

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **9 April 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 of ICC-01/05-01/08-2571-Conf submitted on 2 April 2013

Registry's transmission of material provided by Witness CAR-D04-PPPP-0021

Source: Registrar

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 Victims

Ms Marie Edith Douzima-Lawson

Mr Assingambi Zarambaud

Legal Representatives of 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

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Daniel Pereira

Defence Support Section

Victims and Witnesses Unit

Ms Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the “Victims and Witnesses Unit report on confidentiality of medical records and consent to disclose medical records” submitted by the Registrar on 15 October 2009;¹

NOTING the “Defence Motion for authorization to hear the testimony of Witness D04-21 via video link” (the “Defence Motion”) dated 11 March 2013;²

NOTING the “Prosecution’s Response to Defence Motion for authorization to hear the testimony of Witness D04-21 via video link” dated 13 March 2013;³

NOTING the trial hearings held on 15 March 2013 and 20 March 2013;⁴

NOTING the report provided by the Registry *via* e-mail on 20 March 2013;⁵

NOTING the instruction of Trial Chamber III (the “Chamber”) sent by e-mail on 22 March 2013;⁶

NOTING the report provided by the Registry *via* e-mail on 25 March 2013;⁷

NOTING the instruction of the Chamber sent *via* e-mail on 26 March 2013;⁸

¹ ICC-01/04-01/06-2166.

² ICC-01/05-01/08-2528-Conf.

³ ICC-01/05-01/08-2533-Conf.

⁴ ICC-01/05-01/08-T-295-CONF-ENG and ICC-01/05-01/08-T-298-CONF-ENG.

⁵ E-mail sent by the Registry to the Chamber on 20 March 2013 at 18:24.

⁶ E-mail sent by the Chamber to the Registry on 22 March 2013 at 10:34.

⁷ E-mail sent by the Registry to the Chamber on 25 March 2013 at 11:21.

⁸ E-mail sent by the Chamber to the Registry on 26 March 2013 at 15:56.

NOTING articles 43(6) and 68(1) and (4) of the Rome Statute, rules 16 to 19, 86 to 88 of the Rules of Procedure and Evidence, regulation 23*bis* of the Regulations of the Court and regulations 79 to 91 of the Regulations of the Registry;

CONSIDERING that during the trial hearing held on 20 March the Chamber ordered the Victims and Witnesses Unit (the “VWU”) to submit its update on Witness CAR-D04-PPPP-0021’s ability to appear in person at the seat of the Court by no later than 25 March 2013;⁹

CONSIDERING that pursuant to the oral order rendered by the Chamber indicated above, the VWU informed the Chamber on 20 March that the VWU already contacted the witness on 19 March 2013 in order to enquire into his ability to travel to The Hague to give his testimony on 8 April 2013 and that the witness informed the VWU “firmly” that he was not ready to leave [REDACTED] due to [REDACTED] medical condition;

CONSIDERING that on 22 March 2013 the Chamber stated that “in order to take an informed decision on the defence’s request to hear Witness D04-21 via video-link, the Chamber considers it necessary to receive additional and more detailed information in relation to the state of health [REDACTED] and instructed the VWU “to contact the witness again and to provide the Chamber with a comprehensive update on this matter, including supporting material, by 25 March 2013”;¹⁰

CONSIDERING that the VWU contacted the witness again on 25 March 2013 and reported to the Chamber accordingly that the witness stated that he cannot travel to The Hague due to the medical situation of [REDACTED] and that he would provide a document from a doctor on 27 March 2013 which will support his claims;

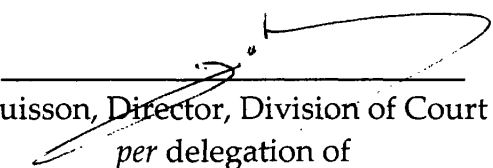
¹⁰ E-mail sent by the Chamber to the Registry on 22 March 2013 at 10:34

CONSIDERING that on 26 March 2013 the Chamber further instructed the Registry to “confidentially file the [above mentioned] document in the record of the case as soon as practicable after its receipt”;¹¹

CONSIDERING that on 1st April the witness provided the VWU with a medical certificate;

RESPECTFULLY TRANSMITS the supporting material provided by Witness CAR-D04-PPPP-0021 as Annex 1;

SUBMITS the present document as confidential in order to be in line with the confidentiality classification of the Defence Motion and its Annex 1 as confidential, *ex parte* VWU only as it contains information relating to medical records generated by external health care professionals, the disclosure of which should remain exceptional and restricted to the extent possible.¹² Should the Chamber require that the medical document be provided to the parties and participants in the case, specific consent of [REDACTED] and from the health care provider would have to be sought by the VWU.¹³



 Marc Dubuisson, Director, Division of Court Services
per delegation of
 Silvana Arbia, Registrar

Dated this 9 April 2013

At The Hague, The Netherlands

¹¹ E-mail sent by the Chamber to the Registry on 26 March 2013 15:56.

¹² ICC-01/04-01/06-2166, para. 22.

¹³ ICC-01/04-01/06-2166, para. 25.