

Situation in the Central African Republic

ICC-PIDS-CIS-CAR-01-020/18_Eng

Updated: 8 June 2018

The Prosecutor v. Jean-Pierre Bemba Gombo

ICC-01/05-01/08

Jean-Pierre Bemba Gombo

Acquitted in appeals on 8 June 2018 of two counts of crimes against humanity (murder and rape) and three counts of war crimes (murder, rape, and pillaging). In ICC custody on account of conviction in another ICC case for offences against the administration of justice.



Date of birth: 4 November 1962

Place of birth: Bokada, Equateur province, of the Democratic Republic of the Congo

Nationality: Congolese

Current situation: Detained at the Detention Centre in The Hague

Warrant of arrest: 10 June 2008 (replacing the warrant issued on 23 May 2008)

Transfer to The Hague: 3 July 2008

Confirmation of charges hearing: 12 - 15 January 2009

Decision on the confirmation of charges: 15 June 2009

Opening of the trial: 22 November 2010

Closing oral statements: 12-13 November 2014

Verdict: 21 March 2016

Sentence: 21 June 2016

Appeals Judgment: 8 June 2018

On 8 June 2018, the Appeals Chamber of the International Criminal Court ("ICC") reversed Trial Chamber III's [decision](#) of 21 March 2016 and decided, by majority, to acquit Jean-Pierre Bemba Gombo from the charges of war crimes and crimes against humanity.

Alleged crimes

On 21 March 2016, Trial Chamber III had concluded that, as a person effectively acting as a military commander and with effective control over the *Mouvement de libération du Congo* ("MLC") troops, Mr Bemba was criminally responsible pursuant to article 28(a) of the ICC Rome Statute for the crimes against humanity of murder and rape and the war crimes of murder, rape and pillaging committed by the MLC troops in the Central African Republic ("CAR") from on or about 26 October 2002 to 15 March 2003.

On 8 June 2018, the Appeals Chamber found errors that affected the decision of Trial Chamber III convicting Mr Bemba. The Chamber considered it was appropriate to reverse his conviction and enter an acquittal.

Key judicial developments

REFERRAL AND INVESTIGATIONS

The Central African Republic ratified the Rome Statute on 3 October 2001.

On 21 December 2004, the Government of the Central African Republic referred to the Court crimes committed in the territory of the CAR after 1 July 2002.

In June 2005, the Government of the Central African Republic provided the Prosecutor with documents concerning the crimes committed in its territory in 2002 - 2003, and the records of judicial proceedings held in Bangui in relation to these crimes.

The Prosecutor undertook a detailed analysis of the information received from the Government of the Central African Republic, and also requested and obtained additional information from various sources. After reviewing the information received, the Prosecutor found that the conditions required by the Rome Statute for launching an investigation were satisfied.

On 10 May 2007, the Prosecutor informed the Government of the Central African Republic, Pre-Trial Chamber III and the President of the Court of his decision to open an investigation.

On 22 May 2007, the launching of an investigation concerning the crimes alleged to have been committed in the Central African Republic was made public.

WARRANT OF ARREST AND SURRENDER TO THE COURT

On 9 May 2008, the Prosecution submitted to Pre-Trial Chamber III an application under article 58 of the Rome Statute for the issuance of a warrant for the arrest of Jean-Pierre Bemba Gombo.

On 23 May 2008, Pre-Trial Chamber III issued a warrant of arrest under seal and a request for provisional arrest addressed to the Kingdom of Belgium.

On 24 May, Mr Bemba was arrested by the Belgian authorities, and the Pre-Trial Chamber decided to unseal the warrant of arrest.

On 10 June 2008, Pre-Trial Chamber III rendered a decision on the Prosecutor's application of 9 May 2008. It also issued a new warrant of arrest replacing the warrant issued on 23 May 2008, adding to the counts against Mr Bemba the charge of murder, constituting both a war crime and a crime against humanity. At the same time, the Chamber addressed to the Kingdom of Belgium a request for Mr Bemba's arrest and surrender to the ICC.

On 3 July 2008, Mr Bemba was transferred and surrendered to the ICC.

On 4 July 2008, Mr Bemba appeared before Pre-Trial Chamber III for the first time.

INTERIM RELEASE

On 14 August 2009, Pre-Trial Chamber II issued a decision granting interim release to Jean-Pierre Bemba. The implementation of this decision is deferred pending a determination in which State Jean-Pierre Bemba Gombo will be released and which set of conditions shall be imposed.

The same day, the Prosecutor appealed this decision. On 2 December 2009, the Appeals Chamber reversed the decision of Pre-Trial Chamber II. The accused remains in the custody of the Court.

FREEZING OF ASSETS AND LEGAL ASSISTANCE

On 27 May 2008, Pre-Trial Chamber III addressed to the Portuguese Republic a decision and request for the identification, tracing, freezing and seizure of the property and assets of Jean-Pierre Bemba.

On 25 August 2008, the Registrar provisionally decided that Jean-Pierre Bemba is not indigent and that, accordingly, he is ineligible for legal assistance, in full or in part, paid by the Court.

