

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08
Date: 14 October 2008

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra, Presiding Judge
Judge Hans-Peter Kaul
Judge Ekaterina Trendafilova

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

Public Document

Registry Report on the Implementation of Disclosure to the Defence

Source: The Registrar

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Fatou Bensouda, Deputy Prosecutor
Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence

Nkwebe Liriss, Counsel
Tjarda E. Van der Spoel, Associate
Counsel
Aimé Kilolo-Musamba, Associate
Counsel

Registrar

Silvana Arbia

The Registrar of the International Criminal Court (« the Court »);

NOTING the "*Decision on the Evidence Disclosure System and Setting a Timetable for Disclosure between the Parties*" ("*Decision on Disclosure*") rendered by the Pre-Trial Chamber III ("the Chamber") on 31 July 2008¹ ;

NOTING the status conference held by the Chamber with the Defence on 8 October 2008²;

NOTING the "*Decision on the Implementation of Disclosure to the Defence*" issued by the Chamber on 10 October 2008³;

NOTING Article 61(3) and 67 of the Rome Statute (the "Statute"), Rules 15, 76 to 83, 121 of the Rules of Procedure and Evidence (the "Rules"), Regulation 26 of the Regulations of the Court and Regulations 15 to 19, 21, 24 to 28 and 53(3) of the Regulations of the Registry;

CONSIDERING that in the "*Decision on the Implementation of Disclosure to the Defence*" the Chamber ordered the Registrar to submit a report on several issues related to the disclosure process;

SUBMITS to the Chamber the following report:

¹ ICC-01/05-01/08-55

² ICC-01/05-01/08-T-7-CONF-EXP-ENG ET

³ ICC-01/05-01/08-148

1. Disclosure process between parties facilitated through the Registry

On the 1st and the 3rd of October the disclosure process between the parties has been facilitated through the Registry as ordered pursuant to the Chamber's Decision on Disclosure.

All the evidence received from the Office of the Prosecutor (the "OTP") has been registered into the record of the case and has been assigned a corresponding "EVD number", in accordance with regulation 28 of the Regulations of the Registry.

As noted in paragraph 55 of the Chamber's Decision on Disclosure, the Registry assured the Chamber that a maximum of 250 pieces of textual evidence can be processed within one working day. Based on the amount of disclosure documents submitted by the OTP, this process was scheduled to take at least eight working days. In order to limit the impact on the rights of the Defence, the Registry has made all efforts to complete the registering of all material by Friday 3 October at 21h30.

On 1 and 3 October the Defence was informed by the Registry via an e-mail of the registration of the OTP disclosure material in the Ringtail system.

2. Conditions for disclosure of material

The first batches of disclosure material were provided by the OTP to the Registry on 1 October at 15h48 and 16h14 (around 100 pieces of evidence).

The bulk of the disclosure material however, was received from the OTP by Registry on 3 October at 15h38 and 15h39 (2033 pieces of evidence).

The disclosure material was submitted by the OTP with the appropriate metadata in accordance with the e-Court protocol and with the accompanying documentation, per order of the Chamber's Decision on Disclosure.

3. Defence access to all evidence disclosed by the Prosecution

The Registry commenced registration of the evidence immediately after receipt from the OTP on 1 and 3 October.

On 3 October at 21h30 all the documents were uploaded in the "Registry Ringtail" system and available for the Defence to access remotely or in-house. As indicated above, the Defence were promptly informed on 1 and 3 October on the completion of the uploading of the evidence in Ringtail.

The "Registry Ringtail" environment allows the Defence to view the documents, to run searches based on the metadata available and to perform a full text search.

In addition to the "Registry Ringtail" environment, both the Defence and the OTP are provided with separate instances of Ringtail to allow the creation of disclosure packages and maintenance of a case file.

At present it is technically not possible to directly release registered documents from the "Registry Ringtail" environment to the "Defence Ringtail" environment. Additional steps are required and were taken by Registry to export the registered material to that environment. As a result on 7 October all registered materials were fully available on the "Defence Ringtail" environment to the Defence Team of Mr. Bemba.

The Registry furthermore wishes to bring to the attention of the Chamber that user accounts and provision of the necessary access rights to e-Court applications for the following members of the Defence team of Mr. Bemba were provided, based on requests from the Defence Support Section (the "DSS") as follows:

- Mr. Van der Spoel & Mr. Kilolo have access to the system since 30th July 2008, including access to e-Court applications;
- Mr Nkwebe, who was formally appointed as Counsel on 5 August 2008, had access as of 6 October 2008, including access to e-Court applications.

