Cour Pénale Internationale

International Criminal Court

Original: **English**

No.: **ICC-01/05-01/08**
Date: **16 September 2010**

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 Document

Decision on the "Prosecution Application for Leave to Submit in Writing Prior-Recorded Testimonies by CAR-OTP-WWWW-0032, CAR-OTP-WWWW-0080, and CAR-OTP-WWWW-0108"

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

The Office of the Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Ms Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence
Mr Nkwebe Liriss
Mr Aimé Kilolo Musamba

Legal Representatives of the Victims
Ms Marie-Edith Douzima Lawson

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims
Ms Paolina Massidda

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar
Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Trial Chamber III ("Trial Chamber" or "Chamber") of the International Criminal Court ("Court" or "ICC"), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, ("*Bemba* case") issues the following decision on the "Prosecution Application for Leave to Submit in Writing Prior-Recorded Testimonies by CAR-OTP-WWWW-0032, CAR-OTP-WWWW-0080, and CAR-OTP-WWWW-0108" ("prosecution's Application" or "Application").[1]

I. Background and Submissions

1. On 24 June 2010, the Office of the Prosecutor ("prosecution") filed its Application requesting leave to submit the written statements of three witnesses as evidence in lieu of oral testimony,[2] namely CAR-OTP-WWWW-0032 ("Witness 32"),[3] CAR-OTP-WWWW-0080 ("Witness 80"),[4] and CAR-OTP-WWWW-0108 ("Witness 108").[5] Witness 108 referred in his statements to incriminating documentary evidence.[6] The Application is filed pursuant to Article 69(2) of the Rome Statute ("Statute") and Rule 68(b) of the Rules of Procedure and Evidence ("Rules"). The prosecution argues that admitting these prior-recorded statements and related documents would encourage the expeditious and effective conduct of the trial in the *Bemba* case, as they are partly corroborated by documentary evidence or the evidence of other witnesses. The questioning of these three witnesses by the prosecution is

[1] Requête de l'Accusation aux fins de versement par écrit des témoignages préalablement enregistrés par CAR-OTP-WWWW-0032, CAR-OTP-WWWW-0080, and CAR-OTP-WWWW-0108, 24 June 2010, ICC-01/05-01/08-801-Conf-Exp ("réservé à l'Accusation, la Défense et au Bureau du conseil public pour les victimes") and public redacted version, ICC-01/05-01/08-801-Red filed on 25 June 2010; a translation of the Application was filed on 30 June 2010: Prosecution Application for Leave to Submit in Writing Prior-Recorded Testimony by CAR-OTP-WWWW-0032, CAR-OTP-WWWW-0080, and CAR-OTP-WWWW-0108, ICC-01/05-01/08-801-Conf-Exp-tENG.

[2] ICC-01/05-01/08-801-Conf-Exp-tENG, paragraph 3.

[3] Two statements in French of Witness 32, CAR-OTP-0011-0297 and CAR-OTP-0011-0319.

[4] Three statements in French of Witness 80, CAR-OTP-0028-0156, CAR-OTP-0028-0183 and CAR-OTP-0028-0219.

[5] Three statements in French of Witness 108, CAR-OTP-0037-0245, CAR-OTP-0037-0269 and CAR-OTP-0037-0283.

[6] CAR-OTP-0037-0092, CAR-OTP-0037-0122-R01 and CAR-OTP-0037-0126-R01, ICC-01/05-01/08-801-Conf-Exp-tENG, paragraphs 3 and 11.

therefore unnecessary.[7] It is submitted that the rights of the accused and the need to determine the truth would not be prejudiced since both the defence and the Chamber will have the opportunity to question these three witnesses when they appear in court.[8]

2. On 15 July 2010, the defence filed its confidential *ex parte*, "Réponse de la Défense à la Requête de l'Accusation aux fins de versement des témoignages préalablement enregistrés par CAR-OTP-WWWW-0032, CAR-OTP-WWWW-0080, and CAR-OTP-WWWW-0108" ("defence's Response" or "Response").[9]

