

PRESS RELEASE

Mr. Jean-Pierre Bemba's Claim for Compensation and Damages

Jean-Pierre Bemba was arrested on 23 May 2008. He was detained from that date until his release on 12 June 2018, a period of a little over 10 years.

At the time of his arrest in 2008, the ICC issued requests for assistance to Portugal, Belgium, and the DRC, to trace and freeze all Mr. Bemba's assets (and in some cases those of his family). This property was frozen in order to provide reparations to victims in the Central African Republic, in the event of a conviction by the ICC.

Mr. Bemba's claim, filed on 8 March 2019 before Pre-Trial Chamber II, details the obligations under domestic and international law on those who seize and freeze property, to protect and preserve its value. Mismanagement frustrates efforts to compensate victims for their loss. It is accordingly "important to ensure that assets are preserved at minimum costs and that they yield maximum return when they are ultimately realized." Arrangements put in place to manage seized assets "must be beyond reproach" and "in accordance with the law".¹

Mr. Bemba's property was left over a 10-year period to devalue, dissipate, or simply rot. The woeful mismanagement of his assets reveals negligence and incompetence to an extent that defies belief. A report annexed to his claim conservatively places Mr. Bemba's economic loss at **€42.4 million** as at December 2018. It is a sobering thought that, had the Trust Fund for Victims taken over Mr. Bemba's portfolio after a conviction, it would have inherited a debt of that magnitude. Whilst Mr Bemba is the primary loser in this regard, it is the victims, in whose name this was done, who have most reason to decry the ICC's failings.

Internal ICC documents reveal that the Court was aware of its complete lack of competence in this regard. A 2016 internal report describes the Registry's "grossly insufficient" ability to deal with State cooperation, with a capacity "at best able to perform routine tasks in 'damage control' mode as a result of a decentralised, uncoordinated and insufficiently staffed Registry external relations and State cooperation function." Relevantly, "[r]egarding the freezing of assets, the limited human resources were dedicated to drafting requests and follow-up, leaving no time for strategic planning and engagement with key stakeholders on this matter."

To give one example: in 2008, the ICC Prosecution seized the keys and documentation to a Boeing 727 parked at Faro Airport. Parking charges were left unpaid, no maintenance was performed for a decade, and the plane was left stranded for so long that it was viewed by the Portuguese authorities as an import, attracting VAT. When Mr. Bemba asked for the return of the keys and documentation in order to lease the plane to generate an income to put towards the cost of his legal fees, he was informed that the Prosecution was unable to find the keys. The debts incurred by the plane stand at **€713,251.52**. The plane is now scrap. It still stands stranded on the tarmac at Faro Airport.

¹ UNODC, [CAC/COSP/WG.2/2017/CRP.1](#), Study prepared by the Secretariat on effective management and disposal of seized and confiscated assets, 23 August 2017, pp. 10-11, 14-15. See also [S/2016/209](#), Final report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011), paras. 252-260.

The ICC acted negligently in seizing and freezing Mr. Bemba's property but failing properly to manage, or even account for it. This liability arises irrespective of any consideration of a miscarriage of justice. Put simply, Mr. Bemba would have had a valid claim for the negligent management of his personal property even had he been convicted in the main criminal trial.

However, in his case, a miscarriage of justice did occur. Mr. Bemba's claim also details the pattern of amateur mismanagement of the trial process, in which the Trial Chamber Judges regularly demonstrated ignorance of basic principles of criminal law and procedure, and which resulted in a judgment which, according to Appeals Chamber Judges, was replete with "obvious evidentiary problems", including the Trial Chamber's "selective and partial use of the available evidence", findings based on "no shred of evidence" against the accused, giving rise to "deep concerns" about whether the Judges applied the beyond reasonable doubt standard.² The mismanagement of the trial by the Judges is just one illustration of the way in which Mr Bemba's trial and conviction were little more than a parody of justice.

As such, Mr. Bemba is also seeking a total of **€22 million** in damages,³ to compensate him for the loss of 10 years of his life; 10 years in which this ambitious and energetic politician and businessmen was unable to pursue any aspect of his life. This amount is, in part, scientifically calculated by reference to comparable awards and default periods employed in international criminal law. However, a further component of the claim relates to the conduct of the Prosecutor, and a concerted campaign on behalf of her staff, past and present, to continue to damage Mr. Bemba's reputation, which Mr Bemba claims is aggravating behaviour which should increase the award to him. There is a further amount of **€4.2 million** relating to his legal costs, which brings the total claim **to date** to a little short of **€70 million**.

Any award for the destruction of and damage to his personal property will be used to put Mr. Bemba, members of his family, and other affected third parties, in a position approximate to that they would have been in had the negligent conduct not occurred. However, the award of damages insofar as it relates to compensating Mr. Bemba for the miscarriage of justice, will be used to provide reparations to the people of the Central African Republic.

Mr. Bemba was moved by the exhortations of the ICC President in his separate opinion acquitting him,⁴ and pledges to work with the Legal Representative of Victims, Trust Fund for Victims, and any other appropriate agency to provide meaningful assistance to those affected by conflict in that region funded by any compensation he receives for the miscarriage of justice and his wrongful decade of imprisonment.

² [ICC-01/05-01/08-3636-Anx2](#), paras. 12-14.

³ Mr. Bemba was imprisoned for 12 months and fined €300,000 in the *Bemba et al.*, case. A continued failure to pay that sum would invoke the procedure under Rule 146(5), whereby the sentence of 12 months could be "extended" by one quarter or 5 years, whichever is the shorter. In this case, the shorter period would be one quarter, *i.e.* 3 months. Trial Chamber VII, fully cognisant of Mr Bemba's status and the RPE, thus equated €100,000 to each month of imprisonment. Separately, the ICTY in 2011, in the case of a journalist, determined the period in default of payment of a €7,000 fine to be 7 days, or €1,000 per day.

⁴ Concurring Separate Opinion of Judge Eboe-Osuji, [ICC-01/05-01/08-3636-Anx3](#), fn. 1: "[...] in light of the outcome of the appeal, I must hope that Mr Bemba will use his new lease on freedom to do the following: assist victims of violations (including victims of rape) that occurred during the period of his involvement in the CAR war, regardless of the question of his own legal responsibility to do so; and, also, become an ambassador for lasting peace and human development in his country and continent."