

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: 20/10/2011

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**

Confidential

**Defence Response to the “Requête du Représentant légal de victimes afin d’être
autorisé à interroger le témoin W047» of 14 October 2011**

Source: Defence for Mr. Jean-Pierre Bemba Gombo

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Ms Fatou Bensouda

Ms Petra Kneuer

Counsel for the Defence

Mr Nkwebe Liriss

Mr Aimé Kilolo-Musamba

Legal Representatives of the Victims

Ms. Marie-Edith Douzima-Lawson

Mr. Assingambi Zarambaud

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

A. INTRODUCTION

1. This response is filed pursuant to Rule 91(3)(a) of the Rules of Procedure and Evidence, and paragraphs 18-20 of the Decision on the Directions for the Conduct of Proceedings of 19 November 2010.¹ It is filed in response to the *Requête du Représentant légal de victimes afin d'être autorisé à interroger le témoin W047*, which was filed on 14 October 2011.²

B. ANALYSIS OF PROPOSED QUESTIONS

2. **Question 1:** The subject matter of Question 1 is unobjectionable, however the form of the question should not be allowed, as it is both compound and leading. The witness can be asked, "*how old were the soldiers of the MLC, what sex were they, how were they dressed etc.,*". The Defence further observes that it is inconceivable that the Prosecution will not ask such questions. In that event the defence will raise further objections on the grounds that the questions are repetitive.

3. **Question 2:** Again, the subject matter of the question is unobjectionable, but the form is. The witness can be asked "*who addressed the troops upon their departure, and in what language?*" without reading over to him several passages from his interviews. Again the Defence observes that it is inconceivable that these questions will not be asked by the prosecution. In that event the Defence will raise further objections on the grounds that the questions are repetitive.

4. **Question 3:** Again the Defence observes that it is inconceivable that these questions will not be asked by the prosecution. In that event the defence will raise the objection that the questions are repetitive. Other than that, the defence has no objection to Question 3.

¹ ICC-01/05-01/08-1023

² ICC-01/05-01/08-1843-Conf

5. **Question 4:** Again, the subject matter of the question is unobjectionable, but the form is. The witness can be asked "*What means of communication did the MLC troops have?*" without paraphrasing and/or reading out sections of his interviews. The Defence further observes that it is inconceivable that the Prosecution will not ask this question. In that event, the Defence will raise further objections on the grounds that the questions are repetitive.

6. **Question 5:** There is no objection to Question 5.

7. **Question 6:** There is no objection to Question 6.

8. **Question 7:** Again, the subject matter of the question is unobjectionable, but the form is. The witness can be asked "*How many corpses did you transport etc.,?*" without sections of his interviews being read out or paraphrased as a preamble.

9. **Question 8:** The subject matter of the question is unobjectionable, however, the two passages from the witness' interview cited as a preamble are not only inappropriate but irrelevant to the question actually put.

10. **Question 9:** Questions 9.1 and 9.2 are seriously misleading and should be disallowed. At no time in his interview did the witness describe the goods as having been pillaged. Counsel's paraphrase of the witness' interview perverts the sense of what he in fact said. The two questions are premised on a false basis.

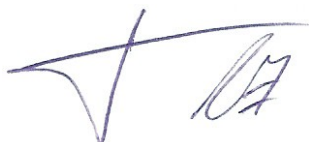
11. **Question 10:** This question is itself unobjectionable. The reading of several passages of the witness' interview as a preamble is both unnecessary and inappropriate. The defence further observes that it is inconceivable that the Prosecution will not ask such questions. In that event the Defence will raise further objections on the grounds that the questions are repetitive.

12. **Question 11:** There are no objections to Question 11.

13. **Question 12:** The Defence does not object to Questions 12.1 and 12.2. Questions 12.2 and 12.3 are well beyond the possible knowledge of the witness, however, and any answers he could give would be of such minimal weight as to be worthless, and as such, inadmissible. The reading and/or paraphrasing of passages of the witness' interview as a preamble to the questions should, moreover, be disallowed.

C. RELIEF SOUGHT

14. In light of the above, the Defence respectfully requests that the Chamber limit the questioning of the Legal Representative of Victims, Maitre Zarambaud, in the terms set out above.



Aimé Kilolo Musamba
Associate Counsel

Done at The Hague, the Netherlands

20 October 2011