3. In its Response, the defence refers to the jurisprudence of Trial Chamber I in the *Lubanga* case and submits that pursuant to Rule 68(b) of the Rules, the Chamber should strike a balance between its discretionary power to admit prior-recorded testimonies and the Chamber's duty to ensure that the accused's rights are appropriately protected.[10] The defence further submits that the Chamber's discretionary power could only be exercised under certain conditions; namely that the evidence sought to be admitted as prior-recorded testimony is neither "materially in dispute" nor "central to the core issues in the case".[11] The defence finally maintains that the written statements of Witnesses 32, 80 and 108 as well as the incriminating documents annexed to Witness 108's statements are either of central significance to the case or highly disputed.[12] Thus, according to the defence, admitting this evidence as prior-recorded testimonies would prejudice the accused's rights. Consequently, it requests that the Chamber reject the prosecution's Application in its entirety.[13]

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[7] ICC-01/05-01/08-801-Conf-Exp-tENG, paragraphs 3, 8 and 13 to 17.
[8] ICC-01/05-01/08-801-Conf-Exp-tENG, paragraphs 3, 4 and 8.
[9] Réponse de la Défense à la Requête de l'Accusation aux fins de versement des témoignages préalablement enregistrés par CAR-OTP-WWWW-0032, CAR-OTP-WWWW-0080, and CAR-OTP-WWWW-0108, filed « *Ex parte*, seulement Accusation, Bureau du Conseil Public pour les Victimes et Défense », 15 July 2010, ICC-01/05-01/08-829-Conf-Exp.
[10] ICC-01/05-01/08-829-Conf-Exp, paragraph 2.
[11] ICC-01/05-01/08-829-Conf-Exp, paragraph 3.
[12] ICC-01/05-01/08-829-Conf-Exp, paragraphs 4 to 6.
[13] ICC-01/05-01/08-829-Conf-Exp, paragraph 7.

II. Relevant Provisions

4. In accordance with Article 21(1) of the Statute, the Trial Chamber has considered the following provisions:

> **Article 68 (1) and (2) of the Statute**
> **Protection of the victims and witnesses and their participation in the proceedings**
>
> 1. The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have regard to all relevant factors, including age, gender as defined in article 7, paragraph 3, and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The Prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.
>
> 2. As an exception to the principle of public hearings provided for in article 67, the Chambers of the Court may, to protect victims and witnesses or an accused, conduct any part of the proceedings in camera or allow the presentation of evidence by electronic or other special means. In particular, such measures shall be implemented in the case of a victim of sexual violence or a child who is a victim or a witness, unless otherwise ordered by the Court, having regard to all the circumstances, particularly the views of the victim or witness.
>
> **Article 69(2) of the Statute**
> **Evidence**
> [...]
>
> 2. The testimony of a witness at trial shall be given in person, except to the extent provided by the measures set forth in article 68 or in the Rules of Procedure and Evidence. The Court may also permit the giving of viva voce (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts, subject to this Statute and in accordance with the Rules of Procedure and Evidence. These measures shall not be prejudicial to or inconsistent with the rights of the accused.
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> **Rule 68(b) of the Rules**
> **Prior recorded testimony**
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> When the Pre-Trial Chamber has not taken measures under article 56, the Trial Chamber may, in accordance with article 69, paragraph 2, allow the introduction of previously recorded audio or video testimony of a witness, or the transcript or other documented evidence of such testimony, provided that:
>
> [...]

(b) If the witness who gave the previously recorded testimony is present before the Trial Chamber, he or she does not object to the submission of the previously recorded testimony and the Prosecutor, the defence and the Chamber have the opportunity to examine the witness during the proceedings.

Rule 87 of the Rules
Protective measures

1. Upon the motion of the Prosecutor or the defence or upon the request of a witness or a victim or his or her legal representative, if any, or on its own motion, and after having consulted with the Victims and Witnesses Unit, as appropriate, a Chamber may order measures to protect a victim, a witness or another person at risk on account of testimony given by a witness pursuant to article 68, paragraphs 1 and 2. The Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the protective measure is sought prior to ordering the protective measure.

