

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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

Date: 25 July 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**

**Public**

**Public Redacted Version of the “Registry’s Observations on Mr Jean-Pierre Bemba  
Gombo’s Lawyers’ Reply  
ICC-01/05-01/08-3687-Conf”**

**Source:** Registry

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

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**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(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**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Trial Chamber III  
Mr Ennis McBride, Registry Financial  
Investigator

## I - Introduction

1. Pursuant to Pre-Trial Chamber's II's ("Chamber" or "PTC II") "Decision on Mr. Bemba's Request for Leave to Reply to Prosecution's Response and Registry's Observations to Mr. Bemba's Claim for Compensation and Damages Order for additional information" ("Decision"),<sup>1</sup> and following Mr Jean-Pierre Bemba Gombo's subsequent reply<sup>2</sup> ("Mr Bemba" and "Reply", respectively), the Registry hereby submits its response to the Reply and, in so doing, complements its previous written<sup>3</sup> and oral<sup>4</sup> submissions on Mr Bemba's compensation claim<sup>5</sup> ("Observations" and "Claim", respectively).

## II – Classification

2. In accordance with regulation 23 *bis*(1) of the Regulations of the Court, the present submissions [REDACTED] are classified under seal *ex parte* only available to the Registry as they refer to documents with similar classification level. For the same reasons explained in the Observations,<sup>6</sup> under seal and confidential versions of this submission are filed *ex parte* only available to the Office of the Prosecutor ("Prosecution") and Mr Bemba's lawyers, respectively. The Registry will file a public redacted version hereof in due course.

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<sup>1</sup> Pre-Trial Chamber II ("PTC II"), "Decision on Mr. Bemba's Request for Leave to Reply to Prosecution's Response and Registry's Observations to Mr. Bemba's Claim for Compensation and Damages" ("Decision"), 13 May 2019, ICC-01/05-01/08-3684.

<sup>2</sup> Mr Bemba's Lawyers, "Mr. Bemba's reply to the Prosecution Response to and Registry Submissions on 'Mr. Bemba's claim for compensation and damages'" ("Reply"), 4 June 2019, [REDACTED]. A public redacted version was filed on 20 June 2019.

<sup>3</sup> Registry, "Registry's Observations on the Defence Compensation Claim" ("Observations"), 6 May 2019, [REDACTED].

<sup>4</sup> Transcripts of hearing on 9 May 2019, ICC-01/05-01/08-T-376-ENG CT.

<sup>5</sup> Mr Bemba's Lawyers, "Mr. Bemba's claim for compensation and damages" ("Claim"), 8 March 2019, [REDACTED].

<sup>6</sup> Registry, Observations, paras. 2 and 3.

### III – Submissions

3. Mr Bemba's lawyers do not raise any new legal arguments in the Reply and do not refer to losses for any new assets compared to the ones initially claimed. Notably as well, the Reply makes no further reference to the €4,2 million claimed as legal costs. Therefore, the Registry maintains its position that the Claim, if considered admissible, is contested in its entirety.<sup>7</sup> The Claim and additional submissions in the related Reply are further refuted below not only by information provided by the Registry, but also by Mr Bemba's own witnesses' declarations. Notwithstanding the lack of new issues raised in the Reply, Mr Bemba's lawyers make several submissions that warrant further clarification by the Registry, as laid out below.

#### A- General observations

4. First, the Reply points to the increase of losses and the fact that the calculation is not yet [REDACTED].<sup>8</sup> However, there must be an end to litigation and Mr Bemba has been given ample opportunity to state his losses.<sup>9</sup> Therefore, no further addition to the Claim should be entertained and the Chamber should decide on the Claim and related material actually before it – an argument Mr Bemba himself makes in his Reply.<sup>10</sup>
5. Second, the Reply contains general statements only, most of which are not linked to any assets. Each of these statements, many of which are incorrect are contested in turn below under points (i) to (vii), and should also be assessed on the basis of information previously submitted by the Registry.

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<sup>7</sup> See for example Registry, "Registry's Observations on the Defence Compensation Claim" ("Observations"), 6 May 2019, [REDACTED] and redacted versions thereof, paras. 39-41 [REDCATED].

<sup>8</sup> Mr Bemba's Lawyers, [REDACTED].

<sup>9</sup> See for example the granting of Mr Bemba's lawyers' initial request for extension of time to file the Claim, the Claim, the 9 May 2019 oral submissions and the Reply.

<sup>10</sup> Mr Bemba's Lawyers, Reply, para. 9; See "This Chamber has to deal with these claims on the evidence before it".

