

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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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

Prosecution's Response to "Defence Submissions as to the current timetable for the completion of its case"

Source: The Office of the Prosecutor

Document to be notified in accordance with Regulation 31 of the *Regulations of the Court* to:

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I. Introduction

1. On 6 September 2013, the Defence team of Mr Jean-Pierre Bemba Gombo ("Defence") filed the "Defence Submissions as to the current timetable for the completion of its case".¹ The Defence informed the Trial Chamber III ("Chamber"), *inter alia*, that the Accused "will not be giving sworn evidence" and that "[c]onsideration is being given to his giving a brief unsworn statement at the conclusion of all the other oral evidence" ("Defence Submission").² Thus a final decision from the Defence as to whether the Accused will make an unsworn statement as part of the Defence case is pending.

2. Pursuant to the Chamber's order to provide an estimate of the questioning time for the Accused,³ the Prosecution hereby responds to the Defence Submission.

II. Submissions

3. The Prosecution submits that in light of the Defence's statement that the Accused will not be giving sworn evidence, it is no longer necessary at this stage to provide an estimate for its questioning to test the evidence provided by the Accused. Nevertheless, pending a definitive Defence submission on whether and in which manner the Accused will make an unsworn statement at the conclusion of oral testimony by the remaining Defence witnesses, the Prosecution informs the Chamber that it may require time to put questions to the Accused.

4. Trial Chamber II has recognized that the Accused can make an unsworn oral or written statement and that in such a case the Chamber "will decide on the

¹ ICC-01/05-01/08-2796, Defence Submissions as to the current timetable for the completion of its case, 6 September 2013.

² ICC-01/05-01/08-2796, Defence Submissions as to the current timetable for the completion of its case, 6 September 2013, para. 5.

³ ICC-01/05-01/08-T-342-CONF-ENG ET, 3 September 2013, page 32, line 20 to page 34, line 14.

appropriate moment and modalities for making the statement”.⁴ The Prosecution submits that such modalities should make provision for the Prosecution to question the Accused where his unsworn statement concerns substantive issues or arguments relating to the case against him.

5. The Prosecution observes that unsworn statements have some, albeit limited, evidentiary value. Pursuant to Articles 64(2) and 69(4) of the Rome Statutes, in the interest of a fair trial, the Prosecution should be allowed to put questions to the Accused to test those portions of his statement which have any evidentiary value, however limited, in order to assist the Chamber to determine the truth. The Prosecution should not be deprived of the right to question the Accused on relevant aspects of the case simply because he has chosen to exercise his right to make unsworn statements. Nor should the right to make an unsworn statement be used by an accused as a vehicle to address relevant issues in a case in the hope that this would enable him to evade questioning by the Prosecution. The nature and form of the Accused’s unsworn statement will determine whether and to what extent the Prosecution would require time to question the Accused on issues emanating from such statement.

⁴ ICC-01/04-01/07-1665, Directions for the conduct of the proceedings and testimony in accordance with rule 140, 20 November 2009, para. 12.

III. Conclusion

6. The Prosecution respectfully requests the Chamber to consider the arguments advanced above and grant it authorisation to put questions to the Accused should he choose to make an unsworn statement on substantive issues or make arguments in favour of his case.



Fatou Bensouda, Prosecutor

Dated this 9th Day of September 2013

At The Hague, The Netherlands