



Jean-Pierre Bemba in ICC Custody

On May 23, 2008, the International Criminal Court (ICC) issued a sealed warrant for the arrest of Jean-Pierre Bemba Gombo, who is a former transitional vice-president of the Democratic Republic of Congo (DRC), the chairman of the *Mouvement de libération du Congo* (MLC) militia group turned political party, which received the second highest number of votes in the DRC's 2006 election, and a Congolese senator. According to the warrant, Bemba is allegedly responsible for two counts of crimes against humanity (rape and torture) and four counts of war crimes (rape, torture, outrages upon personal dignity, in particular humiliating and degrading treatment, and pillaging a town or place) committed in the Central African Republic (CAR) between October 25, 2002 and March 15, 2003.

Belgian police arrested Bemba near Brussels on May 24, 2008, when the warrant and its speedy enforcement were made public. Then, on June 10, 2008, a new arrest warrant was issued adding two new counts of murder to the existing charges. On July 3, 2008, Bemba was transferred to the Hague on three counts of crimes against humanity and five counts of war crimes. He made his first ICC appearance before Pre Trial Chamber III on July 4, 2008.

Bemba's involvement in CAR began in 2002, when the MLC came to the aid of CAR's then-President Ange-Félix Patassé, putting down an attempted coup against him. During the ensuing armed conflict, it is alleged that the MLC pursued a plan of terrorizing and brutalizing civilians, a particular feature of which was a massive campaign of rapes and looting.

Patassé was ultimately ousted in 2003 by current President François Bozizé, whose regime quickly filed criminal charges against Patassé and Bemba, among others. On December 16, 2004, a court of appeal in Bangui referred the case to the ICC, citing a lack of capacity. On April 11, 2006, the *Cour de Cassation*, CAR's highest criminal court, confirmed the referral on the grounds that CAR's justice system was unable to carry out effective investigations and prosecutions. Acting on the *Cour de Cassation's* decision, President Bozizé formally requested that the ICC investigate the crimes committed in CAR during 2002 and 2003. The Office of the Prosecutor of the ICC, which had been waiting for the *Cour de Cassation's* decision before determining whether to open an investigation, announced in May 2007 that it would launch an investigation in CAR. The Bemba arrest is the first in the CAR investigation.

One important issue that may arise in the context of the CAR situation is the time limitations included in Bozizé's request for investigation, which focuses on the period of abuses by his predecessor while ignoring serious ongoing conflict in CAR. The prosecutor's office for the moment seems to have agreed with Bozizé's assessment of the worst crimes committed in CAR. The prosecutor's office also, however, made clear in its decision to open an investigation that it was keeping its eyes, and its options, open. "[T]he Office continues to monitor the current situation," read the announcement of the investigation. "There are worrying reports of violence and crimes being committed in the northern areas of the country bordering Chad and Sudan." Another critical issue for DRC is the precedent set in this case that high level officials can be

arrested for crimes committed in other countries, which may pave the way for the ICC indictment of other officials, such as those allegedly committed by Ugandan army officials during their involvement in the DRC's wars.

Bemba's arrest provoked a range of reactions in CAR, DRC and internationally. The MLC denounced Bemba's arrest and requested that the Congolese parliament do the same and more than 2,000 Bemba supporters protested in Kinshasa on May 27, 2008, demanding that he be released. The MLC also requested that parliament call on the Belgian government to respect Bemba's immunity as a senator under Congolese law. Indeed, the Bemba arrest is the first time a person benefiting from parliamentary immunity has been arrested on ICC charges. The MLC has also suggested that the arrest is evidence of collusion between the Kinshasa government and the ICC.

Several Congolese groups also expressed concern that Bemba has only been charged in connection with crimes committed in CAR, alleging that he is also responsible for atrocities in DRC. For example, *La Ligue pour la Paix et les Droits de l'Homme* has suggested "that the ICC investigate (or speedily prosecute) the international crimes committed by the MLC...in Ituri, and more precisely in the territory of Mambasa in December 2002, and in Beni, more precisely in the localities of Kokola and Maimoya." Other groups, however, welcomed the arrest, noting that it represents a significant step in the fight against impunity because it shows that the ICC is capable of getting its hands on the 'big fish.' For example, the *Club des amis du droit du Congo*, which had questioned the ICC in its December 2007 article, "International Criminal Court: Justice of the 'small fish'?" welcomed the decision, saying, "the Court, through the cooperation of member states, has shown us that it is able to strike hard and fast."