(i) *The alleged Registry's lack of neutrality*

6. Mr Bemba's lawyers submit that the Observations "offend the Registry's status as a neutral organ of the Court".<sup>11</sup> As explained in its Observations,<sup>12</sup> the Registry, as a neutral organ of the Court, transmitted and was following-up on the cooperation requests in question pursuant to judicial orders; in doing so, it maintained its neutrality throughout. Mr Bemba's lawyers have since made serious allegations against the Registry and claimed significant damages against it as a result. This has required, in turn, that the Registry provide its observations to those allegations. The Registry has remained neutral and continues to do so.

(ii) *The general allegation that the Registry did not rebut the Claim*

7. To the extent the Claim is based on article 85 (3) of the Rome Statute ("Statute"), analysis of the latter, if any, should follow its ordinary meaning and its context, and should be interpreted in light of the Statute's object and purpose,<sup>13</sup> and the relevant case law.<sup>14</sup> As a result, it should follow a two-step approach.<sup>15</sup> In this regard, the Registry reiterates that obtaining a finding on a "grave and manifest miscarriage of justice", is a prerequisite to advancing any compensation request.<sup>16</sup> Only then should submissions on the actual amount of compensation be considered. Absent such a finding, as explained in the Observations,<sup>17</sup> the states concerned should not be invited to submit observations pursuant to rule 103 of the Rules of Procedure and Evidence ("RPE"),<sup>18</sup> as such an invitation may, at this stage of the proceedings, be premature.

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<sup>11</sup> Mr Bemba's lawyers, Reply, paras. 27-31.

<sup>12</sup> Registry, Observations, paras. 17-26.

<sup>13</sup> Article 31, Vienna Convention on the Law of Treaties.

<sup>14</sup> *See for a similar approach:* Prosecution, "Public redacted version of 'Prosecution's response to Mr Bemba's claim for compensation and damages', 6 May 2019" ("Prosecution's Response"), 6 May 2019, ICC-01/05-01/08-3680-Red, paras. 5-8.

<sup>15</sup> *Ibid.*

<sup>16</sup> Registry, Observations, para. 6, last sentence.

<sup>17</sup> Registry, Observations, para. 38.

<sup>18</sup> Mr Bemba's lawyers, Reply, para. 46.

8. Bearing in mind Mr Bemba's submissions that the Claim may be analysed, in the alternative, under the Court's inherent powers, the Registry, out of an abundance of caution, has consistently contested the Claim and related calculations per the Observations and the relevant annexed tables, noting, *inter alia*, that "the Court cannot be held liable in relation to the claimed damages concerning assets that are unrelated to any Court's requests for cooperation".<sup>19</sup> Accordingly, it noted which assets are unrelated to any of the Court's requests for cooperation and the ensuing reasons for which no damages should be claimed, and in any event not awarded.<sup>20</sup>
9. For all other claimed assets that would have been and/or are still frozen or seized on behalf of the Court, the Registry maintains that: (1) should the Chamber determine that the Claim is admissible, it must be substantiated; and (2) if contested, as it is, it must be proven to the requisite standard. In this regard, the Registry reiterates that the appointment of an independent expert may be considered.<sup>21</sup>

*(iii) The Registry is not involved in a "blame-game" against the concerned states<sup>22</sup>*

10. The Registry notes that the Claim is unsubstantiated regardless of the forum before which Mr Bemba may present it, be it before the Court or at the national level before relevant jurisdictions of the states concerned. Therefore, there is no need for the Registry to blame any of the states concerned. When explaining the respective roles of all actors that have been involved in the imposition of protective measures, the Registry underlined the necessary dialogue between the states and the Court for the purpose of successful cooperation, which certainly occurred in this case as this was made clear in the Observations.<sup>23</sup> This

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<sup>19</sup> Registry, Observations, para. 41 and detailed explanations in [REDACTED].

<sup>20</sup> Registry, [REDACTED].

<sup>21</sup> Registry, Observations, para. 42(c).

<sup>22</sup> See Mr Bemba's lawyers, Reply, para. 46.

