

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 11/03/2013

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 Motion for authorisation to hear the testimony of Witness D04-21 via
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

Ms. Fatou Bensouda

Mr. Jean-Jacques Badibanga

Counsel for the Defence

Mr. Aimé Kilolo-Musamba

Mr. Peter Haynes

Legal Representatives of the Victims

Ms. Marie-Edith Douzima-Lawson

Mr. Zarambaud Assingambi

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Deputy Registrar

Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

BACKGROUND

1. On 1 March 2013, Trial Chamber III ("the Chamber") issued an oral decision approving the order of witnesses suggested by the Defence for the period leading up to the Easter recess. The Chamber held as follows:¹

The proposal suggested continuing the presentation of evidence with the testimony of Witness D04-45, to give testimony between 11 and 15 March 2013, to be followed by Witness D04-21, to appear between 18 and 20 March 2013. The Chamber approves the proposed order of appearance and therefore instructs the Defence and VWU to liaise, in order to ensure the appearance of Witnesses D04-45 and D04-21, as suggested in the Defence's proposal.

2. The Defence notes that as of 11 March 2013, the testimony of Witness D-19 is still on-going.

D. SUBMISSIONS

3. The Defence reiterates its consistently expressed preference for live testimony in The Hague. The Defence maintains its position that video-link is a generally undesirable alternative to live testimony, and should only be used on an exceptional basis, and reiterates its stated concerns about the quality of the link which has so far been demonstrated in the trial.²
4. However, the Defence has been informed that [REDACTED], and that this necessitates his on-going presence [REDACTED]. On this basis, the Defence respectfully requests the authorization of the Chamber to present

¹ ICC-01/05-01/08-T-288-CONF-ENG ET 01-03-2013 2/57

² See, for example: ICC-01/05-01/08-T-213-CONF-ENG ET 13-03-2012, pp. 9, 13, 17, 19. See also ICC-01/05-01/08-2238-Conf-Exp, Third Defence Submissions on the Presentation of its Evidence, 29 June 2012, para. 33.

Witness D-21's evidence via video-link, in order to allow him to remain in [REDACTED]. It appears to the Defence that presenting the evidence of Witness D-21 via video-link, after the testimony of Witness D-45, will provide the greatest chance of avoiding gaps in the presentation of the Defence case. It would also ensure compliance with the witness order approved by the Chamber on 1 March 2013.

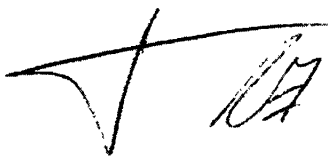
C. RELIEF REQUESTED

5. For the reasons outlined above, the Defence requests that the Chamber:

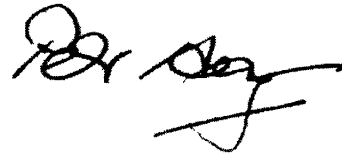
GRANT the current Defence request; and

ORDER that the testimony of Defence Witness D-21 be heard via video-link.

The whole, respectfully submitted.



Aimé Kilolo Musamba
Lead Counsel



Peter Haynes
Co- Counsel

Done on the 11th of March 2013

At The Hague, The Netherlands