



Original: **English**

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

Date: **11 November 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 document

With Confidential, *Ex Parte*, Prosecution and Defence only Annex A

**Prosecution's Communication of Incriminatory Evidence (Items on List of
Evidence attached to "Prosecution's Summary of Presentation of Evidence")
Disclosed to the Defence on 10 November 2009**

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

I. Introduction

1. The Office of the Prosecutor (“the Prosecution”) herewith submits the report for incriminating evidence disclosed to the Defence team of Jean-Pierre Bemba Gombo on 10 November 2009, pursuant to Articles 64(3)(c) of the Rome Statute and the order of Trial Chamber III (“the Chamber”) issued on 7 October 2009.¹

2. The Prosecution has already informed the Chamber of the difficulties it encountered in attempting to disclose to the Defence since 4 November 2009. Given that members of the Defence team were not available, the Prosecution was unable to serve the materials to the Defence on 4 November 2009.² The Prosecution subsequently contacted the Defence, who undertook to contact the Prosecution, once they are available. On 10 November 2009, the Case Manager for the Defence contacted the Prosecution and indicated their availability. Consequently, the Prosecution disclosed to the Defence on 10 November 2009.

II. Request for confidentiality

3. Annex A appended to this communication contains the “List of Disclosed Material” provided to the Defence. The Prosecution requests that this annex be received by the Chamber as Confidential, *Ex Parte*, Prosecution and Defence only, as this list contains incriminating information against the accused, which is known only to the Defence, but not to the public.

III. Request for non-disclosure order

4. The Prosecution requests a non-disclosure order prohibiting the Defence from disclosing the information contained in the appended annex to a third party (other

¹ ICC-01/05-01/08-T-14-ENG, pages 13-14. Reference is made to the Prosecution’s Summary of Presentation of Evidence filed on 4 November 2009. The Prosecution notes that where documents have previously been disclosed as incriminating in the pre-confirmation phase, it has not re-disclosed such documents, save where the prior disclosure was either as potentially exculpatory or Rule 77 material.

² Consequently, the Prosecution’s disclosure package and list of disclosed materials are dated 4 November 2009.

than those involved in its case preparation) pursuant to Rule 87(3)(b) of the Rules of procedure and evidence.



Luis Moreno-Ocampo, Prosecutor

Dated this 11th day of November 2009

At The Hague, The Netherlands