

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : English

No.: ICC-01/05-01/08  
Date: 7 December 2010

**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 Document**

**Redacted version of Decision on the defence request for adjustment of fees advanced by the Registry pursuant to Trial Chamber III's Decision on legal assistance for the accused of 20 October 2009 (ICC-01/05-01/08-897-Conf)**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda, Deputy Prosecutor  
Ms Petra Kneuer, Senior Trial Lawyer

**Counsel for the Defence**

Mr Nkwebe Liris  
Mr Aimé Kilolo-Musamba

**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**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

Mr Esteban Peralta Losilla

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Trial Chamber III (“Trial Chamber” or “Chamber”) of the International Criminal Court (“Court” or “ICC”), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, (“Bemba case”) issues the following Decision on the defence application for adjustment of the expenses and fees provided by the Registry pursuant to the order of Trial Chamber III in its Decision on legal assistance for the accused of 20 October 2009 (“Application” or “defence’s Application”).<sup>1</sup>

## I. Background and Submissions

1. On 20 October 2009, the Trial Chamber rendered its decision on legal assistance for the accused (“Decision” or “20 October 2009 Decision”).<sup>2</sup> The defence received a summary of this Decision since the original was notified as under seal, *ex parte* prosecution and Registry only.<sup>3</sup> Subsequently a redacted version was made available to the public.<sup>4</sup>
  
2. In its Decision, the Chamber noted that “notwithstanding Mr Bemba’s evident resources, there are serious issues over defence funding that have been considered by the Pre-Trial Chamber, and which were brought to the attention of the trial judges in advance of, and during, the first trial status conference”.<sup>5</sup> Given that the accused’s defence team had not been paid since March 2009, the Trial Chamber considered the question of “whether in the immediate future the accused will have sufficient means to pay for his legal assistance in

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<sup>1</sup> Requête aux fins d’ajustement des frais et honoraires de la Défense avancés par le Greffe conformément à l’ordonnance de la Chambre de Première Instance III intitulée “*Decision on legal assistance for the Accused*” du 20 Octobre 2009, 11 August 2010, ICC-01/05-01/08-852-Conf; Application for Adjustment of the Expenses and Fees of the Defence provided by the Registry pursuant to the Order of Trial Chamber III entitled *Decision on legal assistance for the Accused* of 20 October 2009, 11 August 2010, ICC-01/05-01/08-852-Conf-tENG. A public redacted version of this Decision was issued on 11 August 2010: ICC-01/05-01/08-852-Red.

<sup>2</sup> Decision on legal assistance for the accused, 20 October 2009, ICC-01/05-01/08-567-US-Exp. A public redacted version of this Decision was issued on 26 November 2009: ICC-01/05-01/08-567-Red.

<sup>3</sup> Summary of the Decision on legal assistance for the accused, 20 October 2009, ICC-01/05-01/08-568.

<sup>4</sup> Redacted version of “Decision on legal assistance for the accused”, 26 November 2009, ICC-01/05-01/08-567-Red.

<sup>5</sup> ICC-01/05-01/08-567-Red, paragraph 3.

order to prepare his defence to the charges confirmed by the Pre-Trial Chamber".<sup>6</sup>

3. After a thorough analysis of the history of the accused's means and proceedings before the Court, the Trial Chamber found that there was a "wholesale lack of available means" rendering proceedings unfair and in the event that such circumstances endured the trial would not be expeditious.<sup>7</sup>
  
4. To resolve this issue, the Chamber ordered the Registrar to provide funding of 30, 150 Euros a month, an amount previously identified by the Registrar at the pre-trial stage as reasonable for legal assistance,<sup>8</sup> retrospectively to March 2009 and ongoing until there is a material change in circumstances. The Trial Chamber rehearsed the Pre-Trial Chamber's summary of the Registrar's calculations which stated, *inter alia*:<sup>9</sup>

(ii) Based on the Court's legal assistance scheme, the Registrar also estimated the costs of a Defence team acting during the pre-trial phase and submitted that the monthly cost for a Defence team amounts to €30,150.

