

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/05  
Date: 23 May 2008

**PRE-TRIAL CHAMBER III**

**Before:** Judge Fatoumata Dembele Diarra (Presiding Judge)  
Judge Hans-Peter Kaul  
Judge Ekaterina Trendafilova

**Registrar:** Ms Silvana Arbia

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC**

**Under Seal**

**Ex Parte, Prosecutor Only**

**Prosecutor's Application for Request for Provisional Arrest under Article 92**

**Source:** The 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  
Mr Luis Moreno Ocampo, Prosecutor  
Ms Petra Kneuer, Senior Trial Lawyer**

**Counsel for the Defence**

**Legal Representatives of Victims**

**Legal Representatives of 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**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

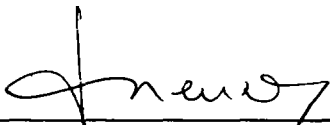
1. On 2 May 2008 the Office of the Prosecutor (hereinafter referred to as “OTP”) filed a submission in which it anticipated that it would file as early as possible its application in the situation in the Central African Republic (hereinafter referred to as “CAR”) for a warrant of arrest under Article 58 of the Rome Statute. The OTP also informed the Pre-Trial Chamber that it would respectfully request that the application be considered on an expedited basis.
2. On 8 May 2008 the Pre-Trial Chamber rendered its decision “not to deal with the request for expedited consideration of the upcoming application as being without merits at this stage of the proceedings”.
3. On 9 May 2008 the OTP filed its application in the situation in the CAR for a warrant of arrest of Jean-Pierre BEMBA (hereinafter referred to as “BEMBA”) under Article 58 of the Rome Statute.
4. The Prosecution wishes to notify the Pre-Trial Chamber of the following new information. At the time of the submission of the Prosecution’s application for the warrant of arrest, the information available to the OTP indicated that BEMBA was on the territory of Portugal. According to information received after the submission of the arrest warrant application, BEMBA appears to have left Portugal for Belgium, where he resided in a house outside Brussels.
5. Additional received information indicates his intention to leave Belgium on 25 May 2008. Some information may indicate that he would be returning to the Democratic Republic of Congo (hereinafter referred to as

“DRC”). Other information points to his intention to travel in different countries. Basically his final destination is unknown.

6. In its application, the OTP stated that there is a concrete possibility that the person against whom an arrest warrant would be sought could flee and attempt by any means to avoid his apprehension. The OTP substantiated its statement by stressing that this person, in light of his position of commander of the armed group allegedly responsible for the crimes committed in the CAR during the period relevant to the upcoming application, is most probably aware that he might be the target of an investigation by the Prosecutor of the International Criminal Court. The OTP also pointed to the past and current political position of this person, his contacts in the international forum, his financial means and network
7. The Prosecution submits that BEMBA’s movements in the temporal context of the Prosecution’s application for the arrest warrant raises serious concerns regarding his possible awareness about the ongoing investigation and therefore intent potentially to evade apprehension. It is therefore the Prosecution’s submission that the possibility that BEMBA is about to flee to an unknown destination to avoid apprehension should be seriously considered.
8. Some public reports document that there are political discussions which may result in the possible return of BEMBA in the DRC as a selected member of the Senate before the end of the ongoing parliamentary session scheduled for mid-June 2008. But as indicated above, there is no information as of the moment of this submission on his final destination.

9. The Prosecution further respectfully submits that based upon the circumstances outlined above, the possibility to apprehend the individual could disappear, while apprehension in Belgium would appear feasible.
  
10. The Prosecution respectfully submits that it could further elaborate and provide additional information during an *ex parte* hearing in closed session.
  
11. In light of the circumstances related to the Pre-Trial Chamber through the present submission, the Prosecution respectfully requests that the application be considered on an expedited basis.
  
12. The Prosecution also submits that the above mentioned circumstances constitute an urgent case for the purpose of Article 92 of the Rome Statute. Accordingly the Court, should a warrant of arrest of BEMBA be issued, may request the provisional arrest of BEMBA, pending presentation of the request for surrender and the documents supporting the request pursuant to Article 91 of Rome Statute.
  
13. Based on the foregoing, the Prosecution respectfully requests that the Pre-Trial Chamber:
  - (i) Consider setting an *ex parte* hearing in closed session for the 23 May 2008, 10:30am to allow the Prosecution to further elaborate on its request;
  - (ii) Consider the Prosecution's application for warrant of arrest of BEMBA pursuant to Article 58 of the Rome Statute, filed on 9 May 2008, on an expedited basis;

14. This document is filed under seal on the basis that the filed application for warrant of arrest was also filed under seal due to the timing and highly sensitive nature of the request.



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Petra Kneuer, Senior Trial Lawyer  
On behalf of  
Luis Moreno Ocampo, Prosecutor

Dated this 23<sup>rd</sup> day of May 2008

At The Hague, The Netherlands