[...]

Rule 88 of the Rules
Special measures

1. Upon the motion of the Prosecutor or the defence, or upon the request of a witness or a victim or his or her legal representative, if any, or on its own motion, and after having consulted with the Victims and Witnesses Unit, as appropriate, a Chamber may, taking into account the views of the victim or witness, order special measures such as, but not limited to, measures to facilitate the testimony of a traumatized victim or witness, a child, an elderly person or a victim of sexual violence, pursuant to article 68, paragraphs 1 and 2. The Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the special measure is sought prior to ordering that measure.

[...]

Rule 111 of the Rules
Record of questioning in general

1. A record shall be made of formal statements made by any person who is questioned in connection with an investigation or with proceedings. The record shall be signed by the person who records and conducts the questioning and by the person who is questioned and his or her counsel, if present, and, where applicable, the Prosecutor or the judge who is present. The record shall note the date, time and place of, and all persons present during the questioning. It shall also be noted when someone has not signed the record as well as the reasons therefor.

Regulation 54(d) of the Regulations of the Court
Status Conferences before the Trial Chamber

At a status conference, the Trial Chamber may, in accordance with the Statute and the Rules, issue any order in the interests of justice for the purposes of the proceedings on, inter alia, the following issues:

[...]

d) The length of questioning of the witnesses;

[...]

Regulation 23*bis*(1) and (3) of the Regulations of the Court
Filing of documents marked *ex parte*, under seal or confidential

1. Any document filed by the Registrar or a participant and marked "ex parte", "under seal" or "confidential", shall state the factual and legal basis for the chosen classification and, unless otherwise ordered by the Chamber, shall be treated according to that classification throughout the proceedings.

[...]

3. Where the basis for the classification no longer exists, whosoever instigated the classification, be it the Registrar or a participant, shall apply to the Chamber to re-classify the document. A Chamber may also re-classify a document upon request by any other participant or on its own motion. In the case of an application to vary a protective measure, regulation 42 shall apply.

III. Analysis

5. The Chamber notes that the defence referred to Trial Chamber I's "Decision on the prosecution's application for the admission of the prior recorded statements of two witnesses" issued on 15 January 2009.[14] For the purposes of the present Decision, the Chamber finds paragraphs 18, 21 and 22 of this decision of particular relevance:

> 18. Turning to Article 69(2) and Rule 68, in the judgment of the Chamber the latter provision is directed at the "testimony of a witness" in a broad sense, given that the various forms of testimony that are specifically included in the rule are audio- or video- records, transcripts or other documented evidence of "such" testimony (namely, the testimony of a witness). The Chamber highlights, particularly, that the "other documented evidence" (of the testimony of the witness) is referred to separately, and in addition to, the audio- or video- records in the opening paragraph of Rule 68; moreover, in sub-rules a) and b) "previously recorded testimony" is referred to without limiting its scope to video or audio evidence. Against that background, the Chamber is persuaded that the ambit of **Rule 68 permits the introduction of written statements, in addition to video- or audio-taped records or transcripts, of a witness's testimony because these are all clear examples of the "documented evidence" of a witness's testimony.** [Emphasis added]

[14] Decision on the prosecution's application for the admission of the prior recorded statements of two witnesses, 15 January 2009, ICC-01/04-01/06-1603.

> [...]
>
> 21. [...] **fact-specific decisions will need to be taken in resolving applications under [this] Rule [68(b) of the Rules].** Depending on the circumstances, there can be material advantages in testimony being given in its entirety *viva voce* before the Court, particularly when evidence of significance is challenged or requires comprehensive investigation. **The live questioning of a witness in open court on all aspects of his or her evidence can have a material impact on the Chamber's overall assessment of the evidence, since oral testimony is, for obvious reasons, of a different nature to a written statement: most importantly the evidence can be fully investigated and tested by questioning, and the Court is able to assess its accuracy, reliability and honesty, in part by observing the conduct and demeanour of the witness.** [Emphasis added]
>
> 22. However, there can be equal material advantages in having evidence read, in whole or in part. In the context of this application, relevant examples are that it avoids witnesses unnecessarily repeating their evidence once it has been recorded. Furthermore, there is a real potential for war crimes trials to last an excessive period of time and the court is entitled to bear this issue in mind when weighing the possibility of receiving non-oral evidence. On occasion there will be little, if any advantage, to evidence being given *in toto* orally, **for instance when there is likely to be limited challenge or where the testimony is not of central significance.** [Emphasis added]
>
> [...]