<sup>23</sup> Registry, Observations, para. 26.

constructive dialogue – as opposed to a blame-game - has been, and is still ongoing with the concerned states as interactions are now in the context of the requested repayment of Mr Bemba’s legal assistance debt to the Court currently amounting to 1,900,309.43 Euro (“Debt”).<sup>24</sup>

*(iv) The general allegation that protective measures imposed on the villa [REDACTED] were taken contrary to Portuguese law*

11. Despite the fact that the villa in question is not a claimed asset, Mr Bemba claims, based on untested evidence, that domestic protective measures were taken “without indication of compliance with national law”, that it reveals an “anomaly” under national law and that the “abandonment of the physical property was causing economic loss.”<sup>25</sup> This claim is based on a statement by a witness that this property was not “the subject of a legal freezing order under Portuguese law” and “a simple caution” to block any transfer of this property was placed on the land registry. Mr Bemba’s lawyers submit that the Registry should have acted to correct this “anomaly”.

12. This argument is incorrect. [REDACTED].<sup>26</sup> [REDACTED] there are no losses claimed on this property, which is apparently considered [REDACTED] by the valuer.<sup>27</sup> [REDACTED].<sup>28</sup>

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<sup>24</sup> Registry, Observations, para. 13. The total amount of the legal assistance debt in the Main Case is 1,886,736.87+13,572.56 euros. The 13,572.56 euros relate to the *pro rata* calculation of the fees for the period 01 to 17 July 2018, the date of the issuance of the Rule 21(5) Order by TC III in the Main Case.

<sup>25</sup> Mr Bemba’s lawyers, Reply, para. 29.

<sup>26</sup> [REDACTED]. *See also*, Mr Bemba’s own document CAR-D04-0007-0065 from the land registry which refers to an existing national procedure initiated by the Public Prosecution (i.e. “Ministerio Publico”) and that was followed in this case. The mention: “Providência cautelar não Especificada” means “protective orders” and shows that Portuguese authorities did apply the caution in question according to their appropriate legal procedure.

<sup>27</sup> Mr Bemba’s lawyers, Claim, Annex F, 8 March 2019, [REDACTED], para. 5.2.1, p. 24.

<sup>28</sup> [REDACTED].

(v) *The general allegation of lack of access of Mr Bemba's wife to her personal property in [REDACTED]<sup>29</sup> and the alleged "targeting of Mr Bemba's children"<sup>30</sup>*

13. Mr Bemba's lawyers submit, *inter alia*, that, as far as assets located [REDACTED] are concerned, Mr Bemba cannot open a bank account, access a bank or withdraw money from the bank at the cashpoint machine; nor can his wife. They submit further that his children's assets have also been frozen.<sup>31</sup>

14. Firstly, the Registry recalls that [REDACTED].<sup>32</sup>

15. [REDACTED].<sup>33</sup>

16. Secondly, according to the information available to the Registry to date, [REDACTED].<sup>34</sup>

17. Thirdly, with regard to Mr Bemba's children, the Claim does not mention any loss of their assets.

(vi) *The general allegation of "deliberate destruction of his property"<sup>35</sup> and missed opportunities to sell or dispose of his assets*

18. As to the allegation of deliberate destruction of Mr Bemba's property – without further specification – ,<sup>36</sup> it goes without saying that at no point during the Main Case has any Chamber requested the destruction of any of Mr Bemba's assets. Such a request would have been contrary to law as, *inter alia*, cooperation

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<sup>29</sup> Mr Bemba's lawyers, Reply, para. 31.

<sup>30</sup> Mr Bemba's lawyers, Reply, para. 20.

<sup>31</sup> Transcript of hearing on 9 May 2019, ICC-01/05-01/08-T-376-ENG CT, p. 6, lines 12 to 19. See also, Mr Bemba's lawyers, Reply, para. 20.

<sup>32</sup> [REDACTED].

<sup>33</sup> [REDACTED].

<sup>34</sup> [REDACTED].

<sup>35</sup> Mr Bemba's lawyers, Reply, para. 20.

<sup>36</sup> Mr Bemba's lawyers, Reply, paras. 29 (referring to aviation business in DRC and not property as such) and 31 (referring to "houses" in general).

requests are, in accordance with article 57(3)(e) of the Statute, made for the ultimate benefit of victims.

19. Further, Mr Bemba's lawyers submit that he could not dispose of his assets under protective measures despite offers received from third parties.<sup>37</sup> Mr Bemba does not specify any details of these alleged offers. If such offers had existed and been a genuine option to dispose of his assets, nothing prevented Mr Bemba to then seize the Court to ask for the lifting of the protective measures on the assets concerned. Again, Mr Bemba was aware of this option [REDACTED].<sup>38</sup> The only option Mr Bemba shared with the Court was the potential lease [REDACTED] of his plane located in Faro, and the Registry explains below what happened with this proposal.<sup>39</sup>

*(vii) The general allegation of lack of access to property in the Democratic Republic of the Congo ("DRC")*

20. Contrary to Mr Bemba's lawyers claim, made in the Reply<sup>40</sup> and at the Hearing,<sup>41</sup> that he cannot enter "his houses" in the DRC which are occupied by "squatters", [REDACTED];<sup>42</sup> [REDACTED]<sup>43</sup>. [REDACTED].

