



Original: **English**

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

Date: 28/05/2013

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

Further Defence Submissions on the Order of Witnesses

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, Prosecutor

Mr. Jean-Jacques Badibanga, Senior Trial
Attorney

Counsel for the Defence

Maitre Aimé Kilolo-Musamba

Mr. Peter Haynes QC

Legal Representatives of the Victims

Maitre Marie-Edith Douzima-Lawson

Maitre Assingambi Zarambaud

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented

(Participation/Reparation)

Applicants

The Office of Public Counsel for the Victims

Ms. Paolina Massida

The Office of Public Counsel for the Defence

Mr. Xavier-Jean Keita

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr. Herman von Hebel

Deputy Registrar

Mr. Didier Preira

Defence Support Section

Victims and Witnesses Unit

Mr. Patrick Craig

Detention Section

**Victims Participation and Reparations Other
Section**

A. BACKGROUND

1. On 3 May 2013, during a public status conference, the Chamber ordered the Defence to review its list of witnesses, reminding the Defence that it should be in a position to conclude the presentation of its evidence by **19 July 2013**.¹

2. As such, on 10 May 2013, the Defence filed its *Defence Submissions on the Remaining Defence Witnesses*.² By way of this filing, the Defence informed the Chamber of its intention not to call 13 of its remaining witnesses; 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; Witness D04-23.³

3. On 14 May 2013, the Defence filed its *Defence Submissions on the Order of Witnesses*⁴ which set out the obstacles which are currently preventing the Registry of the International Criminal Court from being able to facilitate the testimony of the remaining Defence witnesses.⁵ These obstacles are outside the control of either the Defence team or the Defence witnesses themselves.

4. Despite these obstacles, the Defence complied with the Chamber's order and provided an "order of witnesses which represent 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

¹ ICC-01/05-01/08-T-311-CONF-ENG ET 03-05-2013 p.30.

² ICC-01/05-01/08-2624.

³ ICC-01/05-01/08-2624, para. 16.

⁴ ICC-01/05-01/08-2628.

⁵ ICC-01/05-01/08-2628, paras. 1-3.

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”⁶

5. By way of its *Decision on the Order of Witnesses to be Called by the Defence following Witness D04-56* of 15 May 2013, the Chamber approved the above order.⁷ The Chamber noted that “this schedule may be amended further as this is only an ‘estimation’”⁸

6. The first two witnesses on the approved list, Witnesses D04-13 and D04-18, reside in **Country 1**. This state requires witnesses to be “authorised” by the relevant state authorities before being permitted to testify before the International Criminal Court. Despite timely requests having been lodged by the Registry to facilitate the testimony of Witnesses D04-13 and D04-18, the latest information available to the Defence is that they have not been authorised to testify.

7. The Defence understands that the Registry’s estimation that it will be in a position to facilitate the video-link testimony of Witnesses D04-02, D04-03 and D04-04 as from Monday, 3 June 2013 remains unchanged.

B. SUBMISSIONS

8. Given the ongoing failure of the authorities of **Country 1** to provide authorization for Witnesses D04-13 and D04-18 to testify before the International Criminal Court, and given other considerations of efficiency and strategic assessments made on the part of the Defence, particularly in light of having

⁶ ICC-01/05-01/08-2628, para. 12.

⁷ ICC-01/05-01/08-2630, para. 7.

⁸ ICC-01/05-01/08-2630, para. 6.

dropped 13 witnesses at the request of the Chamber, the Defence requests the authorization of the Chamber to amend the order of presentation of witnesses as follows:

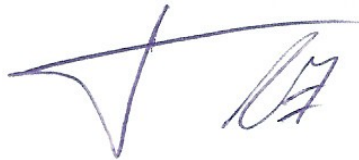
Witness D04-02: 3 June – 6 June 2013

Witness D04-04: 7 June – 12 June 2013

Witness D04-03: 13 June – 18 June 2013

9. The Defence confirms that these witnesses remain willing and available to testify in the present proceedings.

The whole respectfully submitted.

A handwritten signature in blue ink, consisting of a stylized 'A' followed by a series of loops and a final flourish.

Aimé Kilolo

Lead Counsel of Mr. Jean-Pierre Bemba

Done this 28 May 2013

At The Hague, The Netherlands