

AI Index: PRE 01/304/2009
14 August 2009

Amnesty International calls on Dutch government to receive Jean-Pierre Bemba

Amnesty International today called on The Netherlands and other countries to urgently agree to receive Jean Pierre Bemba, following a decision by the International Criminal Court in The Hague to grant him temporary release pending his trial.

According to Pre-Trial Chamber's decision, Belgium, France, Germany, Italy, Netherlands, Portugal and South Africa – all identified by Jean-Pierre Bemba as countries he wished to be released to – have all expressed “objections and concerns” about hosting him.

“If no country agrees to receive him, Jean-Pierre Bemba could remain in ICC detention indefinitely,” said Christopher Keith Hall, Senior Legal Adviser for Amnesty International.

“Jean-Pierre Bemba has the right to be presumed innocent until a decision is made by the ICC on his case. The ICC has conducted a thorough evaluation and determined that he should be provisionally released, subject to conditions. Given this ruling, to keep in detention indefinitely would violate Jean-Pierre Bemba's right to a fair trial.”

“The ICC simply will be unable to function if states fail to cooperate, and the Dutch government has a particular responsibility, as host of the ICC,” Christopher Keith Hall said.

The Rome Statute of the International Criminal Court, international human rights law and most national laws recognize that subject to certain criteria, a person can be granted interim release rather than face potentially long periods in pre-trial detention and detention during trials.

The Pre-Trial Chamber of the ICC has invited the governments suggested as hosts to Jean-Pierre Bemba to make further observations to the ICC before its next hearings on the issue between 7 and 14 September.

Once the Pre-Trial Chamber determines which is the preferred receiving country to accept Jean-Pierre Bemba on interim release for the duration of the criminal proceedings, that state has an unconditional obligation under Article 86 of the Rome Statute to comply with the ICC's request to accept him.

Amnesty International called on those states under consideration to urgently review their positions and fulfil their obligations under the Rome Statute to provide the fullest cooperation to the ICC by agreeing to accept Jean-Pierre Bemba and assisting the ICC in the implementation of the interim release.

Background

The ICC Prosecutor has appealed the Pre-Trial Chamber decision to release Jean-Pierre Bemba, and he will remain in detention pending the outcome of the appeal, scheduled to be heard on 24 August 2009.

The International Criminal Tribunal for the former Yugoslavia, after assessing the security implications, has frequently provisionally released persons accused of crimes against humanity and war crimes pending the completion of their trials and three accused are on provisional release at the moment.

Article 9 (3) of the International Covenant on Civil and Political Rights, which reflects general principles of law, provides:

“Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.”

Article 86 of the Rome Statute expressly provides:

“States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court.”