



Original: **French**

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

Date: **23 May 2008**

PRE-TRIAL CHAMBER III

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

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

Under seal

URGENT

WARRANT OF ARREST FOR JEAN-PIERRE BEMBA GOMBO

Decision/Order/Judgment to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor
Ms Petra Kneuer, Trial Lawyer

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of 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
Ms 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”) was seized of the situation in the Central African Republic by decision of the Presidency dated 19 January 2005, pursuant to regulation 46 of the *Regulations of the Court*.
2. On 2 May 2008, the Prosecutor filed a “Notification to Pre-Trial Chamber III and Request for Extension of Page Limit and Expedited Consideration” in which he requested, *inter alia*, an extension of the authorised page limit for a subsequent application of the Prosecutor.
3. On 8 May 2008, the Chamber issued a *Decision on the Prosecutor’s ‘Notification to Pre-Trial Chamber III and Request for Extension of Page Limit and Expedited Consideration’* in which it granted the Prosecutor’s request by authorising an extension of the authorised page limit.
4. On 9 May 2008, the Prosecutor filed an “Application for Warrant of Arrest under Article 58” with annexes (“Prosecutor’s Application”) for the issuance of a warrant of arrest for Mr Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”).
5. On 21 May 2008, the Chamber issued a *Decision Requesting Additional Information in Respect of the Prosecutor’s Application for Warrant of Arrest under Article 58*, which, on the one hand, granted the Prosecutor’s request that proceedings in respect of the Prosecutor’s Application be kept under seal and conducted *ex parte* and that, if need be, the hearings in connection therewith be held *in camera*, and, on the other hand, requested the Prosecutor to submit additional supporting material.
6. On 23 May 2008, the Prosecutor filed an “Application for Request for Provisional Arrest under Article 92”, in which he requested the holding of a hearing in order to submit new material to the Chamber in respect of the record of the situation in the Central African Republic, a hearing that was held on the same day.

The Prosecutor highlighted the urgency for the Chamber to consider his application in view of the risk that Mr Jean-Pierre Bemba could flee.

7. The Chamber notes articles 19(1) and 58(1) of the Rome Statute (“the Statute”) and observes that the analysis of the evidence and other information submitted by the Prosecutor will be set out in a decision to be issued later.

8. The Chamber considers that, on the basis of the evidence and information submitted by the Prosecutor, and without prejudice to the filing of a challenge to the admissibility of the case under articles 19(2)(a) and (b) of the Statute and to any subsequent decision in connection therewith, the case against Mr Jean-Pierre Bemba falls within the jurisdiction of the Court and is admissible.

9. The Chamber is of the opinion that there are reasonable grounds to believe that from 25 October 2002 to 15 March 2003 there was an armed conflict in the Central African Republic and that a segment of the national armed forces of Mr Ange-Félix Patassé, President of the Central African Republic at the time, fought a rebel movement led by Mr François Bozizé, former Chief of Staff of the armed forces of the Central African Republic. The Chamber considers that there are reasonable grounds to believe that this conflict was a protracted confrontation between armed groups based on this territory and having a hierarchical organisation and the ability to plan and carry out sustained military operations. The Chamber considers that the opposing forces were essentially, on the one hand, a segment of the armed forces of the Central African Republic which remained loyal to Mr Ange-Félix Patassé and which allied with the combatants of the *Mouvement de Libération du Congo* (“MLC”) led by Mr Jean-Pierre Bemba and commonly referred to as the “Banyamulengue”, and, on the other hand, the forces of Mr François Bozizé.

10. The Chamber also considers that there are reasonable grounds to believe that other foreign armed forces were allegedly involved in the conflict, in particular,

combatants referred to as *Bataillon de sécurité frontalière* or *Brigade anti-Zaraguina*, led by Mr Abdoulaye Miskine and composed, *inter alia*, of Chadian mercenaries.

11. The Chamber is of the opinion that there are reasonable grounds to believe that a protracted armed conflict existed in the Central African Republic at least from 25 October 2002 to 15 March 2003 and that this conflict can be described as a conflict of a non-international character or, alternatively, as a conflict of an international character.

12. The Chamber considers that there are reasonable grounds to believe that in the context of this armed conflict, MLC forces composed mainly of Banyamulenge and led by Mr Jean-Pierre Bemba, responding to the call of Mr Ange Félix Patassé to support part of the national army of the Central African Republic and acting with a common purpose, committed, from 25 October 2002 to 15 March 2003: (i) rape, in, but not limited to, a *localité* known as PK 12 and in the town of Mongoumba; (ii) torture, in, but not limited to, a *localité* known as PK 12; (iii) outrages upon human dignity, in particular humiliating and degrading treatment, including in a *localité* known as PK 12; (iv) pillaging, especially the towns of Bossangoa, Mongoumba and in a *localité* known as PK 12.