5. The Trial Chamber also stated that:

108. Irrespective of the considerations as to "indigence" that influenced the Registrar when she made her Decisions on legal assistance (25 August 2008, paragraph 14 and 15 above and 18 September 2009, paragraph 67 above), the accused since March 2009 has lacked sufficient funds to pay for his defence, and in the Chamber's judgment the Registrar is under an obligation (pursuant to Regulation 85 of the Regulations of the Court) to pay the figure (€30,150) she previously identified as reasonable for legal assistance retrospectively to that date, and ongoing until there is a material change in circumstances (e.g. funds from elsewhere become available, the trial ends or a fresh application for funding is decided under Regulation 85 of the Regulations of the Court). [...].

[...]

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<sup>6</sup> ICC-01/05-01/08-567-Red, paragraph 2.

<sup>7</sup> ICC-01/05-01/08-567-Red, paragraph 107.

<sup>8</sup> ICC-01/05-01/08-567-Red, paragraph 5.

<sup>9</sup> ICC-01/05-01/08-567-Red, paragraph 17.

110. The Chamber is well aware that the Court generally, and the Registrar individually, have an onerous responsibility not to waste the scarce resources of this institution. Further, there is the risk of an unfortunate public perception if the Court is seen to fund an apparently wealthy accused. For those reasons, the Chamber emphasizes that it has every expectation that any monies advanced to the accused at this stage will be reimbursed to the Court if the Registrar fully discharges her obligations, with the Chamber's assistance. The Chamber wholly supports the pre-conditions for legal assistance suggested by the prosecution in its filing of 9 October 2009, and the Chamber will issue a second Decision in the near future (following an *ex parte* status conference) as to the steps that it considers should be taken immediately to ensure that the available sources of funding are secured. These are extremely important issues that should be pursued resolutely and resolved speedily.<sup>10</sup>

### Defence's Application

6. On 11 August 2010, the defence filed its Application requesting an adjustment to the fees advanced to it by the Registrar.<sup>11</sup> The defence submits that the amount fixed by the Decision corresponds to that which is ordinarily paid-out for legal assistance during pre-trial proceedings at the Court, as opposed to trial proceedings.<sup>12</sup> It is submitted that circumstances have now changed, particularly as the Office of the Prosecutor has now completed disclosure of its case and the start of trial is imminent.<sup>13</sup> The defence argues that it has made contacts with a view to bolstering the defence team with an additional co-counsel, a legal assistant and resource people.<sup>14</sup> Further the defence submits that it has never received funds for conducting investigations and that the Registrar should therefore provide 70,000 Euros for such purpose from September 2010.
  
7. In addition, the defence requests that the Registrar is ordered to provide funding for the defence team from September 2010, in accordance with the norms of the Court and in keeping with the scale set in the legal assistance

<sup>10</sup> ICC-01/05-01/08-567-Red, paragraphs 108 and 110.

<sup>11</sup> ICC-01/05-01/08-852-Conf; ICC-01/05-01/08-852-Red.

<sup>12</sup> ICC-01/05-01/08-852-Red, paragraph 6. This corresponds to information received by the Pre-Trial Chamber in Annex 6 of filing ICC-01/05-01/08-76 which explains the basis for legal aid is 30 150 Euros for a full defence team at the Pre-Trial stage.

<sup>13</sup> ICC-01/05-01/08-852-Red, paragraphs 7 – 8.

<sup>14</sup> ICC-01/05-01/08-852-Red, paragraph 8.

scheme of the Court for the trial stage, for the amount of 42, 701 Euros.<sup>15</sup> This amount includes both the expenses and professional fees of the team members as well as the allowance for the monthly expenses, over and above the funding for investigations.<sup>16</sup> [REDACTED].<sup>17</sup>

Observations of the Registrar

8. On 25 August 2010, the Registrar filed observations on the defence's Application.<sup>18</sup> The filing is made *ex parte* since it contains information relevant to the Registrar's financial investigations and on the amount of remuneration received by the defence team.<sup>19</sup> Redacted versions were filed on 27 August 2010.<sup>20</sup>
  
9. The Registrar recalls that the accused has been considered as non-indigent and therefore not eligible for legal assistance by the Court pursuant to the Registrar's decisions of 25 August 2008 and 24 September 2009.<sup>21</sup> In addition the Registrar observes that the Chamber's decision of 20 October 2009 states that Mr Bemba is a man of "considerable, possibly very considerable, wealth" [REDACTED].<sup>22</sup> In light of this, and despite the Chamber's decisions of 20 October 2009<sup>23</sup> and 4 November 2009<sup>24</sup> ordering the Registrar to pay a monthly amount of 30, 150 Euros to the defence, the Registrar argues that this is not legal assistance but is rather an advancement of fees since the Chamber made the decision based on the temporary lack of means available to the accused

<sup>15</sup> ICC-01/05-01/08-852-Red, paragraphs 10 and 13.

