

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **12/08/2013**

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

Submissions on the remaining Defence evidence

Source: Defence for Mr. Jean-Pierre Bemba Gombo

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

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A. BACKGROUND

1. On 16 July 2013, Trial Chamber III (“the Chamber”) rendered its *Decision on the timeline for the completion of the defence’s presentation of evidence and issues related to the closing of the case*. (“the Decision”).¹

2. In the Decision the Chamber informed the parties that the hearings after the summer recess would resume on 20 August 2013 and ordered as follows:²

ORDERS that the presentation of evidence by the defence be concluded by 25 October 2013, at the latest; [...]

ORDERS the defence to file by 12 August 2013, a proposed order of appearance for the remaining witnesses.

3. The Defence is currently participating in a joint Defence-Registry mission in the location from which it appears the majority of the remaining the Defence witnesses will give evidence. The progress and results of this ongoing mission may have an impact on the order and composition of the list of witnesses to be heard prior to the close of the Defence case. However, given the deadline set by the Chamber of 12 August 2013, the Defence files the present submissions while noting that may seek leave of the Chamber to amend this list following the conclusion of the current mission.

B. SUBMISSIONS ON THE REMAINING DEFENCE WITNESSES

(a) Proposed Order of Defence Witnesses

¹ ICC-01/05-01/08-2731

² ICC-01/05-01/08-2731, para. 38.

4. Taking into account the deadline of 25 October 2013 set by the Chamber for the completion of the Defence case, the Defence proposes the following list and order of witnesses to be heard during the remainder of its presentation of evidence:

- Witness D04-15
- Witness D04-23
- Witness D04-26
- Witness D04-25
- Witness D04-36
- Witness D04-29
- Witness D04-30
- Witness D04-44
- Witness D04-14
- Witness D04-41
- Mr. Jean-Pierre BEMBA

(b) Re-instatement of Witness D04-23 to the Defence List of Witnesses

5. On 3 May 2013, during a public status conference, the Chamber ordered the Defence to review its list of witnesses, reminding the Defence that it should be in a position to conclude the presentation of its evidence by 19 July 2013.³ As such, on 10 May 2013, the Defence filed its *Defence Submissions on the Remaining Defence Witnesses*.⁴ By way of this filing, the Defence informed the Chamber of its intention not to call 13 of its remaining witnesses, including Witness D04-23.⁵

6. Witness D04-23 was included in this list because at that particular time, the Defence was unable to make contact with the witness to confirm his availability to appear before the Court. In such circumstances, he was not considered to be a realistic prospect within the limited timeframe afforded to the Defence, who at that stage was being required to close its case prior to the summer judicial recess.

³ ICC-01/05-01/08-T-311-CONF-ENG ET 03-05-2013 p.30.

⁴ ICC-01/05-01/08-2624.

⁵ ICC-01/05-01/08-2624, para. 16.

7. The Defence has since re-established contact with Witness D04-23, and seeks to reinstate him to the Defence list of witnesses. Witness D04-23 is an important witness who can contribute to the establishment of the truth of the events in question, and is in possession of information not previously presented by other witnesses heard in the case. Firstly, Witness D04-23 is a former FACA [REDACTED] [REDACTED] He was deployed on the ground with the MLC contingent in the Central African Republic in 2001, and can therefore speak to the details of the 2001 MLC intervention, including the command structure of the MLC troops in the Central African Republic, the logistics provided, the mixing of MLC and FACA troops, and whether the MLC troops committed crimes in 2001; all issues being relevant to the Prosecution's case concerning Mr. Bemba's knowledge and overall command. Significantly, Witness D04-23 then [REDACTED] and [REDACTED] in the 2002 events in the Central African Republic. As such, [REDACTED] General Bozizé's attempted coup d'état in 2002 and [REDACTED] [REDACTED] [REDACTED] and the movements and progressions [REDACTED] the areas they occupied on particular dates. He is also in a position to testify regarding identification of perpetrators of the crimes committed during the events. His testimony is accordingly of the utmost relevance to live issues in the case, and spans a significant number of relevant issues.

8. The Defence is cognisant of the deadline set by the Chamber requiring the Defence to close its case by 25 October 2013 at the latest, and undertakes that the reinstatement of Witness D04-23 to the Defence list of witnesses will not affect either

its intention or ability to comply with this deadline. Moreover, both the Prosecution and the Legal Representatives of Victims have been aware of this witness and his proposed evidence since July 2012, and as such no prejudice arises from his re-instatement to the Defence list.

9. In such circumstances, the Defence respectfully requests that the Chamber approve the order set out above of witnesses to be called before the close of the Defence case.

The whole respectfully submitted.

A handwritten signature in blue ink, consisting of a large, stylized 'A' followed by a series of loops and a final vertical stroke.

Aimé Kilolo

Lead Counsel of Mr. Jean-Pierre Bemba

Done this day 12 August 2013

In The Hague, The Netherlands