13. Accordingly, the Chamber considers that there are reasonable grounds to believe that throughout the period of the presence of the MLC combatants in the Central African Republic, war crimes falling within the jurisdiction of the Court under articles 8(2)(c)(i), 8(2)(c)(ii), 8(2)(e)(v), 8(2)(e)(vi) of the Statute, as described in the Prosecutor's Application, were committed.

14. Furthermore, the Chamber is of the opinion that there are reasonable grounds to believe that between 25 October 2002 and 15 March 2003, the MLC combatants attacked the civilian population, committed criminal acts constituting torture and rape and that these crimes were committed on a systematic or widespread scale.

15. Accordingly, the Chamber considers that there are reasonable grounds to believe that between 25 October 2002 and 15 March 2003, the MLC combatants committed crimes against humanity falling within the jurisdiction of the Court under articles 7(1)(f) and 7(1)(g), as described in the Prosecutor's Application.

16. The Chamber considers that there are reasonable grounds to believe that Mr Jean-Pierre Bemba was the President and Commander-in-Chief of the MLC and that he was vested with *de jure* and *de facto* authority by members of the movement to take all political and military decisions.

17. The Chamber is of the opinion that there are reasonable grounds to believe that there was a common plan between Mr Jean-Pierre Bemba and Mr Ange-Félix Patassé and that this plan was based on mutual understanding for Mr Ange-Félix Patassé to receive military assistance from Mr Jean-Paul Bemba in order to maintain himself in power and for Mr Jean-Paul Bemba to receive, *inter alia*, strategic and logistical support from Mr Ange-Félix Patassé and prevent the Central African Republic from forming an alliance with the incumbent Government in Kinshasa.

18. The Chamber also considers that there are reasonable grounds to believe that, in his capacity as Commander-in-Chief of the MLC, Mr Jean-Pierre Bemba's contribution was essential to the implementation of the common plan, mainly by deciding to send MLC combatants to and maintain them in the Central African Republic.

19. The Chamber considers that there are reasonable grounds to believe that Mr Jean-Pierre Bemba knew that the implementation of this plan would, in the normal course of events, lead to the commission of crimes and that he accepted this risk through his decision to send MLC combatants to the Central African Republic and to maintain them there despite the fact that he was informed of the perpetration of criminal acts.

20. The Chamber considers that there are reasonable grounds to believe that when Mr Jean-Pierre Bemba implemented his decision to withdraw the MLC troops, the withdrawal marked the end of the criminal acts perpetrated against civilians by MLC troops and the end of Mr Patassé's stay in power.

21. For the foregoing reasons, the Chamber considers that there are reasonable grounds to believe that Mr Jean-Pierre Bemba is criminally responsible, jointly with another person or through other persons under article 25(3)(a) of the Statute, for:

- (i) rape as a crime against humanity, punishable under article 7(1)(g) of the Statute;
- (ii) rape as a war crime, punishable under article 8(2)(e)(vi) of the Statute;
- (iii) torture as a crime against humanity, punishable under article 7(1)(f) of the Statute;
- (iv) torture as a war crime, punishable under article 8(2)(c)(i) of the Statute;
- (v) committing outrages upon personal dignity, in particular humiliating and degrading treatment, as a war crime, punishable under article 8(2)(c)(ii) of the Statute;
- (vi) pillaging a town or place as a war crime, punishable under article 8(2)(e)(v) of the Statute.

22. The Chamber considers that there are reasonable grounds to believe that the arrest of Mr Jean-Pierre Bemba appears necessary at this stage to ensure his appearance before the Court and that he does not obstruct the investigation or court proceedings within the meaning of articles 59(1)(b)(i) and (ii) of the Statute.

FOR THESE REASONS, THE CHAMBER

issues a warrant of arrest for Jean-Pierre BEMBA GOMBO, whose photograph is attached; who is believed to be a national of the Democratic Republic of the Congo, born on 4 November 1962 in Bokada, Équateur Province, in the Democratic Republic of the Congo; who is believed to be of Ngwaka ethnicity, son of Jeannot Bemba Saolana, married to Lilia Teixeira, daughter of Antonio Teixeira.

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

[signed]
Judge Fatoumata Dembele Diarra
Presiding Judge

[signed, dated]
Judge Hans-Peter Kaul

[signed]
Judge Ekaterina Trendafilova

Dated this 23 May 2008

At The Hague, The Netherlands