21. Further, the Registry does not see a direct link between the alleged occupation, if any, and the Court's actions. For example, one of Mr Bemba's witnesses stated that, in 2007, when he arrived in the Republic of Portugal ("Portugal"), Mr Bemba declared that "the situation in the DRC made it impossible for him to

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<sup>37</sup> Mr Bemba's lawyers, Reply, para. 31.

<sup>38</sup> Registry, Observations, fn 40 referring to [REDACTED].

<sup>39</sup> See paras. 25 and ss.

<sup>40</sup> Mr Bemba's lawyers, Reply, para. 31.

<sup>41</sup> Transcript of hearing on 9 May 2019, ICC-01/05-01/08-T-376-ENG, pp.5-6, lines 24-2; p.10, line 8.

<sup>42</sup> [REDACTED].

<sup>43</sup> [REDACTED].

return there in the foreseeable future”.<sup>44</sup> Furthermore, Mr Bemba’s lawyer, [REDACTED].<sup>45</sup>

22. Therefore, Mr Bemba’s claim has to be seen within the historical context of events occurring at the time. Unless otherwise proved, any loss Mr Bemba has suffered to most of his DRC assets may be due to the security situation in DRC, which existed a year before his arrest and continues to the present time. Further, Mr Bemba’s alleged lack of access to his DRC property (i.e. allegedly due to squatters) is unrelated to the Court’s actions pursuant to any freezing or seizing order concerning his assets.

### **B- Specific observations**

23. The Registry provides below additional information on specific assets and property which are part of Mr Bemba’s Claim in order to demonstrate why any loss which Mr Bemba may have suffered concerning his assets is independent of his arrest by the Court.

#### **1 – Claimed assets not frozen or seized on behalf of the Court**

*Aircraft Boeing 727-100 [REDACTED] located in Portugal*

24. First, and contrary to the Reply,<sup>46</sup> the Court was not in a position to assume the responsibility for maintaining a (1965-registered) Boeing 727-100 since the asset was never frozen or seized pursuant to the Court’s request. The seizure of the airplane was requested by the Court in 2008<sup>47</sup> but was not executed by the Portugues authorities because [REDACTED]. In these circumstances, the claim

<sup>44</sup> Mr Bemba’s lawyers, Annex G of the Claim, 8 March 2019, [REDACTED], para. 5.

<sup>45</sup> [REDACTED].

<sup>46</sup> Mr Bemba’s lawyers, Reply, [REDACTED].

<sup>47</sup> PTC II, “*Décision et demande en vue d’obtenir l’identification, la localisation, le gel et la saisie des biens et avoirs adressées à la République Portugaise*”, 27 May 2008, ICC-01/05-01/08-8.

that it deteriorated because he was not been given access to the documents and keys of the plane,<sup>48</sup> is incorrect.

25. Further, the Registry contests Mr Bemba's lawyers submission that the Registry did not do anything with regard to the alleged possibility of renting the aircraft [REDACTED].<sup>49</sup> To this end, below is a detailed explanation of what happened with regard to this proposal by Mr Bemba.

26. The said proposal was indeed discussed with the then defence team [REDACTED]. [REDACTED].<sup>50</sup> [REDACTED].<sup>51</sup>[REDACTED].<sup>52</sup> [REDACTED].<sup>53</sup>

27. It is in this context that the Court, via the Registry, sent after the hearing the letter attached in Annex B to the Reply, with a list of questions from the Registry to Mr Bemba. [REDACTED], as earlier submitted in the Observations.<sup>54</sup> [REDACTED].

28. In December 2010, the then defence team reiterated [REDACTED].<sup>55</sup> The Registry assisted the defence in obtaining documents from the OTP documents [REDACTED].<sup>56</sup> The Registry also offered assistance in accessing the keys [REDACTED].<sup>57</sup> The Registry is not aware of any further actions taken by Mr Bemba regarding the lease of the aircraft. [REDACTED] did not contact the

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<sup>48</sup> See Registry, Observations, para. 10, explaining that the Registry discharged its obligations vis-à-vis the then defence team's request to access the plane keys [REDACTED] and the plane documents, only a copy of which was with the Office of the Prosecutor and collected by the defence.

