

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 October 2009

TRIAL CHAMBER III

Before: Judge Adrian Fulford, Presiding Judge
Judge Elisabeth Odio-Benito
Judge Joyce Aluoch

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

Public

Prosecution's Submission on whether the Chamber should adopt or depart from the jurisprudence of Trial Chamber I on the manner of submission of evidence by the parties and participants at trial

Source: The Office of the Prosecutor

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

The Office of the Prosecutor

Counsel for the Defence of Jean-Pierre Bemba

Mr Nkwebe Liriss

Mr Aimé Kilolo Musamba

Legal Representatives of Victims

Ms Marie-Edith Douzima-Lawson

Legal Representatives of 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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Other Section

Introduction

1. During the status conference of 7 October 2009, Trial Chamber III (“the Chamber”) addressed the issue of manner of submission of evidence at trial. The Chamber requested the parties and participants to review the jurisprudence of Trial Chamber I on this issue and file submissions on whether it should adopt, vary or depart from that jurisprudence during the course of this trial.¹

Prosecution’s Submission

2. The Prosecution submits that the Chamber adopts and applies the jurisprudence developed by Trial Chamber I in the *Lubanga case* on the manner of submission of evidence by the parties and participants at trial. For ease of reference, the Prosecution reviewed the following decisions of Trial Chamber I: (a) decision on manner of questioning of witnesses;² (b) various orders relating to the submission of expert evidence;³ (c) decision on the manner in which evidence will be submitted;⁴ (d) decision on various issues related to witness testimony;⁵ (e) the oral decision on the interpretation of Rule 140;⁶ (f) decision on the manner of questioning by the legal representatives;⁷ (g) various decisions on the admissibility of evidence, including admission of evidence from the bar table;⁸ and (h) decision on the use of visual aid.⁹

3. In determining whether the Chamber should adopt, vary or depart from the jurisprudence of Trial Chamber I, the Prosecution reviewed the ambit of the various decisions issued by that Trial Chamber in relation to the body of evidence it seeks to

¹ ICC-01/05-01/08-T-14-ENG, p. 23, lines 23-25 and p. 24, lines 1-3.

² ICC-01/04-01/06-1140, para. 32 *et seq.* See also: ICC-01/04-01/06-T-104-ENG, p. 35, lines 13 to p. 38, line 3.

³ ICC-01/04-01/06-1558. See also: ICC-01/04-01/06-1671.

⁴ ICC-01/04-01/06-1084

⁵ ICC-01/04-01/06-1140

⁶ ICC-01/04-01/06-T-104-ENG, p. 35, lines 13 to p. 38, line 3.

⁷ ICC-01/04-01/06-2127

⁸ ICC-01/04-01/06-1981. See also: ICC-01/04-01/06-1399. See also: ICC-01/04-01/06-2135

⁹ ICC-01/04-01/06-1528

introduce at trial. At trial, the Prosecution will rely on both testimonial and non-testimonial evidence including documentary evidence, reports from organizations, expert reports, forensic evidence and audio-video recordings. Reviewing this body of evidence against the ambit of the various decisions issued by Trial Chamber I in the *Lubanga case*, the Prosecution submits that the scope of the decisions issued by Trial Chamber I cover both the nature as well as the extent of the evidence that it seeks to introduce during the course of this trial.

Conclusion

4. In light of the foregoing, the Prosecution respectfully submits that the Chamber adopts and applies the jurisprudence developed by Trial Chamber I in the *Lubanga case* on the manner of submission of evidence by the parties and participants at trial.



Luis Moreno-Ocampo, Prosecutor

Dated this 21st Day of October 2009

At The Hague, The Netherlands