

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **28 January 2010**

TRIAL CHAMBER III

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

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

Public document

**Prosecution's Request for Approval of its Proposed Experts and Joint Instructions
by the Prosecution and Legal Representatives**

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
Section**

Other Participants

Introduction

1. During the status conference of 7 October 2009, Trial Chamber III (“the Chamber”) requested that the Office of the Prosecutor (“the Prosecution”) identify the experts that it intends to rely upon at trial and liaise with the Defence regarding the possibility of joint instructions of any expert witnesses.¹

2. On 9 October 2009, the Prosecution filed notice on its intention to rely upon expert witnesses specifying the different subject-matters on which the proposed experts will testify. The Prosecution further indicated that joint instructions for any expert witnesses may be appropriate in this case and undertook to explore the possibility with the parties and participants.²

3. On 19 January 2010, the Prosecution advised the Defence and the Legal Representatives of the names and curriculum vitae of its proposed expert witnesses. The Prosecution requested the Defence and the Legal Representatives to provide their views on the qualifications of the proposed experts as well as the possibility of joint instructions.

4. On 20 January 2010, the Legal Representatives responded and confirmed their agreement to the Prosecution’s suggestions as to the experts to be called in this case, as well as its proposal for joint instructions. The Legal Representatives suggested that the Prosecution inform the Chamber of their position on this issue.³

5. The Defence has not responded to date.

¹ ICC-01/05-01/08-T-14-ENG

² ICC-01/05-01/08-548

³ E-mail sent by Paolina Massida to the Prosecution on 20 January 2010 at 16:52.

6. The Prosecution hereby submits to the Chamber the names of three expert witnesses whom the Prosecution and the Legal Representatives have agreed to jointly instruct at this stage: Lieutenant-General Daniel Opande (military expert), Dr. Binaifer Nowrojee (expert on gender crime – sexual violence as a tool of war) and Dr. Adeyinka M. Akinsulure-Smith (expert on gender crime - post traumatic stress disorder).

7. Further, the Prosecution informs the Chamber that it no longer intends to rely on a background witness. The selection of a socio-linguistic expert is still in process.

8. Appended as annexes to this submission are the curriculum vitae for each of the following proposed expert witnesses:

- Annex A. Lieutenant-General Daniel Opande (Retired);
- Annex B. Dr. Binaifer Nowrojee; and
- Annex C. Dr. Adeyinka M. Akinsulure-Smith.

9. Consistent with the jurisprudence of Trial Chamber I in *Lubanga*, the Prosecution further advises the Chamber that each of the proposed experts has been requested to immediately seek inclusion on to the experts list maintained by the Registry in compliance with Regulation 44(1) of the Regulations of the Court.⁴

10. In light of the foregoing and in order to ensure expediency of proceedings, the Prosecution requests that the Chamber approves its proposed experts and its

⁴ ICC-01/04-01/06-1069, Decision on the Procedures to be adopted for instructing expert witnesses, paras. 24-25. In identifying experts in this case, the Prosecution consulted the List of Experts maintained by the Registry to determine if it contains experts with sufficient experience in the subject-matters for which the Prosecution seeks expert opinion. After review, the Prosecution concluded that the List is insufficient in relation to expertise in the subject-matter for which it seeks expert opinion in this case.

proposal for joint instructions of these experts by the Prosecution and Legal Representatives.⁵



Luis Moreno-Ocampo, Prosecutor

Dated this 28th day of January 2010

At The Hague, The Netherlands

⁵ Regulations 44 and 54(m) of the Regulations of the Court provide that the Chamber may, in the interest of justice, direct joint or separate instructions to expert witnesses by the participants.