

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **17 April 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 ‘Consolidated
Response to the Defence Requests’”**

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
Ms Melinda Taylor

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

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

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

1. On 19 March 2014, the defence for Jean-Pierre Bemba Gombo (“defence”) filed its “Defence Request for Disclosure”,¹ in which it requests that the Chamber to: (i) order the Office of the Prosecutor (“prosecution”) to disclose certain information; and (ii) remain seized of the need to sanction the prosecution by either excluding any incriminating material or charges to which the information it requests relates, or drawing inferences either against the prosecution or in favour of the defence, as appropriate.²
2. On 7 April 2014, the defence filed its “Defence Further Request for Disclosure”,³ in which it requests that the Chamber: (i) order the disclosure of any and all exculpatory materials “related to Narcisse Arido”; and (ii) order that the prosecution review all materials in its possession gathered during the Article 70 investigation and ensure compliance with its disclosure obligations in the *Bemba* case.⁴
3. On 10 April 2014, the prosecution filed its “Consolidated Prosecution Response in Opposition to ‘Defence Request for Disclosure’ and ‘Defence Further Request for Disclosure’” (“Consolidated Response”),⁵ in which it

¹ Defence Request for Disclosure, 19 March 2014, ICC-01/05-01/08-3020-Conf, together with confidential annexes A, B, C, D, E, F, G, and H (notified on 20 March 2014). A public redacted version of Defence Request for Disclosure, together with annexes A-H, was filed on 19 March 2014 and notified on 20 March 2014, ICC-01/05-01/08-3020-Red.

² ICC-01/05-01/08-3020-Red, paragraph 67.

³ Defence Further Request for Disclosure, 7 April 2014, ICC-01/05-01/08-3033-Conf, together with public annex A and confidential annex B. A public redacted version of Defence Further Request for Disclosure was filed and notified on the same day, ICC-01/05-01/08-3033-Red.

⁴ ICC-01/05-01/08-3033-Red, paragraph 16.

⁵ Consolidated Prosecution Response in Opposition to “Defence Request for Disclosure” and “Defence Further Request for Disclosure”, 10 April 2014, ICC-01/05-01/08-3039-Conf. The Chamber notes that the Consolidated Response is classified as confidential. However, in light of the principle of publicity of the proceedings enshrined in Articles 64(7) and 67(1) of the Statute and Regulation 20 of the Regulations, the

requests that the Chamber reject the defence requests for disclosure and provides a series of arguments for that purpose.

4. On 15 April 2014, the defence filed its leave to reply to the Consolidated Response (“Leave to Reply”) pursuant to Regulation 24(5) of the Regulations of the Court (“Regulations”).⁶ In its Leave to Reply, the defence submits that it “should be accorded a right to reply to [...] allegations, which strike at the heart of the manner in which the Prosecution has approached this case, and its duties to the Defence”.⁷

5. The Chamber is of the view that it may benefit from the defence’s views on certain issues set out in its Leave to Reply. The Chamber reminds the defence that its reply must be narrowly tailored to only address new issues raised in the Consolidated Response.

6. Additionally, in light of the fact that the Consolidated Response is comprised of nine pages and noting the narrow and specific issues on which the defence seeks leave to reply, the Chamber considers, pursuant to Regulation 37(1) of the Regulations, that it is appropriate that the defence reply be limited to no more than nine pages.

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

- a. GRANTS the defence’s request for leave to reply, pursuant to Regulation 24(5) of the Regulations;
- b. ORDERS that the defence’s reply be filed no later than 25 April

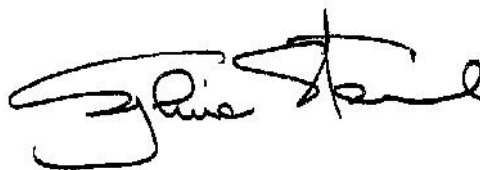
present Decision is filed publicly, and the prosecution is directed to file a public redacted version of the filing or to indicate that it may be reclassified.

⁶ Defence Request for Leave to Reply to the “Consolidated Response to the Defence Requests”, 15 April 2014, ICC-01/05-01/08-3044-Conf. The Chamber notes that the Leave to Reply is classified as confidential. The defence is directed to file a public redacted version of the filing or to indicate that it may be reclassified.

⁷ ICC-01/05-01/08- 3044-Conf, paragraph 15. Although mindful that this document is currently classified as confidential, the Chamber is of the view that its reference to the document in this instance does not require confidential treatment at this time.

- 2014, pursuant to Regulation 35(2) of the Regulations;
- c. ORDERS that the defence reply not exceed nine pages, pursuant to Regulation 37(1) of the Regulations; and
 - d. ORDERS the prosecution and the defence to file no later than 25 April 2014, pursuant to Regulation 23*bis*(3) of the Regulations of the Court, public redacted versions of the Consolidated Response and Leave to Reply, respectively, or to immediately indicate to the Chamber whether these two documents should be reclassified as public.

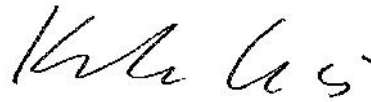
Done in both English and French, the English version being authoritative.



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 17 April 2014

At The Hague, the Netherlands