

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **14 March 2019**

**PRE-TRIAL CHAMBER II**

**Before:** Judge Antoine Kesia-Mbe Mindua, Presiding Judge  
Judge Tomoko Akane  
Judge Rosario Salvatore Aitala

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC**

**IN THE CASE OF *THE PROSECUTOR V. JEAN-PIERRE BEMBA GOMBO***

**Public**

**Order on the conduct of the proceedings related to “Mr Bemba’s claim for compensation and damages”**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda, Prosecutor  
Mr James Stewart, Deputy Prosecutor  
Ms Helen Brady

**Counsel for the Defence**

Mr Peter Haynes  
Ms Kate Gibson

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**PRE-TRIAL CHAMBER II** (the “Chamber”) of the International Criminal Court (the “Court”) hereby issues this order on the conduct of the proceedings with regard to “Mr. Bemba’s claim for compensation and damages” (the “Claim”)<sup>1</sup> for (i) convening a hearing; (ii) requesting observations on behalf of the Registry; (iii) considering the grant of a time and page limit variation for the Prosecutor’s response to the Claim.

## **I. PROCEDURAL HISTORY**

1. On 8 June 2018, the Appeals Chamber decided, by majority, to acquit Jean-Pierre Bemba Gombo (“Mr Bemba”) of the charges of crimes against humanity and war crimes.<sup>2</sup>

2. On 22 October 2018, the Defence for Mr Bemba informed the Presidency of its intention to file a request under article 85 of the Rome Statute (the “Statute”) and presented an application to request (i) a three-month extension to the time limit applicable under rule 173(2) of the Rules of Procedure and Evidence (the “Rules”); and (ii) a variation of the page limit under regulation 38(2)(f) of the Regulations of the Court (the “Regulations”) by allowing a request of 100 pages (the “Application”).<sup>3</sup>

3. On 30 October 2018, the Presidency designated this Chamber to consider the Application and any subsequent request for compensation under article 85 of the Statute;<sup>4</sup> on 6 November 2018, the Chamber received the Application.

4. On 13 November 2018, the Chamber rendered the “Decision on ‘Mr Bemba’s request for a variation of the time and page limits in relation to a claim under Article 85 of the Statute’”, in which it (i) granted “the requested variation of the time limit of

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<sup>1</sup> Pre-Trial Chamber II, *Prosecutor v Jean-Pierre Bemba Gombo*, Mr Bemba’s claim for compensation and damages, 8 March 2018, ICC-01/05-01/08-3673-Conf. A public redacted version of the Claim was filed on 11 March 2019, ICC-01/05-01/08-3673-Red.

<sup>2</sup> Appeals Chamber, *Prosecutor v Jean-Pierre Bemba Gombo*, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III’s “Judgment pursuant to Article 74 of the Statute”, 8 June 2018, ICC-01/05-01/08-3636-Red.

<sup>3</sup> Presidency, Mr. Bemba’s request for a variation of the time and page limits in relation to a claim under Article 85 of the Statute, 22 October 2018, ICC-01/05-01/08-3661-Conf.

<sup>4</sup> Presidency, Decision referring a request arising under article 85 to Pre-Trial Chamber II, 30 October 2018, ICC-01/05-01/08-3662-Conf-Exp, p. 3.

an additional three months”; and (ii) partially granted “the requested variation of the page limit” allowing Mr Bemba to submit a request of not more than 60 pages” (the “13 November 2018 Decision”).<sup>5</sup>

5. On 8 March 2019, the Defence for Mr Bemba filed the Claim, requesting the Chamber to award compensation under article 85 of the Statute to Mr Bemba.<sup>6</sup>

6. On 12 March 2019, the Prosecutor requested the Chamber to grant (i) an extension of the time limit applicable under regulation 34(b) of the Regulations to respond to the Claim by 15 May 2019; and (ii) a variation of the page limit under regulation 37(2) of the Regulations by allowing a response of 60 pages (the “Request”).<sup>7</sup> Granting the Request would, for the Prosecutor, ensure the fairness of the proceedings and allow a meaningful response in light of (i) the length of the Claim; (ii) the wide-ranging scope of the Claim and the complexity of the issues contained therein; (iii) the volume of documentation submitted in support of the Claim.<sup>8</sup>