<sup>16</sup> ICC-01/05-01/08-852-Red, paragraph 11.

<sup>17</sup> [REDACTED]. [REDACTED].

<sup>18</sup> Observations of the Registrar on the "Application for Adjustment of the Expenses and Fees of the Defence Provided by the Registry Pursuant to the Order of Trial Chamber III Entitled *Decision on legal assistance for the Accused of 20 October 2009*", filed on 11 August by Counsel for Jean-Pierre Bemba Gombo, 25 August 2010, ICC-01/05-01/08-863-Conf-Exp-tENG and ICC-01/05-01/08-863-Conf-Exp-Anx1. Anx1 was reclassified as Conf-Exp Registry and Defence only on 27 August 2010.

<sup>19</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 6.

<sup>20</sup> ICC-01/05-01/08-Conf-Exp-Red and ICC-01/05-01/08-Conf-Exp-Red2.

<sup>21</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 7.

<sup>22</sup> [REDACTED].

<sup>23</sup> ICC-01/05-01/08-567-Red.

<sup>24</sup> Redacted version of "Decision on the defence application to lift Order iii) of the "Decision on legal assistance for the accused" dated 20 October 2009", 19 November 2009, ICC-01/05-01/08-596-Red.

and the impossibility of making funds available within a reasonable time without prejudicing the rights of the accused under Article 67 of the Rome Statute.<sup>25</sup>

10. The Registrar submits that the Chamber has never decided that the accused should receive legal assistance, nor has it indicated that the amount of fees advanced to the defence should follow the amounts fixed under the legal assistance scheme for different phases of the proceedings. The Registrar observes that on the contrary, the decision of the Chamber allowed for the advance of funds under a series of conditions whilst the granting of legal assistance is not subject to any other conditions apart from those pertaining to eligibility for legal assistance. The Registrar also argues that fixing the sum of 30, 150 Euros per month, ongoing until there is a material change in circumstances, also differs from what is prescribed under the scheme for legal assistance which evolves according to the different phases of the trial.<sup>26</sup>

11. Consequently, the Registrar submits that in suggesting that the advance of fees should follow the legal assistance scheme, the defence is attempting to modify the Chamber's Decision when this decision is definitive and was never appealed by the defence.<sup>27</sup>

12. In addition to this more fundamental argument as to whether the funds advanced to the defence constitute legal assistance under the Court's scheme, the Registrar also makes observations on the merits of the defence Application as follows:

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<sup>25</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 8.

<sup>26</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraphs 9 – 10.

<sup>27</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 11.

- i) The change of circumstances is not justified since the commencement of the trial is not a sufficient change in circumstances to justify an increase in the fees advanced since this was foreseeable from the moment the Chamber fixed the amount at 30, 150 Euros and the Chamber has not considered it necessary to modify its order and alter the amount according to the different phases of the case;<sup>28</sup>
  
- ii) Even if the commencement of trial were to be considered as a significant change in circumstances within the meaning of paragraph 111 (v) of the Decision of 20 October 2009, it cannot justify the requested increase since the current amount is sufficient to cover the costs incurred by the defence, as well as any other reasonable costs of the accused's legal assistance, including in particular the necessary funds to cover the investigations mentioned in paragraph 9 of the defence Application;<sup>29</sup>
  
- iii) The defence has not used all the fees allocated to it [REDACTED]. The Registrar also observes it has not been possible to check the way in which the fees are being used as the Chamber's Decision ordered the Registrar to allocate 30, 150 Euros per month without any condition to control the use of the funds advanced. The administrative controls that are applicable to other defence teams under the legal assistance scheme (e.g. submission of hours worked, an action plan pursuant to Regulation 134 of the Regulations of the Registry etc.) do not apply even though regulation of advancement of funds could have warranted even stricter measures of control.<sup>30</sup>

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<sup>28</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraphs 12 – 13.