On 10 October and 14 November 2008, the Pre-Trial Chamber decided to reject the Defence application for the lifting of the seizure of Mr Bemba's property and assets. It also ordered the Registrar to monitor, in consultation with the Portuguese authorities, the distribution of a monthly sum, drawn on a Portuguese bank account owned by Mr Bemba, to ensure that he meets his financial obligations to his family and his counsel.

On 20 October 2009, Trial Chamber III ordered the Registry to advance a monthly sum (with retroactive effect starting March 2009) to Mr Bemba to cover his financial obligations to his counsel, until there is a material change in his financial circumstances. Mr Bemba will have to repay the Court out of his own funds.

CONFIRMATION OF CHARGES

The confirmation hearing took place from 12 to 15 January 2009.

On 3 March 2009, the Pre-Trial Chamber decided to adjourn the confirmation hearing in the case and requested the Prosecutor to consider submitting to it an amended document containing the charges, taking into account that the legal characterisation of the facts of the case may correspond to a mode of liability other than the individual responsibility relied on by the Prosecutor, namely criminal responsibility as a military commander or superior within the meaning of article 28 of the Rome Statute.

Following an in-depth review of the amended document containing the charges submitted by the Prosecutor, and of the observations of the Defence and the legal representatives of the victims, Pre-Trial Chamber II considered, on 15 June 2009, that there was sufficient evidence to establish substantial grounds to believe that Mr Bemba is criminally responsible for having effectively acted as a military commander within the meaning of article 28(a) of the Statute, for war crimes (murder, rape and pillaging) and crimes against humanity (murder and rape). Following the confirmation of the charges on 18 September 2009, the Presidency constituted Trial Chamber III and referred the case to it for the conduct of the trial.

TRIAL

On 22 November 2010, the trial commenced before Trial Chamber III with the parties and participants making their opening statements. The presentation of evidence commenced on 23 November 2010.

Throughout the proceedings, the Chamber issued 1219 written decisions, orders, notifications, and cooperation requests as well as 277 oral decisions and orders. The Chamber admitted a total of 733 items of evidence, including 5724 pages of documents. The Chamber sat for 330 working days and heard 77 witnesses, including 40 witnesses called by the Prosecution, 34 called by the Defence, 2 witnesses called by the Legal Representative of Victims and one witness called by the Chamber. The Chamber also permitted three victims to directly present their views and concerns.

The Prosecution, the Defence, and the Legal Representative of Victims made their closing oral statements on 12 and 13 November 2014.

PARTICIPATION OF VICTIMS

Trial Chamber III granted 5229 persons the status of victims authorised to participate in the proceedings.

VERDICT

On 21 March 2016, Trial Chamber III declared, unanimously, Jean-Pierre Bemba Gombo guilty beyond any reasonable doubt of two counts of crimes against humanity (murder and rape) and three counts of war crimes (murder, rape, and pillaging).

SENTENCE

On 21 June 2016, Trial Chamber III sentenced Mr Bemba to 18 years of imprisonment.

APPEALS

Both the judgement and the sentence were subject to appeals. The Appeals Chamber held hearings in the case from 9 to 12 January 2018 and on 16 January 2018 to hear the submissions and observations of the parties and participants on these ongoing appeals.

On 8 June 2018, the Appeals Chamber found errors that have affected the decision of Trial Chamber III convicting Mr Bemba.

The Appeals Chamber concluded, by majority, that Trial Chamber III had erroneously convicted Mr Bemba for specific criminal acts that were outside the scope of the case and that the proceedings in relation to these acts must be discontinued. The Appeals Chamber also found that Mr Bemba cannot be held criminally liable under article 28 of the ICC Rome Statute for the remaining crimes committed by MLC troops during the Central African Republic operation and that he must be acquitted thereof because the Trial Chamber had made serious errors in its finding that Mr Bemba had failed to take all necessary and reasonable measures to prevent or repress the crimes of the MLC troops.

Therefore, the Appeals Chamber, by majority, considered it was appropriate to reverse his conviction and enter an acquittal.

The Appeals Chamber also dismissed as moot the appeals that Mr Bemba and the Prosecutor had brought against the sentence Trial Chamber III had imposed.

Following this Judgment, the Chamber indicated that there was no reason to continue Mr Bemba's detention on the basis of the case related to alleged crimes in the CAR. However it is for Trial Chamber VII to decide whether Mr Bemba's continued detention is warranted in relation to his conviction for offences against the administration of justice before the ICC.

Composition of the Appeals Chamber

Judge Christine Van den Wyngaert, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Howard Morrison
Judge Chile Eboe-Osuji
Judge Piotr Hofmański

Composition of Trial Chamber III

Judge Geoffrey Henderson, Presiding Judge
Judge Chang-ho Chung
Judge Kimberly Prost

Representation of the Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor
Helen Brady, Senior Trial Lawyer

Defence Counsel for Jean-Pierre Bemba Gombo

Peter Haynes, Lead Counsel
Kate Gibson, Associate Counsel
Kai Ambos, Associate Counsel

Legal Representative of Victims

Marie Edith Douzima-Lawson