



Original: **French**

No.: ICC-01/05-01/08  
Date: **29 September 2009**

**THE APPEALS CHAMBER**

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

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

**Public Document  
Urgent  
Supplementary Note in support of the Application for Leave to Intervene as  
*Amicus Curiae* in the Case of the Prosecutor v. Jean-Pierre Bemba Gombo,  
Pursuant to Rule 103 of the Rules of Procedure and Evidence,  
of 16 September 2009**

**Source:** Aprodec asbl

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

**The Office of the Prosecutor**

Ms Fatou Bensouda, Deputy Prosecutor  
Ms Petra Kneuer, Senior Trial Lawyer

**Counsel for the Defence**

Mr Nkwebe Liriss  
Mr Aimé Kilolo

**Legal Representatives of the Victims**

Ms Marie Edith Douzima-Lawson

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

Competent authorities of:  
The Kingdom of Belgium,  
The French Republic,  
The Federal Republic of Germany,  
The Italian Republic,  
The Kingdom of the Netherlands,  
The Portuguese Republic,  
The Republic of South Africa.

**Amicus Curiae**

Amnesty International  
Women's Initiatives for Gender Justice

**REGISTRY**

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**Registrar**

Ms Silvana Arabia

**Deputy Registrar**

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Procedural History

1. On 14 September 2009, the *Association pour la Promotion de la Démocratie et du Développement de la République Démocratique du Congo* (Aprodec asbl) filed a “*Demande d’intervenir comme Amicus Curiae dans l’Affaire le Procureur contre Jean-Pierre Bemba, en vertu de la Règle 103 du Règlement de Procédure et de Preuve de la Cour*”, including a request for leave to submit written observations concerning: 1. The criteria for an objective evaluation of the changed circumstances with respect to: a) the risk of a suspect’s absconding; and b) the threat to victims and witnesses involved in a decision for conditional release, to be read in conjunction with articles 58(1), 60(2) and (3) of the Rome Statute; 2. The Procedure for conditional release in terms of determining a receiving country and appropriate conditions in light of articles 66, 67, 86, 87 and 88 of the Rome Statute.<sup>1</sup>

2. On 16 September 2009, Aprodec asbl filed a Corrigendum to its Application of 14 September 2009 relating to the “*Demande d’intervenir comme Amicus Curiae dans l’Affaire le Procureur contre Jean-Pierre Bemba, en vertu de la Règle 103 du Règlement de Procédure et de Preuve de la Cour*”.<sup>2</sup> At the Court’s request, a Word version was provided on 16 September 2009 in order to speed up the process of translating this document into English.

## II. Subject-matter

3. Aprodec asbl recalls that, following a well-documented objective analysis, it concluded that the policy underlying the prosecution of Mr Jean-Pierre Bemba, a Congolese national, is partial and discriminatory (Discriminatory Intent and Discriminatory Effect),<sup>3</sup> because of his Congolese origins. In this connection, all of the

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<sup>1</sup> ICC-01/05-01/08-522 0A2 “*Demande d’intervenir comme Amicus Curiae dans l’Affaire le Procureur contre Jean-Pierre Bemba, en vertu de la Règle 103 du Règlement de Procédure et de Preuve de la Cour*”, 14 September 2009.

<sup>2</sup> ICC-01/05-01/08-522-Corr 0A2-tENG “Application for Leave to Intervene as *Amicus Curiae* in the Case of the Prosecutor v. Jean-Pierre Bemba Gombo, Pursuant to Rule 103 of the Rules of Procedure and Evidence”, 16 September 2009.

<sup>3</sup> ICC-01/05-01/08-450 et annexes, “*Demande d’autorisation d’intervenir comme Amicus Curiae dans l’affaire le Procureur contre Jean-Pierre Bemba Gombo, en vertu de la Règle 103 du Règlement de Procédure et de Preuve*

relevant and irrefutable substantive evidence relied on by Aprodec asbl in order to demonstrate the existence of such a policy is in the public domain. Aprodec asbl correctly states in this regard that none of the statements contained in its various applications filed with the Court have to date been denied by any person, organisation or State involved in this policy of discriminatory prosecution.

4. In accordance with its principal registered purpose,<sup>4</sup> Aprodec asbl recalls that it not only monitors full compliance with the rights of victims and of the accused, but also campaigns for respect for the presumption of innocence and for a fair and equitable trial, in order that judgment may be rendered beyond reasonable doubt. Aprodec asbl accordingly reiterates that the sole purpose of its analyses and observations is to enable truth and justice to prevail, for the Court cannot be allowed to base its decision in this case on serious errors of fact and law.

**For these reasons,**

5. Aprodec asbl informs the Court that its experts work closely with the internationally renowned law firm Uyttendaele-Gérard & Associés,<sup>5</sup> whose expertise and credibility are beyond dispute. This is to reassure both parties (Prosecution and Defence) of the impartial character of the observations that it (Aprodec asbl) intends to file with the Court in its capacity as *Amicus Curiae* in these proceedings on conditional release.<sup>6</sup>

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*de la Cour*", 15 July 2009, paras. 41 to 81, <http://www.icc-cpi.int/NR/exeres/F1BCF0D7-B3F3-4236-BCC8-7AC4B05BB009.htm>, Press release by Aprodec asbl, <http://www.congoone.net/Allstory.php?Id=1681>.

<sup>4</sup> Aprodec asbl, Company no. (*Moniteur belge*): 891.074.266, Registered office: Rue des Vétérinaires, 89-1070 Brussels (Belgium) Tel/Fax: 0032.484.925.836, E-mail: [aprodecasbl@gmail.com](mailto:aprodecasbl@gmail.com)

<sup>5</sup> Law firm Uyttendaele-Gérard & Associés, <http://www.uyttendaele-gerard.be/Equipe/4/app.rvb#5>

<sup>6</sup> ICC-01/05-01/08-522-Corr 0A2-tENG "Application for Leave to Intervene as *Amicus Curiae* in the Case of the Prosecutor v. Jean-Pierre Bemba Gombo, Pursuant to Rule 103 of the Rules of Procedure and Evidence", 16 September 2009.

**[signed]**

Mr Benjamin Stanis Kalombo  
Chair  
For the Board of Directors of Aprodec asbl

Dated this 29 September 2009

At Brussels, Belgium