

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 27 August 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 Document

Order on the reclassification of documents

Order 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 Aimé Kilolo Musamba

Mr Peter Haynes

Legal Representatives of the Victims

Ms Marie Edith Douzima-Lawson

Mr Assingambi Zarambaud

Legal Representatives of the 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

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Trial Chamber III (“Chamber”) of the International Criminal Court in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* issues the following Order on the reclassification of documents.

1. At an *ex parte* status conference, held on 10 May 2012 at the request of the defence,¹ the Chamber was informed of a series of issues faced by the defence in its preparation for its presentation of evidence. Consequently, the Chamber requested that the defence provide it with detailed information on the witnesses it intended to call to testify at trial.²
2. Following this request, the following submissions and decisions were filed:
 - (i) The defence filed a confidential and *ex parte* submission on its presentation of evidence (“First Submission”), together with a confidential and *ex parte* annex.³
 - (ii) The Chamber then issued a public decision on the defence’s First Submission (“First Decision”), together with a confidential and *ex parte* annex, in which it instructed the defence to provide further information on its anticipated witnesses.⁴
 - (iii) In compliance with the Chamber’s First Decision, the defence filed a further confidential and *ex parte* submission (“Second Submission”), together with a confidential and *ex parte* Annex A.⁵

¹ Decision on the “Defence request for an *ex parte* status conference”, 8 May 2012, ICC-01/05-01/08-2213.

² Transcript of the hearing on 10 May 2012, ICC-01/05-01/08-T-226-CONF-EXP-ENG ET, page 18 line 25 to page 19 line 4. Complemented by email sent from the Chamber’s Assistant Legal Officer to the defence’s Legal Assistant on 11 May 2012 at 10h45.

³ Defence submissions to the Chamber concerning its witnesses, 11 May 2012, ICC-01/05-01/08-2214-Conf-Exp and Confidential *ex parte* Annex ICC-01/05-01/08-2214-Conf-Exp-AnxA.

⁴ Decision on the starting date for the defence presentation of evidence and related issues, 24 May 2012, ICC-01/05-01/08-2221 and Confidential *ex parte* Annex ICC-01/05-01/08-2221-Conf-Exp-AnxA.

⁵ Submissions on Defence Evidence, 28 May 2012, ICC-01/05-01/08-2222-Conf-Exp, with Annex A ICC-01/05-01/08-2222-Conf-Exp-AnxA.

- (iv) The Chamber then issued a public decision on the defence's Second Submission ("Second Decision"), together with a confidential and *ex parte* annex, in which it, *inter alia*, instructed the defence to review its list of witnesses, alter their order of appearance and, together with the Victims and Witnesses Unit, assess the feasibility of various alternatives to live testimony in The Hague.⁶

In its Second Decision the Chamber also ordered the defence to file public redacted versions of its First and Second Submissions.⁷ However, the Chamber held that the annexes to those submissions should remain confidential and *ex parte*.⁸ The defence duly filed public redacted versions of its First and Second Submissions.⁹

- (v) In compliance with the Chamber's Second Decision the defence then filed another confidential and *ex parte* submission on its presentation of evidence ("Third Submission"), together with two confidential and *ex parte* annexes.¹⁰
- (vi) On the same day, the Registry filed a confidential and *ex parte* report relating to issues surrounding the defence presentation of evidence ("Registry Report").¹¹
- (vii) On 6 July 2012, the Chamber issued its confidential and *ex parte* Decision on the "Third Defence Submissions on the Presentation of

⁶ Decision on the "Submissions on Defence Evidence", 7 June 2012, ICC-01/05-01/08-2225 and Confidential *ex parte* Annex ICC-01/05-01/08-2225-Conf-Exp-AnxA.

⁷ ICC-01/05-01/08-2225, paragraph 22.

⁸ ICC-01/05-01/08-2225, paragraph 21.

⁹ Defence submissions to the Chamber concerning its witnesses, 11 May 2012, ICC-01/05-01/08-2214-Red and Submissions on Defence Evidence, 28 May 2012, ICC-01/05-01/08-2222-Red.

¹⁰ Third Defence Submissions on the Presentation of its Evidence, 29 June 2012. ICC-01/05-01/08-2238-Conf-Exp and Confidential *ex parte* Annexes ICC-01/05-01/08-2238-Conf-Exp-AnxA and ICC-01/05-01/08-2238-Conf-Exp-AnxB.

¹¹ Report to the Chamber pursuant to the Chamber's 'Decision on the Submissions on defence Evidence' dated 7 June 2012, 29 June 2012, ICC-01/05-01/08-2239-Conf-Exp.

its Evidence” (“Third Decision”),¹² together with a confidential and *ex parte* Annex A, in which the Chamber ruled upon various issues surrounding the defence presentation of evidence.

3. In order for the Chamber to issue a public redacted version of its Third Decision in due course, the Chamber finds necessary that the defence and the Registry review the level of confidentiality of their own documents.
4. The Chamber notes that while certain documents abovementioned in paragraph 2 are still confidential, information contained in these filings have now been made public. Therefore, in the Chamber’s view, certain information contained in the defence’s Third Submission and the Registry Report does not warrant confidential or *ex parte* treatment. However, the annexes to the defence’s Third Submission should remain confidential and *ex parte*. In addition, the Chamber considers that Annex A to the defence’s Second Submission no longer warrants *ex parte* treatment. Thus, consistent with the principle of public proceedings enshrined in Articles 64(7) and 67(1) of the Rome Statute (“Statute”) and pursuant to Article 64(6)(f) of the Statute and Regulation 23 bis (3) of the Regulations of the Court, the Chamber ORDERS:

- (i) That the defence file a public redacted version of its Third Submission,¹³ no later than 31 August 2012. The annexes to that submission should remain confidential and *ex parte*.
- (ii) That the defence file a confidential (not *ex parte*) version of Annex A to its Second Submission.¹⁴

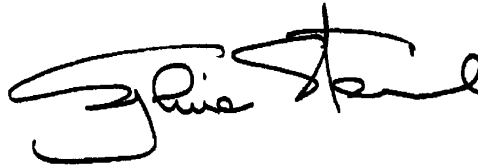
¹² Decision on the “Third Defence Submissions on the Presentation of its Evidence”, 6 July 2012, ICC-01/05-01/08-2242-Conf-Exp.

¹³ ICC-01/05-01/08-2238-Conf-Exp.

¹⁴ ICC-01/05-01/08-2222-Conf-Exp-AnxA.

- (iii) That the Registry file a public redacted version of its Registry Report no later than 31 August 2012.¹⁵

Done in both English and French, the English version being authoritative.



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 27 August 2012

At The Hague, The Netherlands

¹⁵ ICC-01/05-01/08-2239-Conf-Exp.