<sup>29</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 14.

<sup>30</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraphs 15 – 17.

iv) As regards the request for 70, 000 Euros for investigations, the Registrar notes that the budget for defence investigations under the legal assistance scheme has changed and is now 76, 006 Euros for the whole of proceedings.<sup>31</sup> The Registrar also points out that neither the defence teams in the *Lubanga* case nor in the *Katanga and Ngudjolo* case have used more than the amount that remains for the *Bemba* defence [REDACTED], and these teams have both carried out extensive investigations in the areas concerned. The Registrar therefore submits that the remaining amount [REDACTED] is reasonably sufficient to cover equally, at this stage, the fees for the investigations envisaged in paragraph 9 of the defence Application, as well as covering the costs of continuing to provide an adequate defence to Mr Bemba. The Registrar also submits that the defence has never contested the fact that it has not received an investigation fund until now.<sup>32</sup>

v) The Registrar observes that the defence team appears to contain more persons than the basic defence team provided for under the legal assistance scheme which simply comprises counsel, co-counsel, a legal assistant and a case manager.<sup>33</sup> The Registrar attaches a break-down of the fees allocated to the members of the *Bemba* defence team in Annex 1 to filing ICC-01/05-01/08-863 and states that the fees allocated to each different member of the team under the legal assistance scheme differ from those allocated to each member of the *Bemba* defence team.<sup>34</sup> The Registrar submits that the defence, which has benefited from the legal assistance scheme not being applied in order to evade the rules relating to the composition of the defence team and the limits on remuneration of its members, as well as any control on the use of the sums advanced,

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<sup>31</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 18.

<sup>32</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraphs 18 – 23.

<sup>33</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 24.

<sup>34</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 25.

should not now pray in aid of the legal assistance scheme to justify an increase in the sums allocated as advanced fees.<sup>35</sup>

13. The Registrar also draws the Chamber's attention to other relevant matters as follows:

- i) The conditions set by the Chamber in its 20 October and 4 November 2009 decisions appear only to have been satisfied on the face of it by the accused but are contravened by his attitude. The Registrar submits that neither the accused nor his counsel has taken appropriate or serious steps to release the accused's assets in order to pay for his legal assistance. There has been virtually no cooperation by the accused or the defence with the Registrar in order to reimburse the fees advanced. To date the Registrar has only been able to recoup the sum [REDACTED] from the release of Mr Bemba's assets by the [REDACTED] authorities.<sup>36</sup>
- ii) The Registrar also notes the appeal of the defence against the Chamber's decision on detention of 28 July 2010, in which the defence requests that the accused is allowed to leave the detention unit every Friday morning until Sunday evening to spend these nights with his wife and children, "entirely at his own expense." The Registrar submits that this reveals that the accused does have available funds and he has not faithfully complied with condition i) of the Chamber's 20 October 2009 Decision.<sup>37</sup>

*Defence request to reply to the observations of the Registry*

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<sup>35</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 27.

<sup>36</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraphs 29 – 32.

<sup>37</sup> ICC-01/05-01/08-863-Conf-Exp-tENG, paragraph 33.

14. On 30 August 2010, the defence filed its “Demande d’autorisation aux fins de répliquer aux observations du Greffe sur la demande d’ajustement des frais et honoraires de la Défense” (“Request for Leave to Reply”).<sup>38</sup> The defence submits that the observations made by the Registry are incorrect, and requests the Chamber’s authorisation to submit a reply to address the filing of the Registry.<sup>39</sup>

## II. Analysis and Conclusion

15. Regarding the interpretation of the Chamber’s 20 October 2009 Decision and subsequent decision of 4 November 2009; entitled “Decision on legal assistance for the accused” and “Decision on the defence application to lift Order iii) of the “Decision on legal assistance for the accused” dated 20 October 2009” respectively; although the Chamber recognised that Mr Bemba may be a man of considerable means, the Trial Chamber also found that since March 2009, the accused had insufficient funds to pay for his defence (see paragraph 5 above).

