

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-01/05-01/08
Date: 30 January 2012

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 Redacted Document

**Public Redacted Version of “Prosecution request for additional sitting hours to
hear the testimony of Witness CAR-OTP-PPPP-0045”**

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

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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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Mr. Didier Preira

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Ms. Maria-Luisa Martinod-Jacome

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**Victims Participation and Reparations
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Other

I. Introduction

1. Pursuant to Articles 64(2) and 64(f) of the Rome Statute (“Statute”), the Office of the Prosecutor (“Prosecution”) requests additional courtroom sitting hours in order for the testimony of Witness CAR-OTP-PPPP-0045 (“Witness 45”) to be heard expeditiously and without interrupting the current witness schedule.

II. Request for confidentiality

2. The Prosecution requests that this application be received by Trial Chamber III (“Chamber”) as “Confidential, *Ex parte*, Prosecution and Victims and Witnesses Unit Only” due to sensitive information regarding Witness 45 and his travel arrangements.¹

III. Procedural History

3. On 10 January 2012, due to the fact that neither the Victims and Witness Unit (“VWU”) nor the Prosecution could reach Witness 45 via telephone, the Prosecution requested the Chamber’s authorisation to travel to the [REDACTED] in order to establish personal contact with Witness 45 to confirm his willingness to testify.²

4. On 11 January 2012, the Chamber authorised for a joint VWU/ Prosecution mission.³

5. On 19 January 2012, following the joint mission, the Prosecution⁴ and VWU⁵ filed separate reports informing the Chamber of the outcome of the mission,

¹ The Prosecution will simultaneously file a redacted version of this Application for the Defence and Legal Representatives of victims.

² Email sent by the Prosecution to the Legal Officer of the Chamber on 10 January 2012 at 17:56.

³ Email sent by the Legal Officer of the Chamber on 11 January 2012 at 15:44.

including [REDACTED]. On 20 January 2012, the Defence was notified of the confidential redacted versions of both reports.⁶

6. [REDACTED].⁷ [REDACTED].⁸ [REDACTED].⁹ [REDACTED].¹⁰

7. On 24 January 2012, the Chamber authorized in-court protective measures for Witness 45, authorising the use of a pseudonym, image and voice distortion and partial use of closed or private session.¹¹

8. [REDACTED].¹² [REDACTED].¹³ [REDACTED].¹⁴ It was agreed that Witness 45 would travel to The Hague, departing [REDACTED] and arriving in The Hague [REDACTED].

IV. Prosecution's submissions

9. The Prosecution notes that Witness 45 was initially scheduled to begin his testimony on 16 January 2012 whilst CAR-OTP-PPPP-0044 ("Witness 44") was scheduled to testify on 1 February. However, Witness 45 will now only arrive in The Hague on [REDACTED]. The VWU courtesy meeting and court room familiarization

⁴ ICC-01/05-01/08-2051-Conf-Exp + Conf-Exp-AnxA, Prosecution's Report on Its Joint Mission with the Victims and Witnesses Unit Regarding Contact with Witness CAR-OTP-PPPP-0045 and Application for Specific Protective Measures, 19 January 2012.

⁵ ICC-01/05-01/08-2052-Conf-Exp, Registry's report on the outcome of the Victims and Witnesses Unit and Prosecution joint mission to establish contact with witness CAR-OTP-PPPP-0045 and on the need for in-court protective measures for the benefit of this witness, 19 January 2012.

⁶ ICC-01/05-01/08-2051-Conf-Red, Prosecution's Report on Its Joint Mission with the Victims and Witnesses Unit Regarding Contact with Witness CAR-OTP-PPPP-0045 and Application for Specific Protective Measures, 20 January 2012 and ICC-01/05-01/08-2052-Conf-Red, Confidential Redacted Version - Registry's report on the outcome of the Victims and Witnesses Unit and Prosecution joint mission to establish contact with witness CAR-OTP-PPPP-0045 and on the need for in-court protective measures for the benefit of this witness, 20 January 2012.

⁷ [REDACTED].

⁸ [REDACTED].

⁹ [REDACTED].

¹⁰ [REDACTED].

¹¹ ICC-01/05-01/08-2063-Conf, Decision on in-court protective measures for Witness 45, 24 January 2012.

¹² [REDACTED].

¹³ [REDACTED].

¹⁴ [REDACTED].

will be conducted on [REDACTED]. Therefore Witness 45 will only be able to read his witness statements on [REDACTED], in accordance with the Witness Familiarization Protocol.¹⁵ Consequently, the Prosecution requests additional courtroom sitting hours to hear the testimony of Witness 45 so as to ensure minimal or no interruption to the testimony of the next witness, Witness 44, and the present witness schedule.

10. In light of the reasons beyond the Prosecution's control, the earliest date on which Witness 45 can begin his testimony is Sunday, 29 January 2012. Thus the Prosecution proposes two options for consideration by the Chamber, Defence and participants.

11. First due to the exceptional circumstances prevailing at present, and depending on the availability of Registry staff such as interpreters and stenographers,¹⁶ the Prosecution proposes that Witness 45 can commence on Sunday, 29 January 2012¹⁷ with the Court sitting for three sessions of two hours each or four sessions of one hour and thirty minutes each on 29, 30, and 31 January 2012 ("First Proposal"). The total of 18 hours takes into account six hours requested by the Prosecution, the usual eight hours estimated for the Defence, as well as four hours that can be used by the Chamber, Legal Representatives of Victims or either of the parties if necessary. If necessary, an additional session or two can be taken for Witness 45 from the hearing on 1 February 2012, which will still allow Witness 44 to commence his testimony on the same day and conclude on 7 February 2012 as scheduled.¹⁸

¹⁵ ICC-01/05-01/08-1081-Anx1, Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial, 7 September 201.

¹⁶ The Prosecution notes that [REDACTED].

¹⁷ On an exceptional basis, Pre-Trial Chamber II in the two Kenya cases has held hearings on Saturday; See, ICC-01/09-02/11-321-Anx and ICC-01/09-01/11-294-Anx-Corr.

¹⁸ Email sent by the Prosecution to the Chamber, Defence and participants on 13 January 2012 at 13:38.

12. Alternatively, the Prosecution proposes that Witness 45 commence his testimony on Monday, 30 January 2012 with the Court sitting four days that week (30 January to 2 February) in three sessions of two hours each or four sessions of one hour and thirty minutes each ("Second Proposal"). The total of six additional hours over four days, which essentially amounts to a little more than one extra court day, will allow Witness 45 to complete his testimony on 1 February 2012; Witness 44 then would commence his testimony on 2 February instead of 1 February, but the Court would make up the time lost through the additional sitting hours.

V. Conclusion

13. For the above reasons the Prosecution requests that the Chamber approve its request for additional sitting hours to hear the testimony of Witness 45.



Luis Moreno-Ocampo, Prosecutor

Dated this 30th Day of January 2012

At The Hague, The Netherlands