

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 May 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

**Decision on the order of appearance of witnesses to be called by the defence
following Witness D04-56**

Decision 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 Assingambi Zarambaud

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Mr Patrick Craig

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 Decision on the order of appearance of witnesses to be called by the defence following Witness D04-56.

1. By oral decision of 12 April 2013,¹ the Chamber approved the defence's proposed order of witnesses to be called after the conclusion of the testimony of Witness D04-21. According to this schedule, witnesses were to be heard in the following order: Witness D04-39; Witness D04-56; Witness D04-18; Witness D04-17; Witness D04-12; Witness D04-13 and Witness D04-40. In line with this schedule, Witness D04-39 and Witness D04-56 gave testimony between 22 and 24 April and 7 and 13 May 2013 respectively.
2. At the public status conference on 3 May 2013, the Chamber alerted the defence as to the need to "carefully review its list of witnesses, with a view to avoid irrelevant and repetitive testimony and to ensure that witnesses to be called are indeed available and willing to testify without conditions."²
3. On 10 May 2013, the defence filed its "Defence Submissions on the remaining Defence witnesses",³ informing the Chamber of its intention not to call the following 13 witnesses to testify: Witness D04-40; Witness D04-63; Witness D04-67; Witness D04-46; Witness D04-61; Witness D04-12; Witness D04-62, Witness D04-20; Witness D04-43; Witness D04-42; Witness D04-47; Witness D04-28 and Witness D04-23.⁴

¹ Transcript of hearing of 12 April 2013, ICC-01/05-01/08-T-306-ENG-ET, page 61, line 23 to page 62, line 12.

² Transcript of hearing of 3 May 2013, ICC-01/05-01/08-T-311-ENG-ET, page 31, lines 9 to 12.

³ Defence Submissions on the remaining Defence witnesses, 10 May 2013, ICC-01/05-01/08-2624.

⁴ ICC-01/05-01/08-2624, paragraph 16.

4. At the hearing on 13 May 2013, the Chamber took note of the defence's decision to withdraw the abovementioned witnesses from its list.⁵ The Chamber further noted that, according to the information provided by the Victims and Witnesses Unit ("VWU"), the witnesses scheduled to follow Witness D04-56 were not readily available to testify.⁶ Therefore, the Chamber requested that the defence clarify whether it intended to request an alteration of the order of appearance previously approved. The defence was also ordered to specify the dates on which the witnesses were expected to appear before the Chamber.⁷
5. Accordingly, on 14 May 2013, the defence filed its "Defence Submissions on the Order of Witnesses",⁸ proposing the following order of witnesses "which represent[s] its best estimation as regards the most likely order of presentation of its witnesses and the dates on which they may be able to testify:

Witness D04-13: 21 May - 24 May 2013

Witness D04-18: 27 May - 30 May 2013

Witness D04-04: 3 June - 6 June 2013

Witness D04-03: 7 June - 12 June 2013

Witness D04-02: 13 June - 18 June 2013."⁹

6. The Chamber notes that this schedule may be amended further as this is only an "estimation". The Chamber also notes that this schedule entails a gap of one week between 14 and 20 May 2013, which is regrettable. However, noting that according to the information provided by the VWU none of the witnesses on the defence's list would be available to start

⁵ Transcript of hearing of 13 May 2013, ICC-01/05-01/08-T-316-ENG-ET, page 56 line 1.

⁶ Transcript of hearing of 13 May 2013, ICC-01/05-01/08-T-316-ENG-ET, page 56 lines 5 to 8.

⁷ Transcript of hearing of 13 May 2013, ICC-01/05-01/08-T-316-ENG-ET, page 56 lines 9 to 13.

⁸ Defence Submissions on the Order of Witnesses, 14 May 2013, ICC-01/05-01/08-2628.

⁹ ICC-01/05-01/08-2628, paragraph 12.

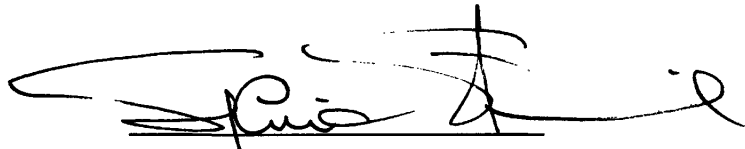
giving testimony before 21 May 2013, the Chamber finds the proposed schedule appropriate.

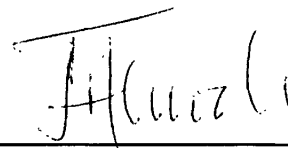
7. In light of the above, in order to ensure the efficient presentation of evidence by the defence and the expeditiousness of the trial proceedings and in accordance with Article 64(2) of the Rome Statute and Regulation 43 of the Regulation of the Regulations of the Court, the Chamber hereby

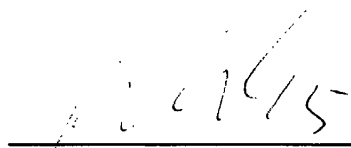
- (i) APPROVES the order of appearance proposed by the defence;
- (ii) ORDERS the defence and the VWU (a) to liaise in order to ensure the appearance of the relevant witnesses in the above-mentioned order; and (b) in case of difficulties in following this schedule or if alterations in the order appear to be necessary, to inform the Chamber immediately and submit an alternative order for the Chamber's consideration in order to avoid further gaps in the proceedings;
- (iii) ORDERS the defence to circulate an amended monthly witness schedule, setting out the expected dates of testimony and questioning of the relevant witnesses, by Monday, 20 May 2013; and
- (iv) ORDERS the defence to submit a comprehensive summary for Witness D04-13 without delay, and to comply with the applicable deadlines for the submission of comprehensive summaries for the remaining witnesses.¹⁰

¹⁰ See Public redacted version of "Decision on measures to facilitate the continued presentation of evidence by the defence", 14 December 2012, ICC-01/05-01/04-2482-Red, paragraph 17.

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



Judge Sylvia Steiner

Judge Joyce Aluoch

Judge Kuniko Ozaki

Dated this 15 May 2013

At The Hague, The Netherlands