

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 02/05/2014

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**

Confidential

**Defence Response to the "Prosecution's Urgent Further Request for Disclosure of
Evidence in a Related Article 70 Proceeding"**

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

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Counsel for the Defence

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Legal Representatives of the Victims

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Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented

(Participation/Reparation)

Applicants

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Paolina Massida

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Xavier-Jean Keita

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

A. INTRODUCTION

1. Noting the Trial Chamber's instruction that:¹

the defence and the legal representative [...] focus their submissions on new matters raised in the prosecution's request and to avoid repeating arguments made in the context of their responses to the "Prosecution Request for a Variance of Protective Measures of Trial Witnesses to Allow Access to Transcripts of Evidence in a Related Article 70 Proceeding" (ICC-01/05-01/08-2951).

the Defence repeats and relies on its previous response,² and files the following limited submissions in response to the "Prosecution's Urgent Further Request for Disclosure of Evidence in a Related Article 70 Proceeding" ("Urgent Request").³

2. Firstly, the Defence notes that in the *Lubanga* case, the Prosecution has submitted to the Court that it would prefer to sacrifice its case rather than endanger the security of any Prosecution witness.⁴ The Prosecution's Urgent Request represents a prioritization of establishing its case against the Article 70 accused, over the security of witnesses. Different standards should not apply because the witnesses in question were called by the Defence.

3. Secondly, the Prosecution has failed to advance any additional arguments to warrant what is - in fact - a request for review or reconsideration of the Trial Chamber's decision of 12 March 2014.⁵ Nor has it provided any information as to how the protection of the security of the Defence witnesses in question will be ensured.

The whole respectfully submitted.

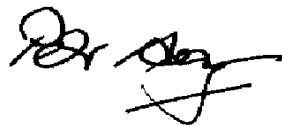
¹ Email Chamber to the parties, 24 April 2014, 14:57.

² ICC-01/05-01/08-2959-Conf.

³ ICC-01/05-01/08-3052-Conf.

⁴ ICC-01/04-01/06-2544-Red, para 39, citing to ICC-01/04-01/06-T-312, page 8.

⁵ ICC-01/05-01/08-3014.

A handwritten signature in black ink, appearing to read 'Peter Haynes', with a stylized flourish at the end.

Peter Haynes QC
Lead Counsel of Mr. Jean-Pierre Bemba

The Hague, The Netherlands

2 May 2014