

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **12 March 2019**

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

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

Confidential

**Prosecution's request to extend the page limit and for sufficient time to file its
response to Bemba's request for compensation and damages**

Source: Office of the Prosecutor

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

Court to:

The Office of the Prosecutor

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Legal Representatives of the Victims

**Legal Representatives of the
Applicants**

Unrepresented Victims

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The Office of Public Counsel for Victims

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Counsel Support Section

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Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. On 8 March 2019, Jean-Pierre Bemba Gombo filed a request for compensation pursuant to article 85 of the Rome Statute and a claim for damages.¹ The Prosecution will exercise its right to respond.² In order to do so meaningfully, given the length of the Request, the scope and variety of the issues raised, and the extensive case-record and underlying documentation, the Prosecution requests the Pre-Trial Chamber (i) to permit it to file its response by 15 May 2019, which is reasonable and necessary so as to assist the Prosecution to properly address the Request for which the Defence received a total of 9 months to prepare;³ and (ii) to extend the page limit for its response by a further 30 pages, to a maximum of 60 pages, in line with the Chamber's earlier decision granting the same to the Defence.⁴

Level of Confidentiality

2. This request is filed confidentially pursuant to regulation 23bis(2) of the Regulations of the Court as it refers to the contents of a confidential filing.⁵

Submissions

A. Request to be permitted to file a response by 15 May 2019

3. The Prosecution respectfully requests sufficient time to review and respond to the Request and the underlying documentation.⁶ While the Court has previously determined two compensation claims,⁷ Bemba's compensation request is wide-ranging in its scope and raises several novel, diverse and complex issues of consequence to the Court. Bemba's claim spans a broad range of factual allegations

¹ ICC-01/05-01/08-3673-Red ("Request").

² See Rule 174(1) of the Rules of Procedure and Evidence (recognising that the Prosecution shall have a right to respond in writing).

³ ICC-01/05-01/08-3664-Conf ("Decision Varying Page and Time Limits"), p. 5 Disposition.

⁴ Decision Varying Page and Time Limits, p. 5 Disposition.

⁵ The Decision Varying Page and Time Limits was filed as confidential.

⁶ To the extent that the Pre-Trial Chamber considers the 10-day time-limit in regulation 34(b) to apply, the Prosecution's submissions may be read to demonstrate good cause for further time under regulation 35.

⁷ The Court previously determined compensation claims by Mathieu Ngudjolo Chui (see ICC-01/04-02/12-301-tENG ("Ngudjolo Compensation Decision")), and by Jean-Jacques Mangenda Kabongo (see ICC-01/05-01/13-1964 ("Mangenda Compensation Appeal Decision") and ICC-01/05-01/13-1663 ("Mangenda Compensation Decision"))).

relating to the proceedings concerning the Prosecution's investigation of the case,⁸ the Trial Chamber's alleged mismanagement of the case,⁹ the scope of involvement of the Legal Representatives of the Victims,¹⁰ the purported "industrial falsification" of victims' applications,¹¹ the purported "sub-standard" quality of the trial judgment and the alleged failure to respect the presumption of innocence¹² and the duration of the proceedings.¹³ The allegations span a period of approximately ten years, which is itself a significant period of time.

4. Significantly, Bemba's Request presents the first claim for compensation in this Court relating to the legal, factual and evidentiary dimensions of the freezing and/or seizure of assets.¹⁴ Bemba also cites the practice and procedure before various national and international jurisdictions to draw relevant guidance to interpret the applicable law.¹⁵ Bemba quantifies his consequential loss at the sum of at least €42.4 million, by referring to several underlying documents, including a valuation report of his assets.¹⁶ Such a substantial and novel claim necessitates a comprehensive study if the Prosecution's response is to be meaningful.

5. In addition to the claim for consequential loss, Bemba claims damages for "incarceration" of at least €12 million, "aggravated damages" of at least €10 million and his "legal costs" of €4.2 million—each of which amount to significant claims.¹⁷ He also refers to awards made in other jurisdictions.¹⁸ The Prosecution will need to analyse each of these claims.

6. Accordingly, the Prosecution requires sufficient time to review and respond to the Request and the underlying documentation. In light of the sheer size of the claim,

⁸ Request, paras. 22-27.

⁹ Request, paras. 28-53.

¹⁰ Request, paras. 54-63.

¹¹ Request, paras. 64-68.

¹² Request, paras. 69-75.

¹³ Request, paras. 76-78.

¹⁴ See e.g., Request, paras. 6-9, 85, 119-121, 151, 166.

¹⁵ Request, paras. 133-137.

¹⁶ Request, paras. 123-132, 151, 169; ICC-01/05-01/08-3673-Conf-AnxF.

¹⁷ Request, paras. 4, 86-106, 113-118, 169.

¹⁸ Request, paras. 107-112.

the period of time relating to the factual allegations, the volume of documentation, and the numerous complex issues which the Prosecution must address in response, the Prosecution requests the Chamber to permit it to file its response by 15 May 2019. This time frame is not only necessary in light of the nature of the claim, but is also fair in light of the 9 months afforded to the Defence to prepare the Request.¹⁹

B. Request for extension of the page limit

7. Exceptional circumstances justify extending the page limit for the Prosecution's response by a further 30 pages, to a maximum of 60 pages.²⁰ As noted above, the size of the claim, the period of time relating to the factual allegations, the volume of documentation and the numerous novel and complex issues raised which the Prosecution must address in response give rise to exceptional circumstances. Indeed, the Chamber recognised the existence of exceptional circumstances when first granting Bemba double the usual page allowance for his Request.²¹ The circumstances are no less significant at this stage of the compensation proceedings. Accordingly, the Prosecution requests that the Chamber allow it to file a response within a maximum of 60 pages in the interests of fairness so as to place the Prosecution on an equal footing with the Defence (as envisaged in the Regulations of the Court),²² and so that the Prosecution can meaningfully respond to the Request.

¹⁹ Decision Varying Page and Time Limits, p. 5 Disposition.

²⁰ See [Regulations of the Court](#), regulations 37(2), 38(3)(f).

²¹ Decision Varying Page and Time Limits, para. 7.

²² See [Regulations of the Court](#), regulation 38(3) (providing the same page limits for "documents and responses thereto").

Relief Sought

8. For the reasons set out above, the Prosecution respectfully requests the Pre-Trial Chamber to:
- i. allow the Prosecution to file its response by 15 May 2019; and
 - ii. extend the page limit for the Prosecution's response to a maximum of 60 pages.



Fatou Bensouda, Prosecutor

Dated this 12th day of March 2019

At The Hague, The Netherlands