



## Q and A on the confirmation of charges hearing: *The Prosecutor v. Jean-Pierre Bemba Gombo*

### 1. What is the "confirmation of charges hearing"?

The confirmation of charges hearing is a public hearing during which the ICC's Pre-Trial Chamber will decide whether or not to confirm all or any of the charges brought against Mr Bemba by the Prosecutor and, if confirmed, to commit him for trial before the Trial Chamber.

The Prosecution is required, in the presence of the person charged and his counsel, to support each of the charges with sufficient evidence to establish substantial grounds to believe that Mr Bemba committed the crimes with which he is charged. In general terms, the Prosecution can do this by means of documentary or summary evidence and/or by calling witnesses and experts. At this stage of the proceedings no witness or experts will be called by the parties.

The Office of the Prosecutor will be represented by Deputy Prosecutor Fatou Bensouda and Senior Trial Lawyer Petra Kneuer. Besides the Prosecution and the Defence, the legal representatives of the victims will attend the hearing.

The hearing will last 4 days: from 12 January to 15 January 2009

### 2. What is Mr Bemba charged with?

According to the arrest warrant issued by Pre-Trial Chamber III on 10 June 2008, Mr Bemba is allegedly criminally responsible, jointly with another person or through other persons, within the meaning of article 25(3)(a) of the Rome Statute, for:

- **three counts of crimes against humanity:** rape (article 7(1)(g)), torture (article 7(1)(f)), murder (article 7(1)(a));
- **five counts of war crimes:** rape (article 8(2)(e)(vi)), torture (article 8(2)(c)(i)), committing outrages upon personal dignity, in particular humiliating and degrading treatment (article 8(2)(c)(ii)), pillaging a town or place (article 8(2)(e)(v)), and murder (article 8(2)(c)(i)).

These crimes were allegedly committed at least from 25 October 2002 to 15 March 2003 during a protracted armed conflict in the Central African Republic (CAR), involving, on the one hand, part of the national armed forces of the then CAR President, Mr Patassé, which had joined forces with combatants from the *Mouvement de Libération du Congo* [Movement for the Liberation of the Congo] (MLC) led by Jean-Pierre Bemba Gombo and, on the other, the forces of Mr Bozizé, former Chief of Staff of the Central African Armed Forces. In the course of this armed conflict, MLC forces allegedly carried out a widespread or systematic attack against the civilian population and allegedly committed the above-mentioned crimes, including in the localities known as PK 12 and PK 22, and in the towns of Bangui, the country's capital, Bossangoa, Mongoumba, Damara, and Bossembélé.

### 3. Will victims be in the Courtroom exercising their right to participate?

Fifty-four victims have been granted by the judges to participate in these proceedings. They will not be present in the Courtroom but will be represented by their legal representatives: Marie Edith Douzima-Lawson (representing thirty-four victims) and Paolina Massidda, Principal Counsel of the Office of Public Counsel for Victims (OPCV), representing twenty victims. The OPCV is an independent office, which falls within the remit of the Registry for administrative purposes only and has a mission to provide support and assistance to victims participating in the proceedings and their legal representatives.

#### **4. What is the role of the legal representatives of the victims?**

The legal representatives of victims will attend the hearings and they will make opening and closing statements explaining why victims wish to participate in the proceedings and how their personal interests are affected by the proceedings. The legal representatives will also be able to intervene on matters of fact and law which might affect the interest of their clients.

#### **5. Who is defending Mr Bemba?**

Mr Nkwebe Liriss heads a team which includes five other members and is responsible for Mr Bemba's defence.

#### **6. Does the Court bear the cost of Mr Bemba's counsel?**

On 25 August 2008, the Registry decided to provisionally reject Mr Bemba's application for legal assistance, pending completion of a financial investigation. This decision, which relates to the pre-trial phase, will be reviewed upon completion of the financial investigation.

#### **7. What is the role of Mr Bemba's counsel during the hearing?**

Mr Bemba's counsel may object to the charges, will give response to the Prosecutor's presentation of evidence and will present exculpatory evidence.

#### **8. What decisions can the Pre-Trial Chamber issue?**

The Pre-Trial Chamber may:

- confirm those charges in relation to which it has determined that there is sufficient evidence. In that event, the case will go to trial;
- decline to confirm those charges in relation to which it has determined that there is insufficient evidence;
- adjourn the hearing and request the Prosecutor to provide further evidence or conduct further investigations;
- adjourn the hearing and request the Prosecutor to amend any charge for which the evidence submitted appears to establish that a crime other than the crime charged was committed.

#### **9. When will the Pre-Trial Chamber render its decision?**

In accordance with regulation 53 of the *Regulations of the Court*, the Pre-Trial Chamber shall deliver its written decision within 60 days from the date the confirmation hearing ends.

#### **10. Can the Prosecutor withdraw or amend the charges brought against Mr Bemba?**

If the charges are confirmed, and before the trial has begun, the Prosecutor may, with the permission of the Pre-Trial Chamber and after notice to the accused, amend the charges. If the Prosecutor seeks to add additional charges or to substitute more serious charges, a hearing to confirm those charges must be held. After commencement of the trial, the Prosecutor may, with the permission of the Trial Chamber, withdraw the charges.

The Prosecutor is also entitled to submit a new request for rejected charges to be confirmed on the basis of additional evidence.

#### **11. What will happen if the charges are confirmed?**

If, at the close of the confirmation hearing, the Pre-Trial Chamber finds that there is sufficient evidence to support the charges, it will commit Mr Bemba for trial. The Presidency of the Court will constitute a Trial Chamber which will be responsible for conducting the subsequent phase of the proceedings.

Promptly after it is constituted, the Trial Chamber will hold status conferences and confer with the parties and participants in order to set the date of the trial and adopt procedures as are necessary to facilitate the fair and expeditious conduct of the proceedings. The Chamber will rule on several preliminary issues, including the language(s) to be used at trial, the timing and the manner of disclosure of evidence, etc.

#### **12. Where is Mr Bemba currently being detained?**

Since his transfer to the Court on 3 July 2008, Mr Bemba has been detained at the ICC Detention Centre within the *Haaglanden* Prison in *Scheveningen*, The Hague. On 16 December 2008, his application for interim release was rejected by the Pre-Trial Chamber.