16. Without rehearsing the Chamber’s 20 October and 4 November 2009 Decisions, the Chamber specifically referred to providing the accused with legal assistance several times in these decisions and it is clear from the language used that the Chamber’s intention was for the accused to receive funds using the Court’s legal assistance scheme as the basis and model for such advancements of fees, save for the fact that the Registrar was to recoup these funds.

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<sup>38</sup> Demande d’autorisation aux fins de répliquer aux observations du Greffe sur la demande d’ajustement des frais et honoraires de la Défense, 30 August 2010, ICC-01/05-01/08-868.

<sup>39</sup> ICC-01/05-01/08-868, paragraphs 4 – 6.

17. Whilst the advancement of fees by the Registrar to Mr Bemba's defence team may fall outside the technical definition of legal assistance under the Court's scheme, the Chamber clearly intended the provision of funds to be administered on similar terms to the legal assistance would be, even basing the figure of 30, 150 Euros on the Registrar's previous calculation as reasonable for legal assistance.

18. The Registrar has a responsibility to the Assembly of States Parties ("ASP") to account for monies spent pursuant to Regulation 10, Rule 110.2, Regulation 11 and Rule 111.1 of the Court's Financial Regulations and Rules which state:

**Regulation 10 of the Financial Regulations and Rules**  
**Internal control**

The Registrar shall:

[...]

(c) Maintain an internal financial control which shall provide for effective current examination and/or review of financial transactions in order to ensure:

- (i) The regularity of the receipt, custody and disposal of all funds and other financial resources of the Court;
- (ii) The conformity of obligations and expenditures with the appropriations or other financial provisions voted by the Assembly of States Parties, or with the purposes and rules relating to trust funds and special accounts;
- (iii) The economic use of the resources of the Court.

**Rule 110.2 of the Financial Regulations and Rules**  
**Authority**

The utilization of all funds requires the prior authorization of the Registrar, who is responsible for ensuring that the obligations of the Court remain within the appropriations as adopted by the Assembly of States Parties, and are incurred only for the purposes approved by the Assembly of States Parties. In areas falling under the authority of the Prosecutor, by virtue of article 42, paragraph 2, of the Rome Statute, the Registrar shall authorize the utilization of funds upon the request of the Office of the Prosecutor.

**Regulation 11 of the Financial Regulations and Rules**  
**The accounts**

11.1 The Registrar shall submit to the Auditor accounts for the financial period not later than 31 March following the end of such period. In addition, the Registrar shall maintain, for management purposes, such accounting records as are necessary. The accounts for the financial period shall show:

- (a) The income and expenditure of all funds;
- (b) The status of appropriations, including:
  - (i) The original budget appropriations;
  - (ii) The appropriations as modified by any transfers;
  - (iii) Credits, if any, other than the appropriations adopted by the Assembly of States Parties;
  - (iv) The amounts charged against those appropriations and/or other credits;
- (c) The assets and liabilities of the Court.

The Registrar shall also give such other information as may be appropriate to indicate the current financial position of the Court.

[ . . . ]

#### **Rule 111.1**

##### **Authority and responsibility for accounts**

Responsibility for the accounts is assigned to the Registrar. He/she shall prescribe and maintain financial records and subsidiary records. He/she shall establish all accounting procedures of the Court and designate the officials responsible for performing accounting functions.

19. The Registrar therefore had a duty to establish a system whereby any money advanced would be duly accounted for by the defence in order that this expenditure could ultimately be properly explained to the ASP.

20. As to the amount that the Chamber awarded of 30, 150 Euros, this figure was based on the Registrar's own calculation under the legal assistance scheme and the Chamber did not consider any alteration or increase in this figure because it was not made aware by the Registrar that this figure was based on fees for the *pre-trial* as opposed to trial stage. The Chamber's overarching intention was to secure sufficient funds for the accused in order to enable the defence team to prepare for trial and therefore the Chamber understood that this figure was based on the same premise. Further, the Chamber notes that

the defence received this amount of money on a monthly basis for almost a year without contesting it.

21. Regardless of the merits of the defence's Application, the amount of funds paid to a defence team is not a matter within the Chamber's competence but is rather a matter for the Registrar. The discrepancy between the 30, 150 Euros calculated at the pre-trial stage and the 42, 701 Euros to which a legally assisted defence team is entitled during the trial phase should have been brought to the attention of the Chamber by the Registrar at the time of the Chamber's 20 October 2009 Decision.

