

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/05-01/08
Date: 22 September 2008

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra (Single Judge)

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
V. JEAN-PIERRE BEMBA GOMBO**

Confidential

Ex Parte, Prosecutor Only

**Prosecution's Second Report on the Status of Documents Received under
Article 54(3)(e) of the Rome Statute**

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

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for
Participation/Reparation

The Office of Public Counsel for
Victims

The Office of Public Counsel for the
Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar
Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations
Section

Other

Background

1. On 17 June 2008, the Pre-Trial Chamber III ("PTC III") issued a decision convening a Status Conference ("17 June 2008 Decision"),¹ in which it requested the Office of the Prosecutor ("Prosecution") to provide a report on the number and status of documents received under Article 54(3)(e) of the Rome Statute.
2. On 30 June 2008, the Prosecution filed its report regarding Article 54(3)(e) pursuant to PTC III's 17 June 2008 Decision ("First Report").²
3. On 10 September 2008 ("10 September 2008 Decision"),³ the Single Judge issued a decision requesting the Prosecution to submit a further report on Article 54(3)(e) documents and related issues by 22 September 2008. In particular, the Single Judge requested the Prosecution to address four issues identified as relating to Article 54(3)(e).
4. The Prosecution hereby submits this second report on documents affected by Article 54(3)(e) in response to the Single Judge's request contained in the 10 September 2008 Decision⁴.

Request for *ex parte* classification

5. The Prosecution requests that this filing be received *ex parte*, *Prosecutor only* on the basis that it responds to a request from the 10 September 2008 decision filed *ex-parte*, *Prosecutor only* by PTC III.

¹ ICC-01/05-01/08-17-Conf-Exp 17-06-2008, page 5, sub-section (B)

² ICC-01/05-01/08-31-US-Exp 30-06-2008

³ ICC-01/05-01/08-100-Conf-Exp 10-09-2008

⁴ A draft French translation of this filing is attached as Annex I. This translation is provided as an aid to the Chamber and is not meant to be official or authoritative

Current status of five documents mentioned in the Prosecution's 30 June 2008 Report

6. As stated in the Prosecution's First Report, the total number of documents collected pursuant to Article 54(3)(e) is five (one report document and its four annexes).⁵ Out of this total, only one document (the report has been identified as containing potentially exculpatory material. As indicated in the First Report, requests for the lifting of confidentiality restrictions have been sent to the information provider.⁶

Number and status of other documents identified as having evidentiary value and Potentially Exonerating ("PEXO") in nature received since 17 June 2008

7. Since the 17 June 2008, the Prosecution has not received any other documents pursuant to Article 54(3)(e) in the case of the *Prosecutor v. Jean-Pierre BEMBA GOMBO*.

Whether the Prosecutor has identified any other relevant documents as having evidentiary value and Potentially Exonerating ("PEXO") in nature contained in the DRC collection

8. In its First Report, the Prosecution indicated that a search was being conducted in the collection related to the DRC investigation.⁷ This search and review of Article 54(3)(e) documents relevant to the case is ongoing. The Prosecution in the case "*The Prosecutor v. Thomas Lubanga Dyilo*" is in consultation with information providers and in particular with the United Nations in relation to Article 54(3)(e) documents collected during the DRC investigation. There are serious prospects that an adequate solution for disclosure will be reached for all

⁵ ICC-01/05-01/08-31-US-Exp 30-06-2008, page 3, para. 2

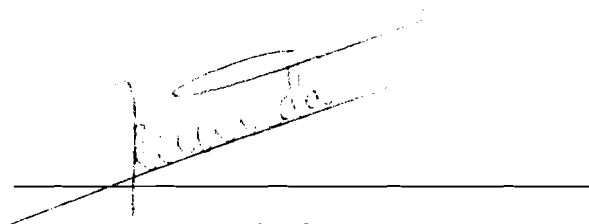
⁶ ICC-01/05-01/08-31-US-Exp 30-06-2008, page 3, para. 2

⁷ ICC-01/05-01/08-31-US-Exp 30-06-2008, page 4, para. 3

information and it would apply any information relevant to the present case.

Whether consultations with the CAR government have taken place with a view to ascertaining whether protective measures for other third parties are necessary

9. The Prosecution has completed consultations with the CAR Government, which has not indicated particular requirements with regards to any protective measures but has recommended that we address the need for protective measures directly with third parties which are referred to in the documents. The consultations with those third parties, and which could be in need of protective measures, are still ongoing.



Fatou Bensouda, Deputy Prosecutor
On Behalf of
Luis Moreno-Ocampo, Prosecutor

Dated this 22nd day of September 2008

At The Hague, The Netherlands