

## **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----

CASE: Jean Pierre BEMBA-GOMBO (Mr  
GBOBOUKO, Mr BALEMBY); -----  
VERSUS: Public Prosecutor's Office [*Ministère*  
*Public*] and the Central African State

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CHIEF REGISTRAR]

--- 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 of  
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 GANBEFIO 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 legal consequences; (2) In respect of the 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, M'BOKANI Abraham Pierre and ZIGUELE Martin; Finds that no further proceedings should be taken against them under those heads of charge; Orders that PATASSE Ange Félix, 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 of the Indictments Chamber of the Bangui Court of Appeals; -----

-----PRESIDING JUDGE

---**Jean Louis GALO**, Judge of the Indictments Chamber of the Bangui Court of Appeals;

---**Anicet SAMBA**, Judge of the Indictments Chamber of the Bangui Court of Appeals;

-----**COURT MEMBERS**

---Assisted by Mr **Thomas OUANDAKO**, Registrar of the said Chamber;-----

---In the presence of Mr **Emmanuel Rufin NDAKALA**, Second Advocate-General [*2<sup>ème</sup> avocat général*] of the Bangui Court of Appeals; -----

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

**BETWEEN:** 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**

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

**TRIAL:** Hearing of 19 May 2010; -----

**DELIBERATIONS:** 21 May 2010; -----

**THE PARTIES HAVING BEEN HEARD, THE  
FOLLOWING DECISION [ARRET  
CONTRADICTOIRE] HAS BEEN RENDERED :**

---**THE COURT;** -----

---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 Indictments Chamber, No. 021 of 16 December 2004; -----

---- Noting the notice of application for review of 6 April 2010, filed by Mr Jérôme Dieudonné GBOBOUKO on behalf of his client Jean Pierre BEMBA-GOMBO;-----

---Noting the submissions of the Principal Public Prosecutor of the Bangui Court of Appeals seeking a declaration that the application of 6 April 2010 is inadmissible pursuant to the provisions of articles 131 and 133 of the Code of Criminal Procedure;-----

---Noting the provisions of articles 100 and 103 of the Code of Criminal Procedure; -----

---Called to be heard on 21 April 2010, the case was adjourned to 5 May 2010 at the request of Mr Jérôme Dieudonné GBOBOUKOU, and then to 19 May 2010 at the request of Mr Symphorien BALEMBY, on which date the case was called and heard; -----

---The Public Prosecutor's Office stated that it was relying on its written submissions; -----

---The hearing having closed, the Court adjourned the proceedings until 21 May 2010 for deliberation;--

---THE COURT: -----

---Having heard the submissions of the Public Prosecutor's Office; -----

---Noting the material in the case file; -----

**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 Criminelle*, rendered by the Indictments Chamber of the Bangui Court of Appeals on 16 December 2004 in the case of *The Central African State v. Ange-Félix PATASSE*; -----

--- Considering that Jean Pierre BEMBA-GOMBO, the initiator of the current proceedings, has failed to tender any written brief in support of his application, despite seeking a number of adjournments through his Counsel, Mr Jérôme Dieudonné GBOBOUKO and Mr Symphorien BALEMBY; -----

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

--- Considering that the applicant's failure, in particular in regard to the filing of written submissions, means that the Court has been unable to take cognisance of, and then to analyse by reference to the relevant texts, the arguments which the applicant seeks to develop in support of his application, in light of any further grounds of objection to the impugned decision that he might wish to formulate; -----

--- 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 and Prosecutors [Magistrats Instructeurs], applications for judicial extinction of convictions [demandes en réhabilitation] and nullity 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; -----

---AS TO FORM: Declares the application for  
review to be inadmissible; -----

---So adjudged and decreed in Chambers, in the  
month and year stated above; -----

---In witness whereof, this Decision has been  
signed after being read by the Presiding Judge  
having rendered it and by the Registrar; -----

--- CERTIFIED TRUE COPY -----

-----BANGUI 3 JUNE 2010-----

-----CHIEF REGISTRAR-----

[Stamped, Signed]

Magloire Dieudonné MALIKI