

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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 disclosed to the Defence
pursuant to the Chamber's Order on disclosure of evidence by the Office of the
Prosecutor of 4 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**

1. On 4 November 2009, Trial Chamber III (“the Chamber”) issued its Order on disclosure of evidence by the Office of the Prosecutor (“the Order”).¹ In its Order, the Chamber recalled the Prosecution’s request to Lift, Maintain and Apply Redactions to Witness Statements and Related Documents filed on 26 October 2009 (“the Request”),² and ordered the Prosecution to serve the material which is the subject of its Request in its current redacted form pending a decision of the Chamber on the Request.³

2. In compliance with the Chamber’s Order, the Prosecution disclosed to the Defence team of Jean-Pierre Bemba Gombo, 212⁴ items of incriminatory evidence on Tuesday, 10 November 2009.⁵

3. 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. 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.

Request for the receipt of Annex A as Confidential, *Ex parte* Prosecution and Defence Only

4. The Prosecution requests that Annex A,⁶ appended to this Submission, be received as Confidential, *Ex parte*, Prosecution and Defence Only because it contains information relating to witnesses known only to the Defence but not the public.

¹ ICC-01/05-01/08-590

² ICC-01/05-01/08-572-Conf-Exp

³ ICC-01/05-01/08-590, para. 6

⁴ ICC-01/05-01/08-572-Conf-Exp, para. 13. In its Request, the Prosecution notified the Chamber of a video, CAR-OTP-0052-0160 containing photograph of a witness, specific location of residence of a witness and a photograph of a Prosecution’s field staff. The Prosecution indicated that it was unable to apply highlights to the video because it was not in possession of the software required to do so. The Prosecution has since secured the software and has applied redaction to the video as requested. This video has been disclosed in redacted form to the Defence on 10 November 2009.

⁵ ICC-01/05-01/08-572-Conf-Exp. In its Request, the Prosecution applied for complete and partial lifting as well as imposing limited redaction to Witness Statements and Related Documents. Redaction sought apply to fixed residential address where provided in a Statement and the names and identities of Prosecution’s field staff. The Prosecution disclosed to the Defence all other information contained in the witness statements, including witness’s identities as well as the evidence relied upon by the Prosecution.

Request for non-disclosure order

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

⁶ Annex A is the list of material disclosed to the Defence on 10 November 2009.