



Original: **French**

No.: **ICC-01/05-01/08**
Date: **28 August 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 CENTRAL AFRICAN REPUBLIC

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

Public Document
Urgent

**Application for extension of time limit in accordance with regulation 35 of the
Regulations of the Court**

Source: Defence Team for Mr Jean-Pierre Bemba Gombo

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

Ms Fatou Bensouda

Counsel for the Defence

Mr Nkwebe Liriss

Mr Karim A.A. Khan

Mr Aimé Kilolo Musamba

Mr Pierre Legros

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar and Deputy Registrar

Ms Silvana Arbia and Mr Didier Preira

Defence Support Section

Mr Esteban Peralta Losilla

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. On 14 August 2009, the Prosecutor submitted his appeal against Pre-Trial Chamber II's Decision on the interim release of Mr Jean-Pierre Bemba Gombo,¹ supported on 24 August by a separate motion concomitantly requesting the suspensive effect of that Decision.²

2. On 26 August 2009, the Appeals Chamber fixed 31 August 2009 as the time limit for the Defence to submit its response to the Prosecutor's request for suspensive effect and to the request for the participation of the Legal Representatives of the Victims in the proceedings relating to the interlocutory appeal.

3. The Defence hereby requests an extension of this time limit for the submission of its responses in accordance with the Appeals Chamber's Order of 26 August 2009.

Legal Basis

4. Regulation 35 of the Regulations provides for the extension of a time limit to file an application if good cause is shown.

5. The Defence puts forward the following good causes in support of its application:

The Defence is not able to function effectively and efficiently in response to appeals proceedings because it does not have the necessary resources, particularly because it is a small team whose members are unpaid.

The Defence had in fact already submitted an application for the suspension of the entire proceedings before Pre-Trial Chamber II,³ which to date is still pending.

¹ ICC-01/05-01/08-476.

² ICC-01/05-01/08-479-tEng.

³ ICC-01/05-01/08-452.
ICC-01/05-01/08-460.

The Defence noted the unfair nature of the current proceedings in view of the fact that the Pre-Trial Chamber's Decision authorizing the payment of 36,260 euros per month to meet the Defence's operating costs has still not been implemented.

6. The Registry, which is responsible for implementing the said Decision, confirmed to the Defence that this situation will be clarified in "the near future"⁴ which, to date, has been slow to materialize.

7. While awaiting the arrival of this "near future" referred to by the Registry which should permit the Defence to function efficiently and effectively, the Defence is working with a greatly reduced staff, following the resignation of its legal assistant and the non-renewal of one of the Defence Lead Counsels' mandate.

8. The Defence is also unable to cover travel and accommodation costs for its *pro bono* Counsel, whose presence is proving necessary for the Defence to properly prepare several procedural documents which it must present as a response or must itself introduce within the next three weeks. These include: (a) responding to the Prosecutor's appeal and his request for suspensive effect; (b) preparing for the hearings on 7 to 14 September 2009 scheduled by Pre-Trial Chamber II; (c) preparing the response to the Prosecutor's application for leave to appeal the Decision on the confirmation of charges; (d) preparing its possible application to appeal the said Decision on the confirmation of charges; (e) responding to the Women's IGJ *Amicus Curiae*; (f) submitting its challenge to the admissibility of the case.

9. As a result of the Registry's failure to implement the Pre-Trial Chamber's Decision of 31 December 2008, several proposals to the Registry suggesting a way to find an intermediary and swift solution (proposal to borrow from the legal aid system, access to the contingency fund, and an application for review of the decision on indigence) were rejected by the Registry which favours a solution in the near future.

⁴ ICC-01/05-01/08-459-Conf-Anx3 23-07-2009 2/2.

10. The Defence underlines that the violation of its rights is continuing because its members who do not work *pro bono* have not been paid since March 2009, which is de-motivating the said members and preventing them from fulfilling their obligations to ensure an effective and efficient defence for Mr Jean-Pierre Bemba Gombo.

11. The Defence highlights that it is necessary to rectify this situation swiftly in order to guarantee the right to a fair trial and to ensure an effective and efficient defence for Mr Jean-Pierre Bemba.

12. In light of the above, the Defence requests that the Appeals Chamber grant the extension of the time limit, in accordance with regulation 35 of the Regulations of the Court, until the arrival of the “near future”, that is, the time the Registry estimates that the funds necessary for the effective and efficient functioning of a Defence Team will become available in order to guarantee the rights of the Defence and the fairness of the proceedings.

13. The Registry should be invited to specify to the Appeals Chamber when this “near future” will arrive, so that the Defence can be in a position to respond to applications, further to the Appeals Chamber’s Order of 26 August 2009.

FOR THESE REASONS

14. May it please the Appeals Chamber:

- to grant the extension of the time limit to respond to the Appeals Chamber's Order until such time as the near future arrives – that is the time the Registry estimates that the funds necessary for the effective and efficient functioning of the Defence Team will become available;
- to invite the Registry to specify a precise date for this near future in order to define the length of the extension of the requested time limit, because this is closely connected to the availability of funds which will allow the Defence to function effectively and efficiently.

_____[signed]____

Nkwebe Liriss

Lead Counsel

Dated this 28 August 2009

At Kinshasa, D.R. Congo