

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 20 April 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

Decision on the Defence Request for an Extension of Time

No. ICC-01/05-01/08

1/6

20 April 2012

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

The Office of the Prosecutor

Ms Fatou Bensouda

Ms Petra Kneuer

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

REGISTRY

Registrar

Ms Silvana Arbia

Defence 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* issues the following Decision on the Defence Request for an Extension of Time.

1. On 26 March 2012, the Chamber issued its “Order on the procedure for the submission as evidence of material used during the questioning of witnesses” (“Order”),¹ wherein, noting the parties’ uncertainty as to whether or not certain materials were already admitted as evidence during the trial phase of the case,² it instructed the parties to identify all materials which they wished to submit as evidence ranging in date from the testimony of Witness 110³ to the testimony of Witness 36.⁴ To that end, the parties were instructed to submit, by 16.00 on 16 April 2012, appropriate filings,⁵ including all relevant information in accordance with the Rome Statute (“Statute”) and the Rules of Procedure and Evidence (“Rules”), in particular the three part test of relevance, probative value and potential prejudice which is necessary for the Chamber’s determination of the admissibility of each piece of evidence.⁶

2. On 16 April 2012, the defence of Mr Jean-Pierre Bemba (“defence”) filed the “Defence Request for an Extension of Time” (“Request”).⁷ In its Request, the defence asks that the Chamber either postpone compliance with the Order until the completion of the presentation of the entirety of

¹ Order on the procedure for the submission as evidence of material used during the questioning of witnesses, 26 March 2012, ICC-01/05-01/08-2177.

² ICC-01/05-01/08-2177, paragraph 3.

³ The testimony of Witness 110 commenced on 9 June 2011, ICC-01/05-01/08-T-125.

⁴ The testimony of Witness 36 commenced on 13 March 2012 and concluded on 20 March 2012, ICC-01/05-01/08-T-213 to ICC-01/05-01/08-T-218.

⁵ ICC-01/05-01/08-2177, paragraph 5.

⁶ ICC-01/05-01/08-2177, paragraph 5.

⁷ Defence Request for an Extension of Time, 16 April 2012, ICC-01/05-01/08-2190.

the evidence or, in the alternative, grant the defence an extension of time of two additional weeks within which to comply with the Order.⁸ To that end, the defence submits that the main reason justifying the extension requested is the fact that the defence team has been involved in preparations for its presentation of evidence which has involved substantial periods away from consistent internet access required to review the case file and the documents to which the Order pertains.⁹ Further, the defence submits that questions of relevance and probative value of particular documents will shift during the case depending on how they are used with subsequent witnesses; therefore, it is contended that this exercise is one which would more usefully be done at the completion of the presentation of all evidence.¹⁰ Lastly, the defence submits that no prejudice would be suffered by any party by postponing compliance with the Order.¹¹

3. In accordance with Article 21(1) of the Statute, the Chamber has considered the following provisions in making its Decision: Articles 64(2) (6)(f) and (10) of the Statute and Regulations 34(a) and 35 of the Regulations of the Court (“Regulations”).
4. The Chamber notes that the Request was filed on the same day, indeed only a few hours before the time limit was due to lapse. While Regulation 35 of the Regulations only requires that such applications be made before the lapse of any time limit, the Chamber is of the view that such

⁸ ICC-01/05-01/08-2190, paragraphs 5 and 7.

⁹ ICC-01/05-01/08-2190, paragraph 3.

¹⁰ ICC-01/05-01/08-2190, paragraph 5.

¹¹ ICC-01/05-01/08-2190, paragraph 5.

applications must be made sufficiently in advance so as to allow the Chamber to render a decision sufficiently prior to the lapse of the time limit. However, in light of the recent loss of the defence lead counsel, and given the need for the defence team to re-organise, the Chamber is minded to consider the Request on an exceptional basis.

5. In the present circumstances, the Chamber considers that the defence has shown good cause for an extension of the time limit in accordance with Regulation 35(2) of the Regulations. However, the Chamber notes that the procedure for the submission of evidence is an ongoing process whereby items are to be submitted for admission on a witness-by-witness basis.¹² The Chamber is of the view that such a procedure is necessary in order to ensure clarity and certainty during the progress of the case as to whether items used by the parties in the questioning of witnesses have been admitted as evidence or not. Such a procedure is also necessary to ensure compliance with the Chamber's duty under Article 64(10) of the Statute to ensure the maintenance and preservation of "a complete record of the trial, which accurately reflects the proceedings". As such, the Chamber rejects the defence's request that compliance with the Order be postponed until the completion of the hearing of all evidence.

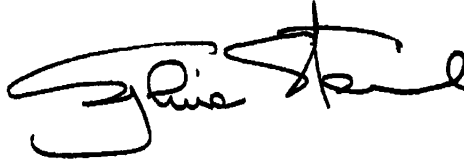
6. In view of the foregoing, the Chamber hereby **GRANTS** the defence an extension of time of two additional weeks to comply with the Chamber's Order, meaning that the defence must submit a filing by 16.00 on 1 May 2012 identifying all materials which it wishes to submit as evidence

¹² ICC-01/05-01/08-1470, paragraph 7(a).

ranging in date from the testimony of Witness 110 to the testimony of Witness 36.

7. The Chamber further orders that, in relation to both the list of material already submitted by the Office of the Prosecutor¹³ and that to be submitted by the defence by 1 May 2012, any issue relating to the relevance or admissibility of any specific material, in accordance with Rule 64(1) of the Rules, shall be raised in writing by 16.00 on 7 May 2012. Thereafter, a party that wishes to respond to the objection shall do so in writing by 14 May 2012.

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 20 April 2011

At The Hague, the Netherlands

¹³ Prosecution's submission of the second list of materials it requests to be admitted into evidence, 16 April 2012, ICC-01/05-01/08-2191.