

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **French**

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

Date: **7 July 2011**

APPEALS CHAMBER

Before: Judge Erkki Kourula, Presiding Judge
Judge Sang-Hyun Song
Judge Akua Kuenyehia
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**

**Confidential
With confidential Annex 1**

**Application of the Legal Representative of Victims, Mr Zarambaud Assingambi,
for leave to participate in the appellate proceedings**

Source: Mr Zarambaud Assingambi, Legal Representative of Victims

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

The Office of the Prosecutor

Ms Petra Kneuer

Counsel for the Defence

Mr Nkwebe Liriss

Legal Representatives of the Victims

Mr Assingambi Zarambaud

Ms Marie-Edith Douzima-Lawson

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. CONSIDERING Trial Chamber III's 27 June 2011 *Decision on Applications for Provisional Release*¹ denying Mr Bemba's application for interim release;
2. CONSIDERING that, on 29 June 2011, Mr Bemba submitted the "*Notification d'appel de la Défense contre la décision de la Chambre de Première instance III du 27 juin intitulée 'Decision on Applications for Provisional Release'*";
3. CONSIDERING the "Document in support of Defence Appeal against Trial Chamber III's decision on Applications for Provisional Release, dated 27 June 2011", submitted on 1 July 2011 by Mr Bemba;
4. CONSIDERING the Appeals Chamber's 5 July 2011 *Order on applications for victim participation*,² in which it recalled that applications by victims for participation in appeals must be filed as soon as possible and in any event before the date of filing of the response to the document in support of the appeal;³
5. CONSIDERING that said document was filed on 1 July 2011 and that, in light of the requests made by Mr Bemba therein, the Appeals Chamber considered it appropriate, under these circumstances, to expedite the appellate proceedings in relation to victim participation in the appeal;⁴

EXPRESS APPLICATION FOR LEAVE TO PARTICIPATE

6. Pursuant to the Appeals Chamber's Order, which permits victims to participate in the proceedings if they so wish and instructs them to submit their application no

¹ ICC-01/05-01/08-1565-Conf.

² ICC-01/05-01/08-1587-Conf, 05-07-2011.

³ "Document in support of Defence Appeal against Trial Chamber III's decision on Applications for Provisional Release, dated 27 June 2011", ICC-01/05-01/08-1586-Conf, 01/07/2011.

⁴ ICC-01/05-01/08-1587-Conf, p. 4, para. 5.

later than 4 p.m. on Thursday, 7 July 2011, the Legal Representative of Victims⁵ considers it necessary for their views and concerns to be presented at this stage of the proceedings, in accordance with article 68(3) of the Rome Statute, which provides:

Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered **at stages of the proceedings determined to be appropriate** by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. **Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate**, in accordance with the Rules of Procedure and Evidence.

7. Pursuant to a previous Appeals Chamber ruling⁶ under the aforementioned article 68(3) of the Statute, which stipulates that victims must expressly apply for leave to participate in appellate proceedings and include a statement in relation to whether and how their personal interests are affected by the particular appeal as well as why the Appeals Chamber should permit their views and concerns to be presented, the Legal Representative of Victims hereinafter sets out how the interests of the victims are concerned and the reasons for which he considers that the Chamber should permit him to present the views and concerns of the said victims.

STATEMENT IN SUPPORT OF THE APPLICATION FOR LEAVE TO PARTICIPATE

8. The overwhelming majority of victims who have dual status and have already testified before the Court requested and were granted authorisation to do so in private session, or even in closed session for some, precisely because they feared, and continue to fear, for their safety.

⁵ The victims represented by Mr Zarambaud Assingambi are listed in confidential Annex 1.

⁶ ICC-01/04-01/06-824, 25 June 2007, *Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled "Décision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo"*.

9. If the appellant were to be released, not only would this fact alone heighten their fears, but the appellant – in whose presence the victims revealed their identities and addresses at the beginning of their testimonies – might attempt to find them to threaten or even kill them.

10. Furthermore, one of the victims with dual status, Witness 69, has not yet testified, and the appellant's release might dissuade this witness from coming to give evidence before the Court and would in any event pose a threat to the witness's safety.

11. In any event, a large number of Prosecution witnesses who do not have dual status have not yet appeared, and they too may become afraid and decide not to testify if the appellant is released. This would necessarily and directly impinge upon the views and concerns of the victims, in particular the wish to see the trial progress to completion with the participation of all witnesses called, regardless of whether they are also victims.

12. It follows that it is necessary to continue the appellant's detention in order to appease the victims' concerns, since his continued detention would deprive him of any opportunity to obstruct or endanger the investigation or the court proceedings (article 58(1)(b)(ii) of the Statute).

13. Furthermore, there is a high risk that the accused will abscond in the event of his release, since, as the Court has noted, a person accused of serious crimes faces a long prison sentence and there is a higher likelihood that he or she will abscond.

FOR THESE REASONS,

14. May it please the Court to grant the undersigned Legal Representative of Victims leave to participate in the proceedings relating to the interlocutory appeal lodged by the accused, Jean-Pierre Bemba.

Pursuant to Appeals Chamber's order ICC-01/05-01/08-1781-Conf OA7, dated 23 September 2011, this document is reclassified as "Public"

[signed]

Mr Assingambi Zarambaud

Dated this 7 July 2011

At The Hague, The Netherlands