

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 26 February 2014

**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 "Defence Request for Leave to Reply to the 'Prosecution's  
Response to 'Defence Motion on Prosecution contact with its  
witnesses'"**

**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 Peter Haynes

Ms Kate Gibson

**Legal Representatives of the Victims**

Ms Marie-Edith Douzima Lawson

**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 Keïta

**States Representatives**

**Amicus Curiae**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Patrick Craig

**Detention Section**

**Victims Participation and Reparations Other  
Section**

Trial Chamber III (“Chamber”) of the International Criminal Court (“Court”), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, issues the following Decision on “Defence Request for Leave to Reply to the ‘Prosecution’s Response to ‘Defence Motion on Prosecution contact with its witnesses’”.

1. On 12 February 2014, the defence filed its “Defence Motion on Prosecution contact with its witnesses” (“Defence Motion”),<sup>1</sup> in which it requests that the Chamber:<sup>2</sup>

- (i) ORDER that the Prosecution refrain from contacting any Defence witnesses outside the procedure set by the Trial Chamber in its Decision on the “Prosecution Motion on Procedure for Contacting Defence Witnesses and to Compel Disclosure”; and
- (ii) ORDER that if such contact has occurred, the Prosecution immediately disclose all interview notes, statements, or transcripts of interview generated during the course of this contact.

2. On 20 February 2014, the Office of the Prosecutor (“prosecution”) filed its “Prosecution’s Response to ‘Defence Motion on Prosecution contact with its witnesses’” (“Prosecution Response”),<sup>3</sup> in which it requests that the Chamber reject the Defence Motion and provides a series of arguments for that purpose.

3. On 26 February 2014, the defence sought leave to reply to the Prosecution Response pursuant to Regulation 24(5) of the Regulations of the Court (“Regulations”).<sup>4</sup> Specifically, the defence seeks leave to reply to the following argument put forth by the prosecution:<sup>5</sup>

The Defence request for disclosure of Article 70 material conflicts with its allegations that the Prosecution is attempting to “contaminate” this Chamber with Article 70 evidence as it is fully aware that the E-Court

<sup>1</sup> Defence Motion on Prosecution Contact with its witnesses, 12 February 2014, ICC-01/05-01/08-2971-Conf. A redacted version was filed on the same day: Defence Motion on Prosecution Contact with its witnesses, 12 February 2014, ICC-01/05-01/08-2971-Red.

<sup>2</sup> ICC-01/05-01/08-2971-Red, paragraph 17.

<sup>3</sup> Prosecution’s Response to “Defence Motion on Prosecution contact with its witnesses”, 20 February 2014, ICC-01/05-01/08-2990-Conf.

<sup>4</sup> Defence Request for Leave to Reply to the ‘Prosecution’s Response to “Defence Motion on Prosecution contact with its witnesses’”, 26 February 2014, ICC-01/05-01/08-2992-Conf.

<sup>5</sup> ICC-01/05-01/08-2992-Conf, paragraph 4.

**Protocol requires communication of all disclosed materials to the Chamber, which can thereafter access this information [...]** The disclosure of any witness related Article 70 material is intrinsically linked to the Chamber's decision on the relevance of any such evidence for the current trial proceedings.

4. The defence submits that "a focused reply [to this limited and defined argument] may benefit the Chamber in its determination of an issue critical to the conduct of these proceedings, and is in the interests of justice."<sup>6</sup>

5. The defence further seeks leave to "submit short and focused pleadings on the propriety of [specific aspects of the prosecution's] pleadings."<sup>7</sup>

6. The Chamber is of the view that it may benefit from the defence's views on the two discrete issues set out in paragraphs 3 to 5 above.

7. In view of the above, the Chamber hereby:

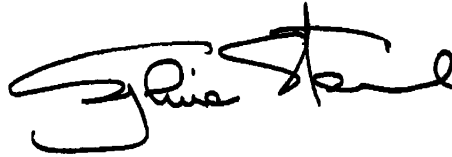
- a. GRANTS the defence's request for leave to reply to the two discrete issues set out in paragraphs 3 to 5 above, pursuant to Regulation 24(5) of the Regulations; and
- b. ORDERS that the defence's reply be filed no later than 16.00 on Monday, 3 March 2014, pursuant to Regulation 34(c) of the Regulations.

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<sup>6</sup> ICC-01/05-01/08-2992-Conf, paragraph 5.

<sup>7</sup> ICC-01/05-01/08-2992-Conf, paragraphs 6 and 7.

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



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**Judge Sylvia Steiner**



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**Judge Joyce Aluoch**



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**Judge Kuniko Ozaki**

Dated this 26 February 2014

At The Hague, the Netherlands