## II. DETERMINATIONS BY THE CHAMBER

7. The Chamber notes rule 174(2) of the Rules, according to which “[a] hearing shall be held if the Prosecutor or the person seeking compensation so requests”. Therefore, taking into consideration the above-mentioned request made by the Defence for Mr Bemba, the Chamber decides to convene a hearing in the presence of the Defence for Mr Bemba and the Prosecutor in order for the parties to present orally their observations to the Chamber on the Claim. The parties are invited during their oral submissions not to repeat what is or will already be contained in their written submissions.

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<sup>5</sup> Pre-Trial Chamber II, *Prosecutor v Jean-Pierre Bemba Gombo*, Decision on “Mr. Bemba’s request for a variation of the time and page limits in relation to a claim under Article 85 of the Statute”, 13 November 2018, ICC-01/05-01/08-3664-Conf.

<sup>6</sup> Claim, ICC-01/05-01/08-3673-Red.

<sup>7</sup> Pre-Trial Chamber II, *Prosecutor v Jean-Pierre Bemba Gombo*, Prosecution’s request to extend the page limit and for sufficient time to file its response to Bemba’s request for compensation and damages, 12 March 2019, ICC-01/05-01/08-3674-Conf.

<sup>8</sup> Request, ICC-01/05-01/08-3674-Conf, paras 1, 6-7.

8. The Chamber has taken note that the Defence submissions relate to the functions of the Registry. Therefore, without prejudice to any determination which the Chamber may make as to the merit, the Chamber finds it appropriate to request the Registry to submit its observations on Mr Bemba's submissions.

9. The Chamber also refers to regulation 34(b) of the Regulations, providing for a 10-day time limit for the Prosecutor to file a response to the Claim, and regulation 35(2) of the Regulations, according to which the "Chamber may extend or reduce a time limit if good cause is shown". The Chamber finds that the specificities of the Claim and the necessity of a time limit extension to ensure the fairness of the proceedings constitute a good cause to afford additional time to the Prosecutor to file her response. However, as far as Mr Bemba's intention to submit a claim for compensation under article 85 of the Statute and some of the related arguments were already known by the Prosecutor since the 13 November 2018 Decision,<sup>9</sup> the Chamber deems it appropriate to grant an extension of time until 6 May 2019.

10. Furthermore, the Chamber notes regulation 37(2) of the Regulations, providing that the "Chamber may, at the request of a participant, extend the page limit in exceptional circumstances". The Chamber finds that the nature and complexity of the Claim constitute such exceptional circumstances for granting an extension of page limit to 60 pages in total, in order for the Prosecutor to be able to exhaustively substantiate her response on an equal footing with the Defence.

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<sup>9</sup> 13 November 2018 Decision, ICC-01/05-01/08-3664-Conf, para. 8.

**FOR THESE REASONS, THE CHAMBER**

**CONVENES** a hearing to be held on Thursday, 9 May 2019 at 09:30, for a total duration of one hour and a half;

**ORDERS** the Registry to submit its observations on the Claim, no later than Monday, 6 May 2019;

**PARTLY GRANTS** the requested variation of the time limit until Monday, 6 May 2019, for the Prosecutor to file her response to the Claim;

**GRANTS** the requested variation of the page limit and allows the Prosecutor to submit a response to the Claim of not more than 60 pages;

**ORDERS** the Registry to reclassify the 13 November 2018 Decision as public;

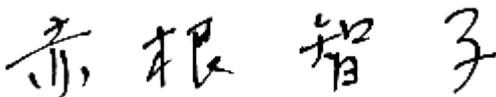
**ORDERS** the Prosecutor to file a public redacted version of the 12 March 2019 Request, or to inform the Registry that the Request can be reclassified as public, within seven days of notification of the present decision.

Done in both English and French, the English version being authoritative.




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**Judge Antoine Kesia-Mbe Mindua**  
Presiding Judge




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**Judge Tomoko Akane**




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**Judge Rosario Salvatore Aitala**

Dated this Thursday, 14 March 2019

At The Hague, The Netherlands