



## ***THE CASE OF THE PROSECUTOR V. JEAN-PIERRE BEMBA AT THE INTERNATIONAL CRIMINAL COURT***

### Summary

On May 24, 2008, Jean-Pierre Bemba Gombo, leader of the Mouvement de Libération du Congo (MLC), was arrested in Belgium under an ICC arrest warrant. He was transferred to the ICC on July 3, 2008 and made his first appearance before the Court on July 4. Mr. Bemba, the former vice president of the Democratic Republic of the Congo (DRC) is charged with two counts of crimes against humanity and four counts of war crimes in connection with MLC's raping, pillaging and looting raids through the Central African Republic (CAR). On June 10, 2008, ICC judges issued a new warrant, adding a new count of crimes against humanity and a new count of war crimes to the existing charges. In 2002, the MLC was invited into the CAR by former President Angé-Felix Patassé to quell a coup attempt. Among the charged crimes is gender based violence, including systematic mass rape that was allegedly used by the MLC as a weapon of war. Pre-Trial Chamber III will hold a hearing beginning on November 4, 2008 to confirm the charges against him.<sup>1</sup>

Mr. Bemba's arrest was carried out by Belgium as part of its obligations as a State Party to the Rome Statute. This is the first time that a country that is neither the home state, nor the referring state has made an arrest. It is also the first arrest for the situation in the Central African Republic.

### Early Life and Political Background

Mr. Bemba spent his early life living in both Belgium and the Congo. His mother died when he was young and he had numerous disagreements with his father, particularly over his father's support of former DRC President Laurent Kabila. He did inherit keen business acumen from his father, which he employed in a number of economic enterprises throughout the war in the DRC. His business abilities were enhanced by an MBA from a Belgian business school.<sup>2</sup>

Mr. Bemba was introduced to politics when he served as former DRC (then known as Zaire) President Mobutu Sese Seko's personal assistant in the early 1990s. Through the political associations he developed in this job, he met Ugandan President Yoweri Museveni, who was opposed to Mobutu's successor, President Laurent Kabila. President Museveni helped launch the MLC by providing troops, supplies and training. The MLC's success in capturing the northern part of the DRC forced elections and resulted in an agreement in which Kabila was obliged to share power with others, including Bemba, in 2002.

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<sup>1</sup> See the following ICC Press Releases for additional information: "Jean-Pierre Bemba Gombo arrested for crimes allegedly committed in the Central African Republic," May 24, 2008, <http://www.icc-cpi.int/press/pressreleases/370.html>; "ICC Arrest Jean-Pierre Bemba – massive sexual crimes in Central African Republic will not go unpunished," May 24, 2008, <http://www.icc-cpi.int/press/pressreleases/371.html>; "Surrender of Jean-Pierre Bemba to the International Criminal Court," July 3, 2008, <http://www.icc-cpi.int/press/pressreleases/395.html>; "First appearance of Jean-Pierre Bemba before the Pre-Trial Chamber III," July 4, 2008, <http://www.icc-cpi.int/press/pressreleases/399.html>.

<sup>2</sup> For more information on Mr. Bemba's early life, see the following news stories and relevant links: "Profile: Jean-Pierre Bemba," May 25, 2008, <http://news.bbc.co.uk/2/hi/africa/6085536.stm>; "Jean-Pierre Bemba, former Congo warlord, arrested in Belgium," May 25, 2008, <http://www.iht.com/articles/ap/2008/05/25/europe/EU-GEN-War-Crimes-Bemba.php>; *Mandat d'arrêt à l'encontre de Jean-Pierre Bemba Gombo*, May 23, 2008, <http://www.icc-cpi.int/library/cases/ICC-01-05-01-08-1-FRA.pdf>.





In October of 2002 the MLC began a military intervention in the Central African Republic. In 2003, Mr. Bemba returned to the DRC to be sworn in as vice-president. After an unsuccessful bid for the presidency in 2006, he refused to integrate the MLC into the regular army. In 2007, fighting broke out in Kinshasa between the army and the MLC and Bemba was forced to take refuge in the South African embassy. After the MLC surrendered, Portugal gave Mr. Bemba and his family permission to travel there for medical reasons. Mr. Bemba was at his home in Belgium when he was arrested.

