

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/05-01/08

Date: 15 November 2013

**TRIAL CHAMBER III**

**Before: Judge Sylvia Steiner, Presiding Judge  
Judge Joyce Aluoch  
Judge Kuniko Ozaki**

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

**Public**

**Decision on the modalities of the presentation of additional testimony  
pursuant to Articles 64(6)(b) and (d) and 69(3) of the Rome Statute**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda

Mr Jean-Jacques Badibanga

**Counsel for the Defence**

Mr Aimé Kilolo Musamba

Mr Peter Haynes

**Legal Representatives of the Victims**

Ms Marie Edith Douzima-Lawson

Mr Assingambi Zarambaud

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for Participation/Reparation**

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

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

Mr Xavier-Jean Keita

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Defence Support Section**

**Victims and Witnesses Unit**

Mr Patrick Craig

**Detention Section**

**Other**

**Victims Participation and Reparations Section**

Trial Chamber III (“Chamber”) of the International Criminal Court (“Court” or “ICC”), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (the “Bemba case”), issues the following Decision on the modalities of the presentation of additional testimony pursuant to Articles 64(6)(b) and (d) and 69(3) of the Rome Statute (“Decision”).

## I. Background and Submissions

1. On 6 November 2013, the Chamber issued its “Decision on the presentation of additional testimony pursuant to Articles 64(6)(b) and (d) and 69(3) of the Rome Statute” (“Decision 2863”)<sup>1</sup> in which it, pursuant to its powers under Articles 64(6)(b) and (d) and 69(3) of the Rome Statute (“Statute”), decided to call Witness CHM-01 to provide testimony in the *Bemba* case.<sup>2</sup> The Chamber decided that the testimony of Witness CHM-01 should commence on 18 November 2013 and that the witness shall, in principle, testify in person at the seat of the Court in The Hague.<sup>3</sup> The Chamber further decided that the testimony will be heard by means of video technology if logistical difficulties prevent the witness from travelling to the seat of the Court in order to start his testimony on 18 November 2013.<sup>4</sup> In addition, the parties and the participants were asked to communicate to the Chamber their estimates of the time required to question the witness by 13 November 2013.<sup>5</sup> Legal representatives of victims were instructed to submit substantiated requests to question the witness in accordance with the procedure set out in the Chamber’s Decision on Directions for the Conduct of the Proceedings,<sup>6</sup> no later than 11 November 2013.<sup>7</sup>

<sup>1</sup> Decision on the presentation of additional testimony pursuant to Articles 64(6)(b) and (d) and 69(3) of the Rome Statute, 6 November 2013, ICC-01/05-01/08-2863-Conf, with Confidential Annex, ICC-01/05-01/08-2863-Conf-Anx, a public redacted version of the decision was filed on the same day, ICC-01/05-01/08-2863-Red.

<sup>2</sup> ICC-01/05-01/08-2863-Red, paragraphs 4 and 14 (i).

<sup>3</sup> ICC-01/05-01/08-2863-Red, paragraphs 5, 6 and 14 (ii) and (iii).

<sup>4</sup> ICC-01/05-01/08-2863-Red, paragraphs 5, 6 and 14 (ii) and (iii).

<sup>5</sup> ICC-01/05-01/08-2863-Red, paragraphs 11 and 14 (vii).

<sup>6</sup> ICC-01/05-01/08-1023, paragraphs 17 to 20.

2. On 11 November 2013, Maître Douzima-Lawson filed her “Requête de la Représentante légale de victimes afin d’être autorisée à interroger le témoin CHM-1” (“Maître Douzima’s Request”),<sup>8</sup> in which she requests to question Witness CHM-01, on behalf of the victims she represents.<sup>9</sup> The application contains a list of six sets of questions.<sup>10</sup> Similarly, on the same date, Maître Zarambaud filed his “Requête du Représentant légal de victimes afin d’être autorisé à interroger le témoin CHM-1” (“Maître Zarambaud’s Request”),<sup>11</sup> in which he requests to question Witness CHM-01, on behalf of the witnesses he represents.<sup>12</sup> The application contains a list of 14 sets of questions.<sup>13</sup>
  
3. On 12 November 2013, the legal representatives of victims requested to be granted 1 hour 15 minutes each to question Witness CHM-01.<sup>14</sup> On 13 November 2013, the defence and the prosecution requested, respectively, five and six hours to question the witness.<sup>15</sup>
  
4. On 14 November 2013, the Registry informed the Chamber that, due to logistical difficulties in arranging the appearance of Witness CHM-01 at the seat of the Court by Monday, 18 November 2013, the Registry has started the preparations for the presentation of testimony of the witness by video-link.<sup>16</sup>

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<sup>7</sup> ICC-01/05-01/08-2863-Red, paragraphs 12 and 14 (viii).

<sup>8</sup> Requête de la Représentante légale de victimes afin d’être autorisée à interroger le témoin CHM-1, 11 November 2013, ICC-01/05-01/08-2869-Conf.

<sup>9</sup> ICC-01/05-01/08-2869-Conf, page 3.

<sup>10</sup> ICC-01/05-01/08-2869-Conf, pages 3 and 4.

