

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **16 September 2010**

TRIAL CHAMBER III

Before: Judge Sylvia Steiner, Presiding Judge
Judge Joyce Aluoch
Judge Kuniko Ozaki

**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 Annexes A and B
Prosecution's Communication of Potentially Exonerating and Rule 77 Disclosure
and Inspection on 14 September 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

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

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. In compliance with its obligations under Article 67(2) of the Rome Statute (“Statute”) and Rule 77 of the Rules of Procedures and Evidence (“Rules”), the Office of the Prosecutor (“Prosecution”) herewith submits its report of potentially exonerating¹ and Rule 77 evidence² disclosed to the Defence team of Jean - Pierre Bemba Gombo on 14 September 2010.³ The disclosed materials originate from three hard disks collected by the Registry, and subsequently transmitted to the Prosecution, upon Trial Chamber III’s (“Chamber”) instructions.⁴ The three hard disks seized by the Belgian authorities; two were transmitted by the Registry to the Prosecution on 11 November 2009 and the third was transmitted on 14 June 2010.⁵ In addition to the limited specific disclosures, the Prosecution also made available for the Defence’s inspection the three hard disks and the entirety of their contents pursuant to Rule 77.⁶

2. Upon receipt of the hard disks, the Prosecution, in discharge of its obligations, reviewed the disks which collectively contained over 660,000 files; review was difficult for some files because they required particular and unknown software. After conclusion of its review, the Prosecution identified two documents as potentially exculpatory under Article 67(2) of the Statute, and one document as material to the preparation of the defence under Rule 77 of the Rules. The information contained therein has previously been disclosed to the Defence in other documents.⁷ As stated

¹ Annex A is a list of material disclosed as potentially exonerating evidence.

² Annex B is a list of material disclosed under Rule 77.

³ The Defence is already in possession of the nature of the information contained in the disclosed materials. As such, this limited disclosure does not affect the Defence’s ability to prepare and present its case at the upcoming trial.

⁴ ICC-01/05-01/08-T-16-CONF-EXP-ENG, 29 October 2009, pages 19 and 20. The Prosecution was not present at this status conference.

⁵ One of the three hard disks originates from Jean-Pierre Bemba Gombo (“Accused”). The other two disks originate from Jean-Pierre Gilson and Nzouma Bemba.

⁶ The Prosecution recalls that it has followed a similar procedure in the past. On 30 October 2008, the Defence inspected and extracted files from a seized laptop computer (CAR-OTP-0021-0016) under Rule 77.

⁷ See n.3, above. CAR-OTP-00010-0346 disclosed as part of Pre-Confirmation PEXO package 1 on 1 October 2008, contains similar information to that contained in CAR-OTP-0064-0208, disclosed on 14 September 2010;

above, the Prosecution also made available the entirety of the three hard disks for the Defence's inspection.

II. Request for confidentiality

3. The Prosecution requests that Annexes A and B be received by the Chamber as "Confidential, *Ex Parte*, Prosecution and Defence only" as they refer to *inter partes* disclosure and include information that is known to the Defence, but not to the public.

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

Luis Moreno-Ocampo, Prosecutor

Dated this 16th Day of September 2010

At The Hague, The Netherlands

CAR-OTP-0017-0360 disclosed as part of Pre-Confirmation INCRIM package 1, also on 1 October 2008, contains similar information to that contained in CAR-OTP-0064-0265, disclosed on 14 September 2010.