous le bénéfice de l'extrême urgence en vue de permettre à Mr Jean-Pierre Bemba Gombo de participer aux funérailles de son défunt Père, Mr Jeannot Bemba Saolona" (the "Defence's Request"),⁶ in which it *inter alia* requested Mr Jean-Pierre Bemba's interim release for a period of ten days between 2 July and 12 July 2009, subject to a number of guarantees and conditions, in order to participate in his father's funeral ceremony in the Kingdom of Belgium.

¹ Pre-Trial Chamber II, "Decision Designating Single Judges", ICC-01/05-24; ICC-01/05-01/08-393.

² ICC-01/05-01/08-1.

³ ICC-01/05-01/08-14-tENG.

⁴ ICC-01/05-01/08-15.

⁵ ICC-01/05-01/08-T-3-ENG ET.

⁶ ICC-01/05-01/08-430-Conf.

6. On 2 July 2009 the Prosecutor filed the “Prosecution’s Response to Defence’s Urgent ‘Requête de Mise en liberté provisoire sous le bénéfice de l’extrême urgence en vue de permettre à Mr Jean-Pierre Bemba Gombo de participer aux funérailles de son défunt Père, Mr Jeannot Bemba Saolona’”,⁷ in which he requested rejecting the Defence’s Request, or in the alternative, should the Single Judge consider granting it, a number of conditions should be adopted.

7. On 3 July 2009 the Registrar submitted the “Report of the Registrar pursuant to regulation 24 of the Regulations of the Court concerning the practical implications of the ‘Requête de Mise en liberté provisoire sous le bénéfice de l’extrême urgence en vue de permettre à Mr Jean-Pierre Bemba Gombo de participer aux funérailles de son défunt Père, Mr Jeannot Bemba Saolona’”,⁸ in which she reported that the Belgian authorities, subject to a number of conditions, do not oppose Mr Jean-Pierre Bemba’s transfer to the Kingdom of Belgium for a duration of 24 hours on 8 July 2009 in order to pay respect to his deceased father, and that the Dutch authorities agreed to “facilitate [his] possible transfer” to the said county and “vice versa”.

8. The Single Judge notes articles 86, 87(1)(a),(2),(3) and (4) of the Rome Statute, and rule 176(2) of the Rules of Procedure and Evidence (the “Rules”), and regulation 200 of the Regulations of the Registry.

9. The Single Judge considers that, for the purpose of this decision, the information provided in the Defence’s Request concerning the death of Mr Jean-Pierre Bemba’s father reveals the existence of exceptional humanitarian circumstances, which only justify her to invoke the Chamber’s inherent powers to authorize the transfer of the accused from the Court’s detention centre to the Kingdom of Belgium for a period that does not exceed 24 hours as requested by the Belgian authorities.

⁷ ICC-01/05-01/08-434-Conf.

⁸ ICC-01/05-01/08-436-Conf and its annexes.

FOR THESE REASONS, THE SINGLE JUDGE

dismisses the Defence's request on Mr Jean-Pierre Bemba's interim release from 2 July to 12 July 2009.

decides to authorize the transfer of Mr Jean-Pierre Bemba on 8 July 2009 from the Court's detention center to the Kingdom of Belgium, for a period that does not exceed 24 hours, in order to participate in his father's funeral ceremony in the Kingdom of Belgium subject to the following conditions:

- (i) Upon his arrival on Belgian territory, Mr Jean-Pierre Bemba shall be escorted by the Belgian police during his stay on the territory of the Kingdom of Belgium;
- (ii) Mr Jean-Pierre Bemba is permitted to go to his wife's residence REDACTED, and in case his father's body is not at this place, to go to the place where it will be located within the territory of the Kingdom of Belgium;
- (iii) Mr Jean-Pierre Bemba is permitted to attend the ceremony to be held at the *Basilique Saint-Pierre de Koekelberg* on 8 July 2009;
- (iv) Mr Jean-Pierre Bemba is not allowed to be in contact with the public or to speak to the press;
- (v) Mr Jean-Pierre Bemba is only allowed to communicate with his relatives, persons necessary to his father's memorial services and the persons assigned to his protection;

- (vi) Mr Jean-Pierre Bemba is not allowed to discuss the case against him except with members of the Defence team currently representing him before the Court proceedings; and
- (vii) Mr Jean-Pierre Bemba shall be responsible to cover the costs for the entire process.

orders the Registrar or her representative to make all the necessary arrangements for the implementation of this decision, in particular, coordinate with the competent authorities of the Kingdom of the Netherlands and of the Kingdom of Belgium, prepare and transmit the necessary request for cooperation in accordance with rule 176 (2) of the Rules.

orders all participants in the proceedings to respect the confidentiality of this decision.

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

Judge Ekaterina Trendafilova
Single Judge

Dated this Friday, 3 July 2009

At The Hague, The Netherlands