

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **4 April 2016**

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

**Prosecution's Response to "Urgent Defence Request for Authorisation
to Contact P-15"**

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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I. Introduction

1. The Office of the Prosecutor (“Prosecution”) opposes the Defence request¹ as the additional evidence sought by the Defence is cumulative of P-15’s trial testimony already on record and it has always been clear since the commencement of the trial that Parties to the proceedings should elicit all necessary information from witnesses during their testimony in order to avoid recalling them. The Defence request fails to explain the exceptional basis or relevance to justify recalling or contacting P-15 or any other witness who has already testified and was examined by Defence.²

2. However, in the event that the Defence request is granted by the Chamber, the Prosecution would like to obtain P-15’s consent first, before sharing his contact details with the Defence.

II. Request for Confidentiality

3. Pursuant to regulation 23(1)*bis* of the Regulations of the Court, the Prosecution requests that this document be received as “Confidential” as it is a response to a filing with similar classification.

III. Submissions

The Defence request is cumulative of P-15’s trial testimony:

4. The Defence argument that the proceedings have now entered the sentencing phase during which the trial chamber has anticipated the calling of additional evidence is not sufficient reason to justify the Defence contacting P-15.³

¹ ICC-01/05-01/08-3345-Conf, “Urgent Defence Request for Authorisation to Contact P-15” Dated 21 March 2016. 1. On 21 March 2016, the Defence of Jean-Pierre Bemba “Defence” filed a request for Authorization to contact Prosecution witness 15 “P-15” and requested the Trial Chamber III “The Chamber” to order the Office of the Prosecutor “Prosecution” to disclose P-15’s contact details to the Defence.

² Regulation 35(2) of the Regulations of the Court.

³ ICC-01/05-01/08-3345-Conf, para. 4.

5. In its decision, the Chamber stated that:

“In the event of a conviction, the parties and participants are thus to file any requests to submit further evidence or to call witnesses, including any requests for protective measures, within two weeks of the issuance of the judgment on the merits. A decision on any evidentiary or procedural matters, including a hearing, will be taken thereafter as required, in accordance with Rule 143 of the Rules and the precedents of the Court.”⁴

6. This Decision does not dispense with the requirement for the Parties to show exceptional circumstances that justify the calling of additional evidence or recalling of witnesses who have already testified before the Chamber.⁵ The issues that the Defence would like P-15 to testify about were already known to the Defence at the time that P-15 testified about them in court.⁶ The Defence advances no explanation as to why P-15 should be recalled to testify again about the same issues and as such there is no justification for Defence contacting P-15 again.

The Defence request fails to show relevance of P-15's new evidence to sentencing proceedings

7. The Defence also alleges that recently “P-15 has embarked on a media campaign, during which he has given his opinion on a number of matters that are of interest to the Defence of Mr. Bemba.”⁷ The Defence does not demonstrate how this recent evidence is exceptional or relevant for this phase of the distinct sentencing proceedings. In the absence of such an explanation, the Defence request should not be granted.

8. The evidence to be submitted or witnesses to be called by Parties at the sentencing phase must be relevant to issues or considerations at the sentencing

⁴ ICC-01/05-01/08-3071, para. 17.

⁵ See regulation 35(2) of the Regulations of the Court.

⁶ ICC-01/05-01/08-3345-Conf, paras. 12 to 14.

⁷ ICC-01/05-01/08-3345-Conf, paras. 15 to 18.

phase.⁸ The Defence has not shown good cause as to why P-15 should be recalled or contacted at this stage of the proceedings.

9. In the event that the Chamber is inclined to grant the Defence Request, the Prosecution would like to obtain P-15's consent first, before sharing his contact details with the Defence.

IV. Relief Sought

10. The Prosecution requests (i) the Chamber to reject the Defence Request for Authorisation to contact P-15 (ii) but in the event that the Defence request is granted, the prosecution be permitted to obtain P-15's consent first before sharing his contact details with the Defence.



Fatou Bensouda, Prosecutor

Dated this 4th Day of April 2016
At The Hague, The Netherlands

⁸ Rule 145 of the Rules of Procedure and Evidence.