<sup>49</sup> Mr Bemba's lawyers, Reply, para. 38.

<sup>50</sup> [REDACTED].

<sup>51</sup> [REDACTED].

<sup>52</sup> [REDACTED].

<sup>53</sup> [REDACTED].

<sup>54</sup> [REDACTED].

<sup>55</sup> [REDACTED].

<sup>56</sup> [REDACTED].

<sup>57</sup> Registry, Observations, para. 10.

Registry through Mr Bemba's lawyers. It follows that no concrete proposal was thus ever made by Mr Bemba to lease his aircraft.

*Six aircraft located in the DRC*

29. As far as the Registry is aware, [REDACTED].<sup>58</sup> The valuation report annexed to the Claim<sup>59</sup> does not provide any information about the exact state of the plane at the time of Mr Bemba's arrest. Furthermore, (i) the Court never requested the DRC to destroy the airplanes belonging to Mr Bemba; (ii) nor did it request MONUSCO's assistance in destroying them. Therefore, as earlier submitted,<sup>60</sup> the destruction of these planes had nothing to do with Mr Bemba's arrest or with any action of the Court further to his arrest.

*[REDACTED] vehicles located in the DRC*

30. As far as the Registry is aware, [REDACTED].<sup>61</sup>

31. The Registry notes that one of Mr Bemba's own witnesses<sup>62</sup> specified that he was actually able to recover some of these vehicles. The deterioration and destruction of the cars, if any, took place a year before his arrest and occurred in the context of the political instability in the DRC. As a result, the Court cannot be held liable for any losses claimed following the destruction of these cars. The Registry further notes that in spite of the witness's declaration, Mr Bemba now claims the full amount of the value of the cars on the basis that they have all been destroyed following his arrest.<sup>63</sup>

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<sup>58</sup> [REDACTED].

<sup>59</sup> Mr Bemba's lawyers, Claim, Annex F, 8 March 2019, [REDCATED]. The valuation appears to be based on the assumption that the airplanes were in good state at the time of arrest. It refers only to stock photos of airplanes with no visible immatriculation plates.

<sup>60</sup> Registry, Observations, paras. 11 and 41 and [REDACTED].

<sup>61</sup> [REDACTED].

<sup>62</sup> Mr Bemba's lawyers, Annex I to the Claim, 8 March 2019, [REDACTED], para. 35.

<sup>63</sup> Mr Bemba's lawyers, Annex F to the Claim, 8 March 2019, [REDACTED], p. 32.

*Boat [REDACTED]*

32. The Registry notes that Mr Bemba's own witness states the barge was looted in March 2007, a year before Mr Bemba's arrest and consequently any loss Mr Bemba suffered by that was not related to his arrest.<sup>64</sup> In any event, the boat has never been frozen or seized by any national authority on behalf of the Court, as its exact location could never be identified. As a result, the Court never prevented any attempt to recover the barge after Mr Bemba's arrest.

*Parcel [REDACTED]*

33. As previously submitted,<sup>65</sup> the Portuguese authorities never seized this property and no loss allegedly suffered can be linked to the Court's actions. Nonetheless, the Court faced an issue of ownership of this property [REDACTED] in light of divergent information on the matter. [REDACTED]<sup>66</sup> [REDACTED].<sup>67</sup> However, the valuer submits that Mr Bemba "acquired" this property in March 2008 for investment purpose.<sup>68</sup>

## **2 – Claimed assets that were frozen or seized on behalf of the Court and related information on their maintenance**

*[REDACTED] vehicles located in Portugal: [REDACTED]*

34. Mr Bemba is aware that the vehicles [REDCATED] as he submits that when visiting Faro he allegedly saw they were "substantially destroyed"<sup>69</sup>, but does

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<sup>64</sup> Mr Bemba's lawyers, Annex I to the Claim, 8 March 2019, [REDACTED], para. 34.

<sup>65</sup> [REDACTED].

<sup>66</sup> [REDACTED].

<sup>67</sup> [REDACTED].

<sup>68</sup> Mr Bemba's lawyers, Claim, Annex F, para. 5.2.11.

