



DRC / ICC

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Victims question the ICC about lack of proceedings against Jean-Pierre Bemba for crimes committed in the DRC : Judges dismissed the request considering that the Prosecutor's investigation is still open

The International Federation for Human Rights (FIDH) and its member organisations in the Democratic Republic of Congo (DRC), Association africaine des droits de l'Homme (ASADHO), Groupe Lotus and Ligue des électeurs, deplore the decision handed down by Pre-Trial Chamber I of the International Criminal Court (ICC) on 25 October 2010, which dismisses a request from Congolese victims to question the ICC Prosecutor about the decision not to prosecute Jean-Pierre Bemba for crimes he is alleged to have committed in Ituri (DRC).

The plaintiffs participate in ICC proceedings on the situation in the DRC. They are the victims of crimes committed by the troops of Jean-Pierre Bemba's Movement for the Liberation of the Congo (MLC), in Ituri, in 2002. However, Jean-Pierre Bemba, detained at the ICC since 2008, is being prosecuted solely for crimes committed in the Central African Republic (CAR) during the 2002-2003 conflict. The submission filed by the victims' legal representative in June 2010 called on the Prosecutor, through the Pre-Trial Chamber, to explain the reasons for his decision not to prosecute Jean-Pierre Bemba for crimes committed on Congolese territory, in particular in Ituri, despite the extent of available information and the fact that Mr. Bemba is in custody at the ICC detention centre. The filing referred inter alia to the numerous speeches and statements made by the Prosecutor announcing the closure of investigations in Ituri. [1]

“Our organisations are surprised at the grounds put forward by the Chamber for rejecting the request. The judges consider that in the absence of an explicit decision not to prosecute Jean-Pierre Bemba for crimes committed in Ituri, it can be affirmed that the investigations are still ongoing. The judges have thus disregarded the numerous speeches and statements made by the Office of the Prosecutor to the effect that the investigations were now focusing on the Kivu region of the DRC. Neither have they taken account of the fact that although Jean-Pierre Bemba is shortly to be put on trial, the Prosecutor has made no attempt to bring new charges for the crimes committed in Ituri, although he used the MLC's modus operandi to illustrate that used by Bemba's forces in the CAR”, said FIDH President Souhayr Belhassen.

The Chamber's ruling fails to take into consideration situations in which the Prosecutor takes no explicit decision not to prosecute. Can it be considered that those investigations are still ongoing even in the face of indications that the Prosecutor does not intend to prosecute? Also taking into account the principle of a reasonable time that should guide all judicial proceedings, the fact that the charges against Jean-Pierre Bemba have not been extended more than two years after his arrest gives reason to believe that the Prosecutor does not intend to prosecute.

Our organisations consider problematic that the Pre-Trial Chamber refuses de facto to scrutinise the decisions and omissions made by the Prosecutor in the pre-trial phase of proceedings. The whole idea of creating such a Chamber when the Rome Statute was adopted was precisely to put in place a system of "checks and balances" with regard to the Prosecutor's decisions.

Furthermore, while our organisations welcome the fact that the Pre-Trial Chamber did not consider the Prosecutor's and Defence's argument regarding the victims' locus standi as an obstacle to examining the substance of the case, they deplore the fact that the judges did not seize this opportunity to clarify the scope of the victims' rights and the relevant mechanisms for participation in the situation phase.

The trial of Jean-Pierre Bemba for crimes committed in the CAR will open on 22 November 2010. FIDH and its member organisations have on numerous occasions called on the Prosecutor to carry on his investigations in the CAR, in order to identify and prosecute other persons allegedly responsible for war crimes and crimes against humanity committed in the CAR, as the Court has done in all other situations.

[1] Refer to in particular: [Twelfth Diplomatic Briefing of the International Criminal Court, information package \(13 March, 2008\)](#), p.6; [Thirteenth Diplomatic Briefing of the International Criminal Court, information package \(13 June, 2008\)](#), p. 7; [Fourteenth Diplomatic Briefing of the International Criminal Court, information package \(2 October, 2008\)](#), p. 6-7; Fourth Report of the International Criminal Court to the United Nations, [United Nations Document A/63/323, 22 August 2008](#); [Speech by Luis Moreno-Ocampo, ICC Prosecutor, 70th session of the Assembly of States Parties, 14 November 2008](#), p. 6.

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