



Original: English

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

Date: 14 August 2009

THE APPEALS CHAMBER

Before: Judge Sang-Hyun Song, Presiding Judge
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka
Judge Daniel David Ntanda Nsereko

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

Public Document

Prosecution's Appeal against "Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa"

Source: Office of the Prosecutor

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

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Competent authorities of:

The Kingdom of Belgium,

The Republic of France,

The Federal Republic of Germany,

The Italian Republic,

The Kingdom of the Netherlands,

The Republic of Portugal,

The Republic of South Africa

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Introduction

On 14 August, 2009, the Single Judge of Pre-Trial Chamber II (“the Single Judge”) decided that Jean-Pierre Bemba Gombo (“the Accused”) be granted conditional release.¹ The Prosecution hereby files an appeal against the Decision on Release, pursuant to Article 82(1)(b) of the Rome Statute (“the Statute”), Rule 154(1) of the Rules of Procedure and Evidence (“the Rules”) and Regulation 64(1) of the Regulations of the Court (“the Regulations”),² and applies for suspensive effect of that appeal, pursuant to Article 82(3) of the Statute and Rule 156(5) of the Rules.

Background

1. On 15 June 2009, Pre-Trial Chamber II confirmed charges against the Accused.³

2. On 29 June 2009, the Single Judge held a hearing “for the sake of considering any issue related to the pre-trial detention of Mr. Bemba”.⁴ At the hearing the Defence requested the interim release of the Accused to the Kingdom of Belgium, the Republic of France and the Republic of Portugal.⁵ On 2 July 2009, the Defence requested to add the Federal Republic of Germany, the Italian Republic and the Republic of South Africa to the list of States to which the Accused seeks to be released.⁶

¹ The Single Judge deferred implementation of the decision, however, pending the selection of a State to which the Accused shall be released and the determination of conditions for his release. It also invited the parties and participants to be present at public hearings between 7 September and 14 September, at which specified States are invited to provide observations and views regarding the possible release of the Accused into their territories.

² Regulation 64(1) provides that “An appeal filed under rule 154 shall state: (a) The name and number of the case or situation; (b) The title and date of the decision being appealed; (c) The specific provision of the Statute pursuant to which the appeal is filed; (d) The relief sought.”

³ ICC-01/05-01/08-424.

⁴ ICC-01/05-01/08-T-13-ENG WT. See also ICC-01/05-01/08-425, Decision to Hold a Hearing pursuant to Rule 118(3) of the Rules of Procedure and Evidence.

⁵ ICC-01/05-01/08-T-13-ENG WT, p. 22, lines 2-6 and p. 31, lines 22-23.

⁶ ICC-01/05-01/08-433.

3. The Prosecution,⁷ the Office of Public Counsel of Victims⁸ and the concerned States, as well as the Kingdom of the Netherlands, as the host State, filed their observations.⁹
4. On 14 August 2009, the Single Judge issued the “Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa”.¹⁰ In this decision the Single Judge ruled, among other things, that a) the Accused be granted conditional release, until decided otherwise; b) the implementation of the decision be deferred pending a decision in which State Jean-Pierre Bemba Gombo will be released and which set of conditions shall be imposed on him; and c) during hearings scheduled to take place between 7 and 14 September 2007, the competent authorities of the States to which the Accused seeks to be released are invited to provide further views and observations.

Appeal pursuant to Article 82(1)(b) of the Statute

5. The Prosecution hereby files its appeal against the “Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa” (ICC-01/05-01/08-475), of 14 August 2009, in *The Prosecutor v Jean-Pierre Bemba Gombo*, pursuant to

⁷ ICC-01/05-01/08-431.

⁸ ICC-01/05-01/08-457.

⁹ ICC-01/05-01/08-448-Conf-Anx1, and ICC-01/05-01/08-465-Conf-Anx2 (Observations of the Republic of Portugal); (Observations of the Republic of Portugal); ICC-01/05-01/08-448-Conf-Anx2 (Observations of the Republic of France); ICC-01/05-01/08-448-Conf-Anx3 (Observations of the Kingdom of the Netherlands); ICC-01/05-01/08-461-Conf-Anx2 (Observations of the Kingdom of Belgium);); ICC-01/05-01/08-472-Conf-Anx2 (Observations of the Federal Republic of Germany); ICC-01/05-01/08-472-Conf-Anx1 (Observations of the Italian Republic); ICC-01/05-01/08-473-Conf-Exp-Anx2 (Observations of the Republic of South Africa).

¹⁰ ICC-01/05-01/08-475.

Article 82(1)(b) of the Statute, Rule 154(1) of the Rules and Regulation 64(1) of the Regulations.¹¹

6. The Prosecution will request that the Appeals Chamber overturn the decision to grant the Accused conditional release, and order his continued detention.

Relief Sought

7. Accordingly, the Prosecution requests that the Appeals Chamber accept this appeal against the “Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa” pursuant to Article 82(1)(b) of the Statute, and Rule 154(1) of the Rules and Regulation 64(1) of the Regulations.
8. In a separate motion, the Prosecution will also request that the Appeals Chamber grant suspensive effect to such an appeal, pursuant to Article 82(3) of the Statute and Rule 156(5) of the Rules.



**Luis Moreno-Ocampo,
Prosecutor**

Dated this 14th day of August 2009
At The Hague, The Netherlands

¹¹ Regulation 64(1) provides that “An appeal filed under rule 154 shall state: (a) The name and number of the case or situation; (b) The title and date of the decision being appealed; (c) The specific provision of the Statute pursuant to which the appeal is filed; (d) The relief sought.”