

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **27 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

**Prosecution's Submission of Authority Pursuant to Trial Chamber III's Direction
in Decision ICC-01/05-01/08-682**

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

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Ms Maria Luisa Martinod Jacome

Detention Section

Victims Participation and Reparations Other Section

In compliance with Trial Chamber III (“Chamber”)’s Decision ICC-01/05-01/08-682 directing the Office of the Prosecutor (“Prosecution”) to notify the Chamber of new relevant decisions of other Chambers on issues pending in this case,¹ the Prosecution informs the Chamber that on 14 September 2010, Trial Chamber II issued its “Decision on the Prosecution’s Application Concerning Disclosure by the Defence Pursuant to Rules 78 and 79(4).”² Decision ICC-01/04-01/07-2388 sets out time frames for Defence disclosure of its intended evidence to the Prosecution, an issue pending before this Chamber. The Decision was unavailable to the parties and participants at the time of filing their submissions in this case.³



Luis Moreno-Ocampo, Prosecutor

Dated this 27th Day of September 2010

At The Hague, The Netherlands

¹ ICC-01/05-01/08-682, Decision on the “Prosecution’s Submissions on the Trial Chamber’s 8 December 2009 Oral Order Requesting Updating of the In-Depth Analysis Chart”, 29 January 2010, at para. 25. Although the Chamber referred to jurisprudence in existence at the time of filing of submissions by the participants, the Prosecution has taken this step first, because it was involved in the litigation before Trial Chamber II and second, because of the relevance of that Decision to the resolution of a similar issue pending before the Chamber. The Appeals Chamber has granted leave to file a supplemental authority in respect of an ICTY Appeals Decision, in similar circumstances. See ICC-01/04-01/07-402 OA3, Decision on the “Prosecution Request for Leave to Present Additional Authority Regarding Defence Appeal against ‘Decision on the Defence Request Concerning Languages’”, 16 April 2008. The Appeal’s Chamber explained its reasons for granting the request in ICC-01/04-01/07-522 OA3, Judgment on the appeal of Mr. Germain Katanga against the decision of Pre-Trial Chamber I entitled “Decision on the Defence Request Concerning Languages”, 27 May 2008, at paras. 14-16.

² ICC-01/04-01/07-2388, Decision on the “Prosecution’s Application Concerning Disclosure by the Defence Pursuant to Rules 78 and 79(4)”, 14 September 2010.

³ Submissions by the parties and participants on Defence disclosure were completed on 21 December 2009. See ICC-01/05-01/08-661, Prosecution’s Response to Defence’s “Observations de la Défense relatives à la jurisprudence de l’Affaire Lubanga sur les questions procédurales se rapportant aux droits de la Défense”, 21 December 2009. To date, the Chamber has not ruled on the issue. On 14 September 2010, seven months after the completion of submissions in this case, Trial Chamber II issued its Decision on Defence Disclosure. As such, Trial Chamber II’s Decision was unavailable to the parties and participants at the time of filing their various submissions filed before the Chamber. The Appeals Chamber has granted leave in similar circumstances when a similar application was made to file a decision issued by the ICTY Appeals Chamber in *Katanga and Ngudjolo* cases. See ICC-01/04-01/07-522 OA3, para. 16. The Appeals Chamber allowed the submission of the supplementary authority pursuant to Regulation 28 of the Regulations of the Court.