Pursuant to Trial Chamber III's instruction, dated 15 June 2010, this document is re-classified "Public"

Annex 1

Confidential

Register No. 002 Year 2010

> ---THE FOLLOWING IS A FAITHFUL EXTRACT FROM THE ORIGINAL DOCUMENTS OF THE REGISTRY OF THE BANGUI COURT OF APPEALS [COUR D'APPEL]---

> -----BANGUI COURT OF APPEALS-----------INDICTMENTS CHAMBER----[CHAMBRE D'ACCUSATION]
> ----DECISION No. 002 OF 21 MAY 2010----

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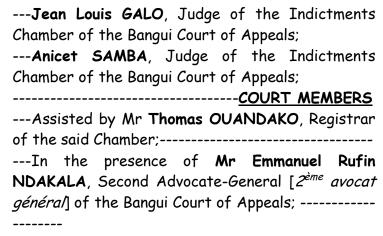
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> --- Application for review [opposition] of the Decision partially setting aside the dismissal of the charges and ordering the severance of the proceedings and committal for trial before the Cour Criminelle of the Indictments Chamber, No. 021 of 16 December 2004, which has yet to be notified and whose operative part reads as follows: "As to form: finds the appeal of the Public Prosecutor's Office admissible; As to substance: Partially sets aside the Order of the Senior Investigating Judge of the Tribunal de Grande Instance de Bangui of 16 September 2004; Issuing a fresh determination; (I) In respect of the blood crimes and other related offences; Orders that the proceedings be severed in relation to the blood crimes, premeditated murder [assassinat], rape, destruction movable and immovable property, pillaging and

other offences connected to the events of 2002 and ascribed to Ange Félix PATASSE, Jean Pierre BEMBA and his troops, Paul BARRIL, Martin KOUMTAMADJI (alias **ABDOULAYE** MISKINE), Victor NDOUBABE, Lionel GAN-**BEFIO** and Others: Finds that the aforementioned war crimes and their perpetrators and accomplices fall within the jurisdiction of the International Criminal Court at The Hague; Accordingly, orders the Public Prosecutor's Office to refer the matter to the proper forum; Orders the release pending trial unless detained on other grounds - of ANGOA Pierre, KOYAMBONOU Gabriel Jean Edouard and BOMBAYAKE Ferdinand, with all consequences; (2) In respect misappropriation of public funds, embezzlement, forgery and making use of forged documents; Orders the dismissal of the charges against: LIGUELA-MBOUTOU Alain Serge, NGAÏNANGUE-TENDO Bruno Jean Chrysante, Pierre M'BOKANI Abraham Martin; Finds that no further proceedings should be taken against them under those heads of charge; Orders that PATASSE Ange BANGUE-TANDET Michel, DOUKOULA Lazare; SANCHEZ Louis and KOULOUMBA Simon be committed to the Cour Criminelle of BANGUI, to be tried there in accordance with the law": -----

---The Indictments Chamber of the Bangui Court of Appeals, sitting in chambers on 21 May 2010 at 9:30 a.m., the Bench being composed of the following persons;-

---Barthélemy YAMBA, President the Indictments Chamber of the Bangui Court of Appeals; ----------PRESIDING JUDGE



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A DECISION, IN THE TERMS SET OUT BELOW, HAS BEEN RENDERED IN THE PROCEEDINGS:

<u>BETWEEN</u>: Jean-Pierre BEMBA-GOMBO, represented by Mr Jérôme Dieudonné GBOBOUKO and Symphorien BALEMBY, members of the Central African Bar----- THE APPELLANT OF THE FIRST PART

<u>AND</u>: The Public Prosecutor's Office and the Central African State;-----<u>THE RESPONDENTS</u>
<u>OF THE SECOND PART</u>

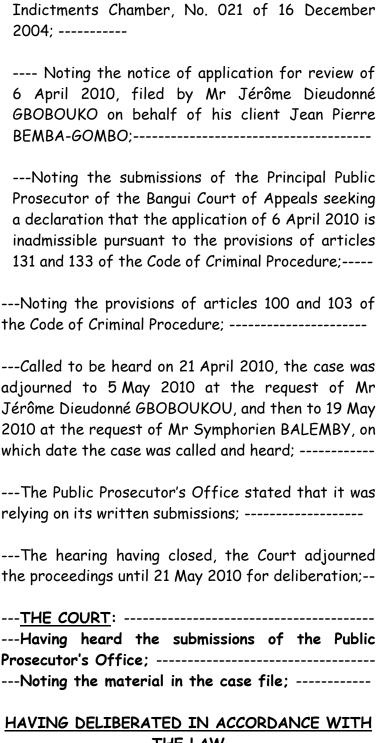
TRIAL: Hearing of 19 May 2010; -----
<u>DELIBERATIONS</u>: 21 May 2010; -----