## Detailed Overview

### *The role of the MLC in the conflict in the CAR*

In 2002, CAR President Patassé invited the MLC to help stop a coup attempt. The MLC allegedly used systematic mass rape to humiliate and outrage local populations for the ultimate purpose of suppressing political opposition in the CAR. Young girls were allegedly violated, while their family members were forced to watch or sometimes participate. Many girls were exposed to HIV. More than 15% of the women in northern CAR are estimated to have experienced some form of gender based violence.<sup>3</sup> The Office of the Prosecutor has noted that there have been more rapes than killings in the conflict in the CAR. As leader of the MLC, Mr. Bemba is charged with three counts of crimes against humanity: rape, torture, and murder and five counts of war crimes: murder, rape, torture, outrages upon personal dignity and pillaging in and around the towns of PK 12, Bossongo and Mongoumba.

### *The arrest*

On May 23, 2008, Pre-Trial Chamber III issued a sealed arrest warrant for Mr. Bemba. The next day he was arrested by Belgian authorities, as part of Belgium's obligation as a State Party to the Rome Statute. The arrest was more complex than previous arrests, because Belgium is neither the country of nationality of the accused, nor the country referring the case. Belgium, following a policy of cooperation with the ICC, set up and deployed a special taskforce, which allowed the arrest to take place in a matter of hours.

Mr. Bemba was transferred to the ICC on July 3, 2008. At his arraignment hearing at the ICC on July 4, the judges confirmed his identity and explained the charges to him. At the hearing, Mr. Bemba was represented by duty counsel. The process of obtaining principal counsel will begin. The Pre-Trial Chamber will hold a hearing to confirm the charges against Mr. Bemba, set for November 4, 2008. If the charges are confirmed, the case will proceed to trial. The accused party has the right to apply for interim release before trial, the right to counsel and to have counsel appointed if found to be indigent, although this is probably not the case for Mr. Bemba because of his reported personal wealth. On July 23, Portuguese authorities seized Mr. Bemba's assets which included a private plane and yacht for the purpose of possible eventual forfeiture, fulfilling their obligations under the Rome Statute.

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<sup>3</sup> For more information on the nature of the crimes allegedly committed in the CAR, see the following relevant press releases and news stories: "ICC Arrest Jean-Pierre Bemba – massive sexual crimes in Central African Republic will not go unpunished," May 24, 2008, <http://www.icc-cpi.int/press/pressreleases/371.html>; "CAR: 'Our daughters have no future,'" May 15, 2008, <http://www.irinnews.org/Report.aspx?ReportId=78233>.





### *Protests surrounding Mr. Bemba's arrest*

Mr. Bemba's arrest has sparked protests by his supporters in the DRC. They contend that the arrest is a political, rather than a judicial action. Supporters insist that Mr. Bemba is only being targeted because he is now out of power and that the politicians currently in power in CAR and DRC will not be held responsible for their role in the conflicts because they still wield political authority.<sup>4</sup>

### *Future actions*

The next step in Mr. Bemba's case is the confirmation of charges hearing. Pre-Trial Chamber III will hold the confirmation of charges hearing in the presence of the Prosecutor, and of the person charged as well as the accused's counsel. Before this hearing the accused is provided with a copy of the charges and a list of the evidence that the Prosecutor intends to use at the hearing. At the hearing, the Prosecutor attempts to demonstrate through evidence that substantial grounds exist to believe that the crimes occurred. The accused has the opportunity to object to the charges, challenge the evidence or present their own evidence. After considering the evidence, the Pre-Trial Chamber can decide to confirm or decline the charges, or ask the Prosecutor to provide further evidence or amend the charges. The Prosecutor can request to confirm a declined charge at a later date in light of new evidence. The defendant is not required to answer the charges or provide incriminating evidence at the confirmation hearing. After the charges have been confirmed, the case may proceed to trial, where the Prosecutor is required to prove the defendant's guilt.

This is the first arrest in the situation in the Central African Republic; the investigation was opened in 2007. The Prosecutor has a duty to continue to thoroughly investigate all sides of the conflict, and this will likely bring other charges against other individuals. If further investigations are fruitful, more arrest warrants are likely to follow.

*Researched and drafted by Lucy Betteridge  
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<sup>4</sup> For more information on the protests surrounding Mr. Bemba's arrest, see the following news stories: "Supporters of Congo's Jean-Pierre Bemba Say He's Not a Criminal," May 27, 2008, <http://www.voanews.com/english/Africa/2008-05-27-voa3.cfm>; "More than 2,000 in Congo protest the arrest of Jean-Pierre Bemba on war crimes," May 27, 2008, <http://www.iht.com/articles/ap/2008/05/27/africa/AF-GEN-Congo-Bemba-Protests.php>