<sup>69</sup> Registry, Observations, para. 31.

not produce any evidence of such destruction. Both vehicles remain validly seized by the Portuguese authorities.<sup>70</sup> [REDACTED].<sup>71</sup>

*Parcel [REDACTED], DRC*

35. [REDACTED],<sup>72</sup> the valuation of this plot is [REDACTED] and the then defence team was informed that [REDACTED].<sup>73</sup> Since then, the Registry has attempted to confirm the current status of the legal dispute. [REDACTED]. In any event, at the end of 2018, [REDACTED].<sup>74</sup>

36. Further, assuming it to be the same property, based Mr Bemba's own witness's declaration,<sup>75</sup> the building on this property occupied by Mr Bemba's companies was looted in 2007. Therefore, any loss suffered by Mr Bemba in relation to this property would not be due to his arrest or to any other action of the Court.

*Parcel [REDACTED] DRC*

37. [REDACTED],<sup>76</sup> the valuation of this plot is [REDACTED]. The Registry reiterates that the Court has not been officially informed that protective measures have been imposed against this property.

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<sup>70</sup> PTC II, "Décision et demande en vue d'obtenir l'identification, la localisation, le gel et la saisie des biens et avoirs adressées à la République Portugaise", 27 May 2008, ICC-01/05-01/08-8.

<sup>71</sup> [REDACTED].

<sup>72</sup> [REDACTED].

<sup>73</sup> *Ibid*, p.3.

<sup>74</sup> See para. 20 above.

<sup>75</sup> Mr Bemba's lawyers, Annex I to the Claim, 8 March 2019, [REDACTED], para. 15.

<sup>76</sup> [REDACTED].

*Parcel including villa and [REDACTED] houses [REDACTED], DRC*

38. Mr Bemba's valuer does not give a specific location for this property. From the photos of it presented in Appendix 2 to the valuation report, it appears to consist of [REDACTED].<sup>77</sup> Assuming this is the one, one of Mr Bemba's witnesses state that the occupations were for "military" reasons and that the property was occupied twice: once before and once immediately after Mr Bemba's arrest. However, this witness provides no evidence that the occupation which followed the arrest was due to the fact of the arrest, rather than, for example, to the general political unrest at the time. In any event, as depicted in the photos, the villa and the land on which it stands are plainly not occupied. There is no evidence of any continuing loss at all.

39. Therefore, there is no way: (i) to link the damages caused to these assets to the Court's actions; and (ii) to assess the losses on this property. Asserting that calculation would be done at a "next phase"<sup>78</sup> puts the Court in a situation where there is no calculation to contest and, in any event, no losses could be calculated because Mr Bemba gives no evidence of the state of the houses *before* his arrest.

*Villa [REDACTED], Portugal*

40. [REDACTED]. [REDACTED]. To date, Mr Bemba has made divergent declarations as to his ownership: [REDACTED].<sup>79</sup> On the other hand, Mr Bemba includes this property in the Claim, acknowledging he is the owner of the villa.<sup>80</sup>

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<sup>77</sup> Mr Bemba's lawyers, Annex I to the Claim, 8 March 2019, [REDACTED], paras. 19 and ss. [REDACTED].

<sup>78</sup> Mr Bemba's lawyers, Claim, Annex F, para. 5.2.9.

<sup>79</sup> [REDACTED].

<sup>80</sup> Mr Bemba's lawyers, Claim, p.44 and its Annex F, [REDACTED], 8 March 2019, pp.24, 28-29.

*Bank accounts*

41. The Registry has no further observations in addition to those already provided in relation to the bank account [REDACTED].<sup>81</sup> In the valuation report, for reasons independent of any Court actions, no losses in relation to any other bank accounts are calculated.<sup>82</sup>

**IV - Conclusion**

42. In line with its written and oral submissions, the Registry reiterates that most of the assets claimed had either deteriorated before Mr Bemba's arrest or were not frozen or seized on behalf of the Court, or both. As to assets that were or are still frozen and/or seized on behalf of the Court, the Registry has provided information that these assets have been properly managed in accordance with the respective national laws concerned. Finally, the Registry opposes Mr Bemba's lawyers' request to invite concerned states to submit, at this stage, observations pursuant to rule 103 of the RPE.



p.p. Marc Dubuisson, Director, Division of Judicial Services

on behalf of Peter Lewis, Registrar

Dated this 25 July 2019

At The Hague, the Netherlands

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<sup>81</sup> Registry, Observations, 6 May 2019, [REDACTED], para. 14 and [REDACTED].

<sup>82</sup> Mr Bemba's lawyers, Claim, Annex F, para. 5.3. The other bank accounts (i) had insignificant balances or (ii) have been used for family expenses and/or legal costs, or (iii) insufficient information about the bank account was available.