



Central African Republic Situation and cases Update

August 2014 – June 2015

Bemba case: Trial concludes, abuse of process claim rejected

[Background] Mr Jean Pierre Bemba is facing charges of crimes against humanity (murder and rape) and war crimes (murder, rape and pillaging) in relation to crimes committed against the civilian population in the Central African Republic (CAR) between 26 October 2002 and 15 March 2003. His trial started on 22 November 2010 and closing statements in the case took place on 12 and 13 November 2014.

Defence's request for stay of proceedings and release is rejected

On 25 November and 15 December 2014, the Defence argued that an abuse of process had taken place justifying a stay of proceedings as well as the release of Mr Bemba.¹ The Defence advanced that Mr. Bemba's right to a fair, impartial and independent trial had been violated explaining that the Prosecutor's investigations under Art 70 had led to violations of the privileges and immunities of the Defence; involved access to privileged information concerning the Defence's strategy and that the Prosecutor had failed to disclose information relating to the credibility of some Defence's witnesses.

On 17 June 2015, the Chamber rejected the defence's request finding that the threshold required for granting a stay of proceedings had not been met.²

Bemba and others case: Trial set to start in September for alleged witness tampering

Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido are all facing charges of offences against the

¹ Public Redacted Version of Defence Request for Relief for Abuse of Process, ICC-01/05-01/08-3203-Red2, 25 November 2014, <http://www.icc-cpi.int/iccdocs/doc/doc1873470.pdf> ; Public Redacted Version of Defence Request for Relief for Abuse of Process, ICC-01/05-01/08-3217-Red2, <http://www.icc-cpi.int/iccdocs/doc/doc1911321.pdf>

² Decision on "Defence Request for Relief for Abuse of Process", 17 June 2015, ICC-01/05-01/08-3255, <http://www.icc-cpi.int/iccdocs/doc/doc1998116.pdf>

administration of justice before the ICC allegedly committed in relation to the trial of Mr Bemba for crimes against humanity.

The confirmation of charges was undertaken through a written procedure in November 2015.³ On 11 November 2014, Pre-Trial Chamber II partly confirmed the charges for offences against the administration of justice committed between end of 2011 and 14 November 2013, against Bemba, Kilolo, Mangenda, Babala, and Arido.⁴ The charges include ‘corruptly influencing witnesses by giving them money and instructions to provide false testimony, presenting false evidence and giving false testimony in the courtroom, all perpetrated in various ways including by committing, soliciting, inducing, aiding, abetting or otherwise assisting in their commission.’

On 23 January 2015, the accused’s application for leave to appeal the confirmation of charges decision was rejected.⁵ The Chamber has set the start of the trial for 29 September 2015.⁶

CAR 2: Opening of a new investigation in the Central African Republic

On 30 May 2014, the President of the Central African Republic referred the situation on the territory of the Central African Republic since August 2012 to the ICC.⁷ The President submitted that with the emergence of different armed groups, crimes of the utmost gravity – murders, rapes, pillage, force displacement of populations, etc – had been committed in Bangui and in the rest of the country. The President of the Central African Republic further submitted that the national authorities were unable to carry out the investigation or prosecution.

On 29 September 2014, the Prosecutor announced her decision to open a second investigation in the Central African Republic (CAR) with respect to crimes allegedly committed since 2012.⁸

³ Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute, 11 November 2014, ICC-01/05-01/13-749, <http://www.icc-cpi.int/iccdocs/doc/doc1857534.pdf>

⁴ Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/05-01/13-749, 11 November 2014, <http://www.icc-cpi.int/iccdocs/doc/doc1857534.pdf>

⁵ Joint decision on the applications for leave to appeal the “Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute”, ICC-01/05-01/13-801, 23 January 2015, <http://www.icc-cpi.int/iccdocs/doc/doc1902815.pdf>

⁶ Order setting the commencement date for trial, 22 May 2015, ICC-01/05-01/13-960, <http://www.icc-cpi.int/iccdocs/doc/doc1980357.pdf>

⁷ Decision Assigning the Situation in the Central African Republic II to Pre-Trial Chamber II, 18 June 2014, ICC-01/14-1, <http://www.icc-cpi.int/iccdocs/doc/doc1790493.pdf> with public annex (original in French, no translation available) ICC-01/14-1-Anx1, <http://www.icc-cpi.int/iccdocs/doc/doc1790494.pdf>

⁸ Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening a second investigation in the Central African Republic, 29 September 2014, http://www.icc-cpi.int/EN_Menus/icc/press%20and%20media/press%20releases/pages/pr1043.aspx