THE PARTIES HAVING BEEN HEARD, <u>THE</u> <u>FOLLOWING DECISION [ARRET</u> <u>CONTRADICTOIRE] HAS BEEN RENDERED</u>:

- ---<u>THE COURT</u>; -----
- ---Noting the proceedings instituted against Ange-Félix PATASSE *et al*;----
- ---On account of acts of premeditated murder, fatal wounding [coups mortels], arbitrary detention and false imprisonment, concealment of bodies,

theft and pillaging, malicious wounding [coups et blessures volontaires], destruction of property, violation of State security, collusion with a foreign power; complicity in premeditated murder, misappropriation of public funds, forgery and making use of forged documents in relation to authentic public or private documents, complicity in forgery and making use of forged documents and embezzlement;

- --- Such offences being proscribed and punishable under articles 38, 50, 70, 167, 168, 169, 175, 108, 184 of the Criminal Code and Law No. 03.10 of 1 March 2003 on the Repression of the misappropriation of public funds, corruption, extortion, corruptly influencing public officials [trafics d'influence] and other similar offences; ---
- --- Noting the Order for Partial Dismissal of Charges And Committal For Trial Before the Cour Criminelle of Bangui rendered by the Senior Investigating Judge of the Bangui Tribunal de Grande Instance on 16 September 2004; ----
- --- Noting the appeal entered by the Public Prosecutor of the Bangui *Tribunal de Grande Instance* on 17 September 2004; -----
- --- Noting the Submissions of the Principal Public Prosecutor of the Bangui Court of Appeals seeking referral to the Indictments Chamber dated 24 October 2004; ------
- ---Noting the Additional Submissions of the Principal Public Prosecutor's Office dated 23 November 2004; -----
- --- Noting the Decision partially setting aside the dismissal of the charges and ordering the severance of the proceedings and committal for



trial before the Cour Criminelle rendered by the

HAVING DELIBERATED IN ACCORDANCE WITH THE LAW

---Considering that, on 6 April 2010, Mr Jérôme Dieudonné GBOBOUKO, Advocate at the Central African Bar, submitted, on behalf of his client Jean Pierre BEMBA-GOMBO, an Application for review of the Decision partially setting aside the dismissal of the charges and ordering the severance of the proceedings and committal for trial before the Cour

the case of *The Central African State v. Ange-Félix PATASSE*; -----

Criminelle, rendered by the Indictments Chamber of the Banqui Court of Appeals on 16 December 2004 in

---Considering that, in its written submissions, the Public Prosecutor's Office contends that the application is procedurally inadmissible; ------

--- Considering, however, that, in light of the applicable legislation, in particular the relevant provisions of the Code of Criminal Procedure, such an approach cannot succeed; ------

---Considering that, under the terms of article 133 of the Central African Code of Criminal Procedure, proceedings before the Indictments Chamber are essentially of a written nature, and that it accordingly follows that its decision cannot be of a nature which is "adversarial, deemed adversarial, or rendered by default"; considering that, under the terms of article 189 of the Central African Code of Criminal Procedure, only judgments or decisions rendered "by default", can be the subject of an application for review; ------

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--- Considering that, since the decision at issue is one which cannot be of such a nature, namely in this case a decision rendered by default, the Court cannot admit such an application; ------

---Considering, finally, that article 131 of the Code of Criminal Procedure exhaustively defines the area of intervention and material jurisdiction of the Indictments Chamber, which can only hear appeals against orders of Investigating Judges Prosecutors [Magistrats Instructeurs], applications for judicial extinction of convictions [demandes réhabilitation] and applications [demandes en nullité]; considering that nowhere is there any reference to an application for review of a decision; considering that, since penal legislation is to be interpreted restrictively, an application for review which is not provided for in the relevant texts cannot be admitted by the Indictments Chamber;-----

--- Considering, in conclusion, and in light of all of the foregoing, that it is incumbent upon this Chamber to declare inadmissible the application, submitted on 6 April 2010 by Mr Jérôme Dieudonné GBOBOUKO on behalf of his client, Jean Pierre BEMBA-GOMBO, for review of the Decision of the

Indictments Chamber of the Bangui Court of Appeals
of 16 December 2004;
ON THESE GROUNDS:
Ruling in Chambers as court of last resort in
the matter of criminal charges;
<u>AS TO FORM</u> : Declares the application for
review to be inadmissible;
review to be indumissible,
So adjudged and decreed in Chambers, in the
month and year stated above;
monn and year orared above,
In witness whereof, this Decision has been
signed after being read by the Presiding Judge
having rendered it and by the Registrar;
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CERTIFIED TRUE COPY
BANGUI 3 JUNE 2010
CHIEF REGISTRAR
[Stamped, Signed]

Magloire Dieudonné MALIKI