Mr. Mangenda, who was appointed by the counsel Mr. Nkwebe as case manager on Friday 3 October 2008, had access as of Tuesday 7 October 2008, including access to e-Court applications.

It should also be noted that the requests for access for Mr. Mangenda and for Ms. Lindsay were made only on 6 October. Registry is in the process of creating access for Ms. Lindsay as soon as possible.

4. Provision of required training in Ringtail software

On 25 July 2008, DSS requested that the Information and Communication Technology Section (the "ICTS") provide e-Court training to the Defence team of Mr. Bemba on 30 July 2008 due to the availability of counsel. At that point, the team consisted of Mr. Van der Spoel and Mr. Kilolo. The training was delivered on 30 July 2008, as per this request. The training consisted of showing the Defence team how to access materials in Ringtail, view the corresponding metadata and how to search for documents. This was carried out in the Ringtail Registry training database. The system at that time however, contained only dummy-data for training purposes, as no material had yet been disclosed in this case.

The Registrar wishes to inform the Chamber that no additional requests for training were received after this.

It has to be noted that Mr. Mangenda is a former case manager in the Office of Public Counsel for the Defence and has already received training in Ringtail software.

5. Mr. Bemba's access to disclosed materials

On 10 July 2008, a computer station was set up for Mr. Bemba at the ICC Detention Centre for the purposes of access to case related information and materials.

Furthermore, on 21 July 2008, he was given a CD for self training on Ringtail, this means that at this stage he was able to see how the system works but was not in a position to actually use it. Subsequently, on 20 August 2008, the link facilitating a connection between Mr. Bemba's computer at the ICC Detention Centre and the Defence Ringtail computer located at the Arc building was established. This meant that Mr. Bemba could now continue his training on Ringtail by using dummy-data. The day after, that is on 21 August 2008, he was provided with Ringtail training by a member of the ICTS staff to ensure Mr. Bemba's understanding of the software.

The Registrar respectfully notes that generally it is upon the Defence team to upload disclosed materials to the Ringtail system accessible to Mr. Bemba. Normally, the Defence team case manager is in principle responsible for this procedure. Mr. Mangenda was appointed to this role on 3 October only, but he does not, in principle, need additional training because he has acquired the necessary competence during his experience as case manager in the OPCD.

6. Difficulties with regard to the notification of the filings of the Prosecutor as of 30 September 2008

The Registrar respectfully informs the Chamber that no difficulties have been encountered with regard to the notification of the filings of the Prosecutor as of 30 September 2008.

7. Concerns communicated by the Defence to the Registrar

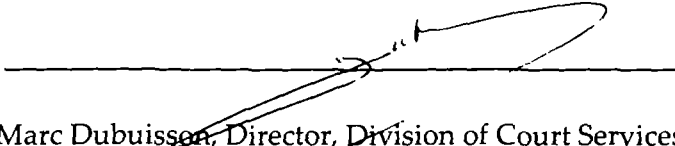
On Wednesday the 1st of October the ICTS received a telephone message from Ms. Lindsay with a request for assistance on the Ringtail system. Since Ms. Lindsay was not listed as an official member of the Defence team of Mr. Bemba, it was not allowed to provide her with immediate assistance. Registry advised the members of the Defence team of Mr. Bemba that such requests for assistance should be directed through the DSS at the earliest stage possible.

On 6 October 2008 Registry received official notifications and requests to create accounts for Ms. Lindsay and Mr. Mangenda, confirming they were appointed part of the Bemba Defence team.

On 7 October 2008 a problem arose with the access by the Defence team of Mr. Bemba to the "Defence Ringtail" and the "Registry Ringtail" environments where the disclosed materials were stored. This problem affected access for those members of the Defence team of Mr. Bemba who had access at that time (Mr. Kilolo and Mr. Van der Spoel).

The access problems were resolved the same day late in the afternoon, at which time, everyone (Mr. Nkwebe, Mr. Kilolo, Mr. Van der Spoel and Mr. Mangenda) except Ms. Lindsay had the necessary access to e-Court applications.

RESPECTFULLY SUBMITTED,



Marc Dubuisson, Director, Division of Court Services
Silvana Arbia, Registrar

Dated this fourteenth day of October 2008

At The Hague, the Netherlands