

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 16/01/2012

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 Version

**Defence Response to Prosecution Request to hear Witness CAR-OTP-PPPP-0036's
testimony by video-link**

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

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 Ms Fatou Bensouda, Deputy Prosecutor
 Ms Petra Kneuer, Senior Trial Lawyer

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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

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Defence Support Section

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section Other**

A. BACKGROUND

1. On 10 January 2012, the Prosecution filed a request to hear the testimony of CAR-OTP-WWWW-0036 ("Witness 36") via video-link ("the Prosecution request").¹

2. On 11 January 2012, the Chamber reduced the timeframe for the Defence and the Legal Representatives to file responses to the Prosecution request, and ordered, via email, that any response thereto be filed no later than 16 January 2012.² Pursuant to that order, the Defence for Mr. Jean-Pierre Bemba Gombo ("the accused") makes the following submissions.

B. SUBMISSIONS

3. The Prosecution asserts that Witness 36 [REDACTED] [REDACTED] [REDACTED] [REDACTED].³ The Prosecution has waited, however, until a month before his scheduled testimony to bring its request, requiring the Chamber to reduce the timeframe within which responses can be filed. The Prosecution's late filing coupled with the extremely scant supporting information inhibits the ability of the Defence to appropriately advise the accused and to obtain from him full and complete instructions for the purpose of the present Defence response.

4. The Defence does not accept that the use of video-link testimony for the hearing of Prosecution witnesses "is not in any way prejudicial to, or inconsistent with the Accused's rights."⁴ The Defence is prepared to concede, however, that Witness 36 suffered [REDACTED] [REDACTED], of such a nature that he should be permitted to give evidence via video-link.

¹ ICC-01/05-01/08-2038-Conf.

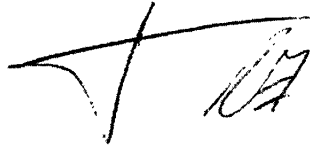
² [REDACTED].

³ ICC-01/05-01/08-2038-Conf, para. 3.

⁴ ICC-01/05-01/08-2038-Conf, para. 5.

5. As a condition, nevertheless, for the aforementioned concession and in light of the absence of supporting evidence, the Defence strenuously opposes the making of factual findings as to Witness 36's mental or physical state, given the lack of evidence provided by the Prosecution.

THE WHOLE respectfully submitted.



Aimé Kilolo
Associate Counsel

Done at The Hague, the Netherlands

16 January 2012