22. The Registrar is responsible for deciding disputes on fees. The central role of the Registrar in making determinations in respect of legal assistance and the 'reviewing' role of the Chamber is alluded to in the following provisions of the Regulations of the Registry:

**Regulation 130 of the Regulations of the Registry  
Management of legal assistance paid by the Court**

1. The Registrar shall manage the legal assistance paid by the Court with due respect to confidentiality and the professional independence of counsel.

[...]

**Regulation 132 of the Regulations of the Registry  
Proof of indigence**

1. A person applying for legal assistance paid by the Court must fill out the approved standard forms and provide the information necessary to support their request.

2. Where there are grounds to believe that an application for legal assistance paid by the Court and the supporting evidence are not accurate, the Registry may carry out an investigation into the matter. In doing so, it may request information and/or documents from any person or body that it deems appropriate.

3. The Registrar should make a decision as to whether legal assistance should be paid in full or in part by the Court within 30 calendar days of the submission by the person

concerned of all the documentation required. Legal assistance shall be provisionally paid by the Court during that period.

4. The person shall communicate to the Registry any change in his or her financial situation that might affect eligibility for legal assistance paid by the Court. The Registry may carry out random checks to verify whether any changes have occurred.

5. If legal assistance paid by the Court has been granted provisionally, the Registry may investigate the person's means. The person shall cooperate with the Registry in its investigation.

**Regulation 135 of the Regulations of the Registry**  
**Disputes relating to fees**

1. The Registrar shall take a decision on any dispute concerning the calculation and payment of fees or the reimbursement of expenses at the earliest possible juncture and notify counsel accordingly.

2. Within 15 calendar days of notification, counsel may request the Chamber to review any decision taken under sub-regulation 1.

23. In addition, the below provision indicates that applications for additional means should be directed in the first instance to the Registry, whilst the role of the Chamber is limited to reviewing the decisions of the Registry where necessary and/or appropriate.

24. Regulation 83 of the Regulations of the Court states:

[. . .]

3. A person receiving legal assistance paid by the Court may apply to the Registrar for additional means which may be granted depending on the nature of the case.

4. Decisions by the Registrar on the scope of legal assistance paid by the Court as defined in this regulation may be reviewed by the relevant Chamber on application by the person receiving legal assistance.

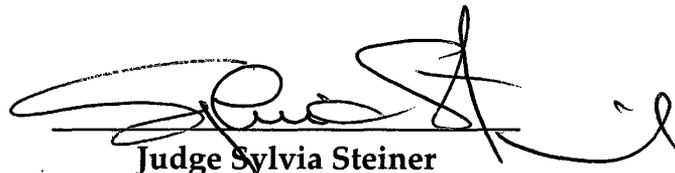
[. . .]

25. In the present circumstances, the defence does not indicate that it has made any application to the Registrar for the additional funding requested and the

Chamber is also not being asked to review a decision of the Registry on the matter.

26. Although the 20 October 2009 Decision does not technically grant the accused legal assistance as defined by Regulation 132 of the Regulations of the Registry, in that the accused is non-indigent, the payment of fees to the defence by the Registrar nonetheless amounts to the same in practical terms since he lacks sufficient means to pay for his legal assistance in order to prepare his defence to the charges confirmed by the Pre-Trial Chamber.
27. In light of the above, the Chamber therefore refers the defence Application to the Registry as being the competent body to deal with such a request.
28. The Chamber reminds the Registrar that by its previous 20 October 2009 Decision, the Chamber expected the Registrar would monitor the defence's expenditure of monies received, and for the defence to be held to account, in similar terms to the requirements of the Court's legal assistance scheme. Regardless of the decision that the Registrar ultimately takes on the defence's Application, the Chamber now instructs the Registrar to administer the advancement of fees to the defence in parallel to the Court's legal assistance scheme from now on and also retrospectively for fees paid to the defence from March 2009.
29. The defence Application for Request for Leave to Reply filed on 30 August 2010 is dismissed *in limine*.

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



Judge Sylvia Steiner  
Presiding Judge



Judge Joyce Aluoch



Judge Kuniko Osaki

Dated this 7 December 2010

At The Hague, The Netherlands