



Original: **English**

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

Date: 19/11/2020

**THE PRESIDENCY**

**Before:** Judge Chile Eboe-Osuji, President  
Judge Robert Fremr, First Vice-President  
Judge Marc Perrin de Brichambaut, Second Vice-President

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

*Public*

**Mr. Bemba's request to strike the "Prosecution's response to Mr Bemba's request to designate a Pre-Trial Chamber pursuant to Regulation 46(3) of the Regulations of the Court"**

**Source:** 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**

**Counsel for Mr. Jean-Pierre Bemba  
Gombo**

Peter Haynes QC

Kate Gibson

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

Xavier-Jean Keita

**State Representatives**

Competent authorities of the Kingdom of Belgium

Competent authorities of the Portuguese Republic

Competent authorities of the Democratic Republic of the Congo

**REGISTRY**

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**Registrar**

Peter Lewis

## A. SUBMISSIONS

1. Mr. Bemba's request to the Presidency of 3 November 2020 was filed *ex parte*, because the matters therein are unrelated to the former parties and participants of the *Bemba* case. Had the Presidency considered it could benefit from the observations of any other party, an invitation would have presumably been extended, and an appropriate deadline set. In the absence of an express invitation, the Prosecution has no standing to file its response of 16 November 2020,<sup>1</sup> which should be struck from the Court record.

2. The Prosecution is correct that "case ICC-01/05-01/08 has already been brought to an end".<sup>2</sup> That part of the case in which the Prosecution was involved has certainly closed, and the Prosecution is accordingly *functus officio*. Mr. Bemba is using available mechanisms to seek access to his personal property, frozen at the request of the Court in 2008. The Prosecution's determination to act as an obstacle to this end is inconsistent with the position it took in September 2018, when the Prosecution Senior Trial Attorney met with Mr. Bemba's lawyers at the ICC premises and returned all of Mr. Bemba's physical property that had been in the Prosecution's possession. Mr. Bemba needing the assistance of the Court in regaining access to his remaining property is not a matter in which the Prosecution is involved.

3. The statutory function of the Office of the Prosecutor is not one of standing *amicus curiae* to the ICC Presidency. Should it remain on the Court record, the Prosecution Response, in which no attempt is even made to argue *locus standi*, sets a precedent whereby any party to current or former proceedings could intervene with no statutory basis for standing in *ex parte* litigation before the Presidency.

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<sup>1</sup> ICC-01/05-01/08-3699 ("Prosecution Response").

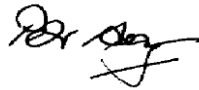
<sup>2</sup> Prosecution Response, para.1.

**B. REQUESTED RELIEF**

4. For the reasons outlined above, Mr. Bemba, requests the Presidency to:

**STRIKE** the Prosecution's response to Mr Bemba's request to designate a Pre-Trial Chamber pursuant to Regulation 46(3) of the Regulations of the Court

The whole respectfully submitted.



Peter Haynes QC  
Lead Counsel of Mr. Jean-Pierre Bemba

Done at The Hague, The Netherlands, 19 November 2020