<sup>11</sup> Requête du Représentant légal de victimes afin d’être autorisé à interroger le témoin CHM-1, 11 November 2013, ICC-01/05-01/08-2870-Conf.

<sup>12</sup> ICC-01/05-01/08-2870-Conf, page 4.

<sup>13</sup> ICC-01/05-01/08-2870-Conf, pages 3 to 6.

<sup>14</sup> Email from the Legal Assistant of the Legal Representatives to the Chamber, sent on 12 November 2013 at 16.54.

<sup>15</sup> Email from the Legal Assistant of Mr Jean-Pierre Bemba to the Chamber’s Associate Legal Officer, sent on 13 November 2013 at 15.33 and email from the Trial Lawyer of the Office of the Prosecutor to the Chamber’s Associate Legal Officer, sent on 13 November 2013 at 18.44.

<sup>16</sup> Email from the Registry to the Chamber’s Associate Legal Officer, sent on 14 November 2013 at 13.08.

## II. Analysis

5. For the purpose of the present Decision, the Chamber has considered, in accordance with Article 21(1) of the Statute, Articles 64(2) and (8)(b), 67(1), 68(3) and 69(2) of the Statute, Rules 67, 89 to 93 and 140 of the Rules of Procedure and Evidence ("Rules"), and Regulations 43, 54, and 86 of the Regulations of the Court ("Regulations").
6. Taking into account the Chamber's Decision 2863 and the information submitted by the Registry on 14 November 2013, the Chamber notes that the testimony of Witness CHM-01 will be presented by means of video technology, starting on Monday, 18 November 2013 at 10.00.
7. As to Maître Douzima's and Maître Zarambaud's Requests, having considered the reasons given by both legal representatives as to why the personal interests of the victims they represent are affected, the Chamber allows the respective applications to question Witness CHM-01. Turning to the proposed questions, both legal representatives of victims are allowed to put all of their proposed questions to the Witness, as set out in their aforementioned filings, with the exception of: (i) question number six of Maître Douzima, which should be re-phrased in a neutral fashion; (ii) question number six of Maître Zarambaud which makes inaccurate reference to Witness CHM-01's statement and should be rephrased; (iii) question number seven of Maître Zarambaud, which should be rephrased in a neutral fashion; (iv) question number 12 of Maître Zarambaud, which should be rephrased for greater clarity; and (v) question number 13 of Maître Zarambaud, which should include the citations for the quotes he refers to.

8. The Chamber grants the parties' and participants' requested time to question Witness CHM-01 and informs the parties, the participants and the public that it estimates that it will require approximately five hours to pose its own questions to the witness.
9. The Chamber informs the parties, the participants and the public that during the testimony of Witness CHM-01, it will sit in three sessions of one and a half hours per day, with the exception of Monday 18 November 2013 when the Chamber will start with one session of two hours, followed by two sessions of one and a half hour.
10. Lastly, the Chamber orders the parties and the participants to submit, by no later than 29 November 2013, any applications for the admission into evidence of material relevant to the testimony of Witness CHM-01. Any responses to such applications shall be filed within seven days of their notification. Replies will be subject to leave being granted by the Chamber.

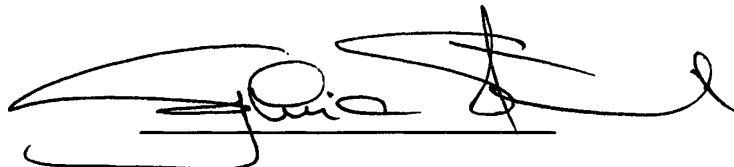
### III. Conclusions

11. For the above reasons, the Chamber hereby:
  - (i) NOTES that the testimony of Witness CHM-01 will be given *viva voce* by means of video technology, starting on Monday, 18 November 2013 at 10.00;
  - (ii) GRANTS Maître Douzima's Request and Maître Zarambaud's Request to question Witness CHM-01 under the conditions set out in paragraph 7 above;
  - (iii) GRANTS the parties' and the participants' requested time to question Witness CHM-01;
  - (iv) DECIDES that during the testimony of Witness CHM-01, the Chamber will sit in three sessions of one and a half hours per day,

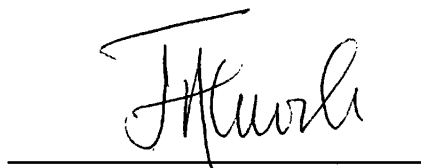
with the exception of Monday 18 November 2013 when the Chamber will start with one session of two hours, followed by two sessions of one and a half hour;

- (v) ORDERS the parties and the participants to submit, by no later than 29 November 2013, any applications for the admission into evidence of material relevant to the testimony of Witness CHM-01; and
- (vi) ORDERS that any responses to such applications shall be filed within seven days of their notification.

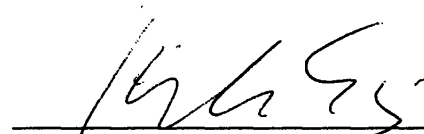
Done in both English and French, the English version being authoritative.



**Judge Sylvia Steiner**



**Judge Joyce Aluoch**



**Judge Kuniko Ozaki**

Dated this 15 November 2013

At The Hague, the Netherlands