

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **11 May 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 Response to Submissions filed by the Authorities of the Central African Republic pursuant to the Order of the Chamber at the Hearing held on
27 April 2010**

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 Gombo

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

The Central African Republic

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. At the Status Conference held on 27 April 2010, Trial Chamber III (“Chamber”) invited the Representatives of the Central African Republic (“CAR”) to file written submissions by 7 May 2010 in relation to two assertions made by the Defence during the hearing regarding the CAR criminal procedural law.¹

2. The Chamber articulated the Defence assertions as follows:²

- (i) Where there is a dismissal of a case by an investigating judge, is there an obligation to notify the dismissal within 48 hours? And is nullity the consequence, if that does not happen?; and
- (ii) In the relevant appellate proceedings in a criminal cause, is there an automatic stay of proceedings for criminal matters?

3. The Chamber ordered the Office of the Prosecutor (“Prosecution”) to file its response to the submissions of the CAR Authorities by 11 May 2010.³

4. On 10 May 2010, Court Management Services (“CMS”) notified the Prosecution of the submissions filed by the CAR Authorities.⁴ The Prosecution hereby submits its response.

¹ See, ICC-01/05-01/08-T-22-ENG, page 64, lines 8 to 23.

² See, ICC-01/05-01/08-T-22-ENG, page 64, lines 12 to 22.

³ ICC-01/05-01/08-T-22-ENG, page 65, line 21 to page 66, line 1: “We will give the Prosecution and legal representatives until 4 p.m. on Tuesday the 11th to respond, and the Defence to respond to all submissions by Friday, 14th of May, on this limited point in relation to the provisions that I read out a few moments ago.”

II. Prosecution's Response

5. The Prosecution has nothing to add to the response of the CAR Authorities to the two assertions raised by the Defence in relation to CAR national procedural law for the following reasons:

- (i) The submissions by the CAR Authorities comprehensively address the two procedural issues raised by the Defence both in general terms and specifically in relation to the Accused;⁵ and
- (ii) There are no valid reasons to disagree with the CAR Authorities' interpretation of CAR national criminal procedural law in both respects; first, that notification is not required where a decision not to proceed with a case has been taken;⁶ and second, that the Accused's current request before the CAR *Cour de Cassation* cannot have suspensive effect because the Accused does not have standing to appeal the decision.⁷

III. Conclusion

6. For the above-mentioned reasons, the Prosecution respectfully requests that the Chamber dismiss the Defence assertions because they are not supported by the CAR national criminal procedural law.

⁴ ICC-01/05-01/08-770-Conf-Anxs, p. 5. CMS explains the reason for the late notification.

⁵ ICC-01/05-01/08-770-Conf-Anxs.

⁶ See Article 95 (a) and (b) of CAR Code of Criminal Procedure.

⁷ See Article 21 of the *Loi organique portant organisation et fonctionnement de la Cour de cassation*.

A handwritten signature in blue ink, appearing to read 'Luis Moreno-Ocampo', is centered on the page.

Luis Moreno-Ocampo, Prosecutor

Dated this 11th Day of May 2010

At The Hague, The Netherlands