

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08
Date: 5 November 2009

TRIAL CHAMBER III

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge Joyce Aluoch

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
*v. JEAN-PIERRE BEMBA GOMBO***

Public Document

Decision on the Date of Trial

Decision to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor
Ms Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence

Mr Nkwebe Liriss
Mr Aimé Kilolo-Musamba

Legal Representatives of the Victims

Ms Marie-Edith Douzima-Lawson
Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Ms Maria Luisa Martinod Jacome

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

1. During a public status conference on 7 October 2009,¹ the Trial Chamber (“Chamber”) raised with the parties and participants the issue of the date of trial. The defence requested a trial date at least six months after the Office of the Prosecutor (“prosecution”) has completed its disclosure obligations.² The prosecution did not advance any submissions on this proposal, save to indicate that it did not view it as unreasonable.³

2. On 3 November 2009 the Trial Chamber in its “Order on disclosure of evidence by the Office of the Prosecutor”,⁴ summarized the prosecution’s disclosure obligations in the following manner:

7. Against the background of Articles 64(3)(c), 67 of the Statute and Rules 76 and 77 of the Rules and to ensure they are properly implemented, the Chamber reiterates the direction given during the status conference on 7 October 2009 that the prosecution must effect its disclosure obligations in their entirety by 16.00 on 30 November 2009, subject to paragraph 6 above. If the prosecution is unable to comply with this order, it is to set out the reasons in writing by way of a filing, sufficiently in advance of that date to enable the Chamber to resolve the issue, including by way of a hearing, before the deadline expires.

3. On 4 November 2009, the Chamber addressed the issues that are currently outstanding as regards defence funding in its “Decision on the defence application to lift Order iii) of the ‘Decision on legal assistance for the accused’ dated 20 October 2009”⁵ by instructing the Registrar to implement, in full and immediately, its Order of 20 October 2009 that the Registry is “[t]o provide funding in the sum of €30,150 a month (this sum is to be paid retrospectively to March 2009, and ongoing until there is a material change in circumstances”.⁶

¹ Transcript of hearing on 7 October 2009, ICC-01/05-01/08-T-14-ENG-ET.

² ICC-01/05-01/08-T-14-ENG-ET, page 29, lines 14 – 16.

³ ICC-01/05-01/08-T-14-ENG-ET, page 29, lines 17 – 23.

⁴ Order on disclosure of evidence by the Office of the Prosecutor, 3 November 2009, ICC-01/05-01/08-590.

⁵ Decision on the defence application to lift Order iii) of the “Decision on legal assistance for the accused’ dated 20 October 2009”, 4 November 2009, ICC-01/05-01/08-596-US. A public redacted version of this Decision will be issued in due course.

⁶ ICC-01/05-01/08-596-US, paragraph 15; Summary of the Decision on legal assistance for the accused, 20 October 2009, ICC-01/05-01/08-568, paragraph 8.

4. It follows that the prosecution will have disclosed its trial evidence, as well as the potentially exculpatory and Rule 77 materials in its possession, in their entirety, by 30 November 2009 and the accused will have funding forthwith for his defence, retrospectively and for the future (subject to any further Orders). For the trial, the prosecution relies on statements and other materials served before and after the confirmation hearing. On 4 November 2009, in compliance with the Trial Chamber's order at the status conference on 7 October 2009,⁷ the prosecution filed its submission on the evidence it intends positively to rely on at trial, listing all the relevant materials in a confidential annex.⁸ The Chamber notes that the prosecution intends to call a total of 37 witnesses, 21 of whom were relied on during the confirmation hearing (the statements for 4 of these witnesses were disclosed as summaries and 1 remained anonymous, although the relevant materials for each witness have now been disclosed, albeit with proposed redactions).⁹ The prosecution is intending to introduce a total of 271 documents (including photographs, sketches, audio and video material, and reports) through 21 of these witnesses and a further 205 documents (comprising reports, press articles, audio and video material, maps, photographs, letters and transcripts) which are listed in the prosecution's filing as "Other Evidence".¹⁰ Out of the 271 documents to be introduced through the 21 witnesses, 25 were used for the confirmation hearing. Regarding the 205 documents listed under "Other Evidence", 87 were used at the confirmation hearing.
5. Given that a significant part of the trial materials were, therefore, served for the confirmation hearing, and allowing, first, for the difference in approach that may be adopted by the defence to that material between the pre-trial and

⁷ ICC-01/05-01/08-T-14-ENG-ET, pages 16 – 17.

⁸ Prosecution's Submission on Evidence that it intends to positively rely upon at trial, 4 November 2009, ICC-01/05-01/08-592 and Conf-Exp-AnxA.

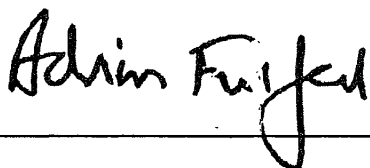
⁹ Prosecution's request to lift, maintain and apply redactions to witnesses' statements and related documents, 26 October 2009, ICC-01/05-01/08-572-Conf-Exp.

¹⁰ ICC-01/05-01/08-592 and Conf-Exp-AnxA.

trial stages, and, second, for the additional witnesses and documents *etc.* now relied on, the Trial Chamber is of the view that 5 months, following full disclosure, provides the defence with sufficient time for preparation. In essence, it needs to investigate 16 witnesses *de novo* and to prepare 21 witnesses for trial who were disclosed in advance of the confirmation hearing, along with considering the prosecution's documentary and other exhibits, and securing any defence evidence.

6. In all the circumstances, pursuant to Article 67(1)(b) and 67 (1)(c) of the Rome Statute and Rule 132 of the Rules of Procedure and Evidence, the trial will commence on **Tuesday 27 April 2010.**

Done in both English and French, the English version being authoritative.



Judge Adrian Fulford



Judge Elizabeth Odio Benito



Judge Joyce Aluoch

Dated this 5 November 2009

At The Hague, The Netherlands