

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 9 June 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***

Public

Prosecution Observations to “Defence Request for Notice”

Source: The Office of the Prosecutor

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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1. The Office of the Prosecutor (“Prosecution”) opposes the “*Defence Request for Notice*”¹ (“Request”). Trial Chamber III (“Chamber”) should reject the Request as moot.

2. On 21 September 2012, the Chamber provided the parties and participants with notice that it might modify the legal characterisation of facts in its Article 74 decision to include the possibility that the Accused, “owing to circumstances at the time, should have known” that the forces under his effective authority and control were committing or about to commit the charged crimes.² In providing notice to the parties and participants the Chamber fulfilled the legal requirements of Regulation 55(2).

3. The Defence seeks from the Chamber information about “the material facts and circumstances which are said to underpin a ‘should have known case’...”.³ However, the Defence is already on notice of the material facts and circumstances relating to “should have known”. Paragraphs 77-90 in the Document Containing the Charges (“DCC”) cover the Prosecution’s allegations relating to the Accused’s knowledge of the charged crimes.⁴ With the Chamber’s 21 September 2012 notification it is clear that the facts and circumstances pled in the DCC encompass both the “knew” and “should have known” forms of knowledge.

4. Thus, as a matter of law, the Chamber’s notification of the possibility of a modification of the legal characterisation of the Accused’s knowledge and the DCC both provide the Defence with sufficient notice to be in a position to respond to the Prosecution’s case in their closing brief.

¹ ICC-01/05-01/08-3076, Defence Request for Notice, 30 May 2014.

² ICC-01/05-01/08-2324, Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court, 21 September 2012.

³ ICC-01/05-01/08-3076, para. 6.

⁴ ICC-01/05-01/08-950-Red-AnxA, Corrected Revised Second Amended Document Containing the Charges, 13 October 2010.

5. The Defence Request is therefore moot and the Chamber should reject it.



Fatou Bensouda, Prosecutor

Dated this 9th Day of June 2014

At The Hague, the Netherlands