

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 27 February 2012

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 document

Order on the scheduling of Witness 36's testimony

Order 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 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

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Ms Maria Luisa Martinod-Jacome

Other

Trial Chamber III (“Chamber”) of the International Criminal Court (“Court”) in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* issues the following Order on the scheduling of Witness 36’s testimony.

1. After a first postponement of the testimony of witness CAR-OTP-PPPP-0036 (“Witness 36”) due to his unavailability for health reasons,¹ the Chamber decided to hear Witness 36’s testimony by means of video technology.²
2. According to the Office of the Prosecutor (“prosecution”)’s amended witness schedule,³ Witness 36 who is the last prosecution witness was expected to start his testimony on 16 February 2012. This date for his testimony was then postponed by a few days after the witness informed the Victims and Witnesses Unit (“VWU”) that he would not be available before 21 February 2012.⁴
3. However, on 20 February 2012, the VWU informed the Chamber that Witness 36 encountered additional health issues and required a recovery period of at least 10 days.⁵
4. Therefore, by email of 22 February 2012,⁶ the Chamber informed the prosecution and the defence *inter alia* that the testimony of Witness 36 needed to be postponed once more for medical reasons.

¹ Public Redacted Version of the Chamber’s 11 November 2011 Decision regarding the prosecution’s witness schedule, 15 November 2011, ICC-01/05-01/08-1904-Red, paragraph 8 and footnote 16.

² Public redacted decision on the “Prosecution request to hear Witness CAR-OTP-PPP-0036’s testimony via video-link”, 3 February 2012, ICC-01/05-01/08-2101-Red2, paragraph 13.

³ Email from the prosecution Case Manager to the Legal Adviser to the Trial Division, 30 January 2012 at 12:03.

⁴ Email from the Legal Coordinator, Division of Court Services, to the Assistant Legal Officer of the Chamber on 8 February 2012, at 10.08.

⁵ Email from the Associate Legal Officer, Division of Court Services, the Assistant Legal Officer of the Chamber on 20 February 2012, at 18.32.

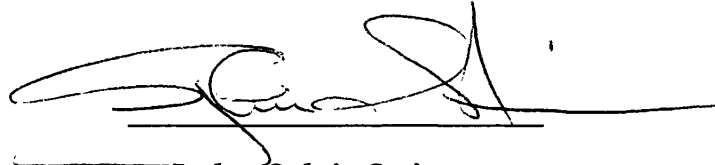
⁶ Email from the Assistant Legal Officer of the Chamber to the Office of the Prosecutor (“prosecution”) and the defence on 21 February 2012, at 17.00.

5. In accordance with Article 21(1) of the Rome Statute (“Statute”), for the purpose of the present Order, the Chamber has considered Articles 64(2) and 68(1) of the Statute and Regulations 43 and 54 of the Regulations of the Court.
6. As set out above, the Chamber has already considered the personal circumstances of Witness 36, in accordance with the Chamber’s duty to take appropriate measures to protect the physical and psychological well-being of witnesses. However, the Chamber needs to strike a balance between its duty under Article 68(1) of the Statute and its obligation to ensure a fair and expeditious conduct of the proceedings under Article 64(2) of the Statute. The Chamber is of the view that, although there was good cause for postponing the testimony of Witness 36 up until now, the date of his testimony needs to be determined with certainty given that the next procedural stages in the case depend on it.⁷
7. In the present circumstances, the Chamber orders that Witness 36 commences his testimony on 13 March 2012 at 9h30 *via* video-link. If this schedule cannot be respected, the Chamber will need to consider whether any request for a further postponement of Witness 36’s testimony is consistent with the requirement that the trial is fair and expeditious in accordance with Article 64(2) of the Statute.
8. With regard to the arrangements to be made for Witness 36’s testimony, the Chamber reiterates its ruling in its “Decision on the ‘Prosecution request to hear Witness CAR-OTP-PPP-0036’s testimony via video-link’”⁸ and orders the Registry to make all necessary arrangements to prepare for a timely video-link hearing.


⁷ Order postponing a status conference and on issues related to the presentation of evidence by the defence, 24 February 2012, ICC-01-05-01/08-2145, paragraph 4.

⁸ ICC-01/05-01/08-2101-Red2, paragraph 13b) to d).

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 27 February 2012

At The Hague, The Netherlands