

Situation in the Central African Republic

ICC-PIDS-CIS-CAR-01-017/18\_Eng

Updated: 5 January 2018

## ***The Prosecutor v. Jean-Pierre Bemba Gombo***

ICC-01/05-01/08

### Jean-Pierre Bemba Gombo

Found guilty, on 21 March 2016, of two counts of crimes against humanity (murder and rape) and three counts of war crimes (murder, rape, and pillaging). Sentenced, on 21 June 2016, to 18 years of imprisonment. Subject to appeals. In ICC custody.



**Date of birth:** 4 November 1962

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

**Nationality:** Congolese

**Ethnicity:** Ngwaka

**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

Jean-Pierre Bemba Gombo was convicted of committing, as military commander:

- **Two counts of crimes against humanity:** murder (article 7(1)(a) of the Statute ) and rape (article 7(1)(g) of the Statute );
- **Three counts of war crime:** murder (article 8(2)(c)(i) of the Statute); rape (article 8(2)(e)(vi) of the Statute); and pillaging (article 8(2)(e)(v) of the Statute).

The **verdict** was rendered unanimously by ICC Trial Chamber III, composed of Presiding Judge Sylvia Steiner (Brazil), Judge Joyce Aluoch (Kenya) and Judge Kuniko Ozaki (Japan). The sentencing of Mr Bemba, and issues related to the procedure for victims' reparations, will be addressed in due course.

## Alleged crimes (non-exhaustive list)

Trial Chamber III concluded that:

- Jean-Pierre Bemba Gombo, a Congolese citizen, was the MLC President and the Commander-in-Chief of the *Armée de Libération du Congo* ("ALC"), the organization's figurehead, and source of its funding, goals, and aims. An MLC contingent of three battalions totalling around 1,500 men was deployed by Mr Bemba to CAR in 2002 at the request and in support of former CAR President Ange-Félix Patassé to counter forces loyal to former Chief of Staff of the *Forces armées centrafricaines* ("FACA"), General François Bozizé.
- The conflict in the Central African Republic from on or about 26 October 2002 to 15 March 2003 was an armed conflict between the Central African governmental authorities, supported by other forces, including the MLC, on the one hand, and the organized armed group of General Bozizé's rebels, composed of various former FACA soldiers and some Chadian nationals, on the other.
- The MLC soldiers directed a widespread attack against the civilian population in the Central African Republic throughout the period of the charges. MLC soldiers committed many acts of pillaging, rape, and murder against civilians, over a large geographical area, including in and around Bangui, PK12, PK22, Bozoum, Damara, Sibut, Bossangoa, Bossembélé, Dékoa, Kaga Bandoro, Bossemptele, Boali, Yaloke, and Mongoumba. The Chamber found that acts of murder, rape, and pillaging were committed consistent with evidence of a *modus operandi* apparent from the earliest days and employed throughout the 2002-2003 CAR Operation: after General

Bozizé's rebels had departed an area, MLC soldiers searched "house-to-house" for remaining rebels, raping civilians, pillaging their belongings, and, on some occasions, killing those who resisted.

- Jean-Pierre Bemba Gombo was a person effectively acting as a military commander (Article 28(a) of the ICC Rome Statute), who knew that the MLC forces under his effective authority and control were committing or about to commit the crimes charged. Additionally, he failed to take all necessary and reasonable measures to prevent or repress the commission of crimes by his subordinates during the 2002-2003 CAR Operation, or to submit the matter to the competent authorities.
- The crimes against humanity of murder and rape, and the war crimes of murder, rape, and pillaging committed by the MLC forces in the course of the 2002-2003 CAR Operation were a result of Jean-Pierre Bemba Gombo's failure to exercise control properly.

## 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 of *The Prosecutor v. Jean-Pierre Bemba Gombo* 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, the Pre-Trial Chamber II considered, on 15 June 2009, that there is sufficient evidence to establish substantial grounds to believe that Jean-Pierre Bemba Gombo 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 of *The Prosecutor v. Jean-Pierre Bemba Gombo* to it for the conduct of the subsequent phase of the proceedings: the trial, which started on 22 November 2010.

## 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 Jean-Pierre Bemba Gombo to 18 years of imprisonment. The entire time he has spent in detention in accordance with an order of this Court, since 24 May 2008, will be deducted from his sentence. Issues related to the procedure for victims' reparations will be addressed in due course.

## APPEALS

Both the judgement and the sentence are currently subject to appeals.

The Appeals Chamber has scheduled 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.

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**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

**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