

**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 Redacted Document

**Public Redacted Version of "Prosecution Request for a corrected version of the
Defence Closing Brief and extension of time to file a response", 29 August 2014,
ICC-01/05-01/08-3126-Conf**

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. The Office of the Prosecutor (“Prosecution”) requests the Trial Chamber III (“Chamber”) to: (i) order the Defence to file a corrected version of the “Closing Brief of Mr. Jean-Pierre Bemba Gombo” (“Defence Closing Brief”) with complete transcript references, including line numbers, as these are essential to the Prosecution’s ability to efficiently locate the relevant evidence cited; and (ii) grant an extension of time pursuant to Regulation 35(2) of the Regulations of the Court (“Regulations”) for the Prosecution to file its response to the Defence Closing Brief.

2. Although the Defence availed itself of the page extension granted by the Chamber for adoption of the usual format of references, it instead provided incomplete references and would exceed the number of pages allocated if the omitted information is inserted in each reference. Without the essential reference information such as the relevant line numbers, the Prosecution must expend considerable time reading through an entire page or multiple pages in order to find the relevant evidence cited by the Defence. The Prosecution’s ability to review the evidence cited and draft a response in the two week period, which is already shortened by the requirement to simultaneously file a translated French version, is adversely affected by the incomplete references and real page count. The Prosecution submits that this constitutes “good cause” within the meaning of Regulation 35(2) for an extension of time.

II. Submissions

3. On 17 June 2014, following the Defence request to strike out the Prosecution’s closing brief as inadmissible due to the formatting of references, the Chamber decided that “the defence may follow the same format for footnote references as the

prosecution. Should the defence choose to follow the usual format adopted in the course of the trial proceedings, the Chamber grants the defence an extension of page limit of up to 12 pages for the filing of its final brief.”¹ During the course of the trial proceedings, the parties and participants were required to provide sufficient information in order to identify the relevant evidence cited in transcripts, including: (i) transcript number; (ii) language; (iii) edited, real-time or corrected version; and (iv) page and line numbers. However, the Defence availed itself of 10 of the 12 additional pages granted by the Chamber but without the corresponding duty to provide complete transcript references in accordance with the usual practice, as it omitted not only the language and revision version of each transcript cited, but also the relevant line numbers.

4. Upon the Prosecution’s enquiry, the Defence responded,² *inter alia*, that: (i) the Defence is under no obligation to give references to specific lines – this is contrary to the practice of providing specific references to transcripts of evidence in proceedings before this Chamber; and (ii) whether transcripts are edited or corrected has no impact on the Prosecution’s ability to locate the cited evidence and all evidence can be found directly from the references provided – this is incorrect as some transcript references are inaccurate and require the Prosecution to read an entire page(s) before realising the error.³ It is an arduous task for the Prosecution to review 410 pages consisting of 2,590 footnotes without complete transcript references.

5. Although the Prosecution cannot peruse the entire Defence Closing Brief and provide the Chamber with a comprehensive illustration of the difficulties associated with the incomplete Defence references and how including the essential missing information would lead the Defence to exceed the page count, a few illustrations are

¹ ICC-01/05-01/08-3091, Decision on "Defence Request to Strike out the 'Prosecution's closing brief', dated 2 June 2014, as inadmissible", 17 June 2014, para. 14.

² Email dated 28 August 2014 from the Defence to the Prosecution.

³ For example, at page 67 of the Defence brief, footnote 410 refers to the wrong transcript number.

telling. For example, on page 9, the total count is 323 words; however, inclusion of the transcript version and line numbers for one footnote that contains 15 transcript references will result in an additional 30 words for line references alone (e.g. “line 5” or “lines 5-9” requires an addition of two words per reference completed). In addition, each time a page is referenced by the Defence, the Prosecution must read 25 lines in order to ensure that it has captured the relevant information; this volume increases depending on how many pages are cited by the Defence in each reference. Furthermore, this difficulty is compounded by incorrect citations. [REDACTED].

III. Conclusion

6. The Prosecution respectfully requests the Chamber to: (i) order the Defence to file a corrected version of its closing brief with complete references by 1 September 2014; and (ii) grant the Prosecution an extension of time to file its response by 15 September 2014.



Fatou Bensouda, Prosecutor

Dated this 1st Day of September 2014

At The Hague, The Netherlands