6. The Chamber adopts a similar approach to the one stated at paragraph 18 of Trial Chamber's I decision, and considers that the written statements of Witnesses 32, 80 and 108 as well as the additional documents annexed to Witness 108's statements (taken in accordance with the requirements set out under Rule 111(1) of the Rules) fall under the provision of Rule 68(b) of the Rules.[15]

7. Pursuant to Article 69(2) of the Statute, "[t]he testimony of a witness at trial shall be given in person, except to the extent provided by the measures set forth in article 68 or in the Rules of Procedure and Evidence". Under Rule 68 of the Rules, the Chamber "may, in accordance with article 69, paragraph 2, allow the introduction of previously recorded audio or video testimony of a witness, or the transcript or other documented evidence of such testimony".

[15] See also Trial Chamber II's approach on this particular point, "Directions for the conduct of the proceedings and testimony in accordance with rule 140", 1 December 2009, ICC-01/04-01/07-1665-Corr, paragraph 92.

The Chamber may thus depart from the general principle of giving evidence in person and explore the possibility of having evidence submitted in writing, as long as it is not prejudicial to, or inconsistent with, the rights of the accused. However, the introduction of such prior-recorded testimony remains an option which should be adopted only in specific and exceptional circumstances.

8. The Chamber is also of the view that, in theory, the submission of evidence pursuant to Rule 68(b) of the Rules may, *inter alia*, favour expeditiousness. Further, it is clear from the wording of Trial Chamber I's decision (paragraph 22 quoted above) that the circumstances of "non disputed evidence" or "evidence not of central significance" are only factors to be taken into consideration in its balancing exercise. However, these factors do not constitute additional requirements under Rule 68(b) of the Rules, as the defence seems to suggest at paragraph 3 of its Response.

9. In the present case, the prosecution expressly bases its Application on Article 69(2) of the Statute and Rule 68(b) of the Rules, arguing that admitting the prior-recorded testimonies of the three witnesses would save time. The prosecution submits that admitting the written statements of the three witnesses would allow the prosecution's questioning time to be reduced by 22 hours.[16]

10. The defence opposes the prosecution's Application arguing that the three witnesses give evidence on contested issues which are of central significance to the case and that its rights would be prejudiced. In this respect, the Chamber stresses that the possible admission of prior-recorded testimonies pursuant to Rule 68(b) of the Rules does not *automatically* prejudice the accused' s rights as, according to this rule, the prosecution, the defence and

[16] ICC-01/05-01/08-801-Conf-Exp-tENG, paragraph 18.

the Chamber retain the opportunity of questioning the witness during the proceedings.

11. Consequently, the Chamber now turns to an examination of each individual witness' proposed written evidence.

Witness 32

12. The prosecution summarises the statements of Witness 32 as follows:

> [Witness 32] establishes the Accused's role as Supreme Commander of the MLC and his absolute control over the decision-making process within the political and military wings of the movement. He portrays the Accused as a well-informed man, having the will and the means to apprise himself of the actions of his army. In his statements he describes the hierarchical structure of the MLC and the army's internal judicial process, which was manipulated by the Accused for his own personal benefit.[17]

13. On the basis of this summary, Witness 32 will give evidence *inter alia*, on the alleged mode of liability, an element of the crime requiring in-depth investigation by both parties. This aspect of the *Bemba* case has been contested in the course of the proceedings before the Pre-Trial Chamber,[18] and is likely to be highly contentious at trial, thereby rendering the statements of Witness 32 and its questioning by the prosecution of particular importance. Furthermore, should the prosecution's Application be granted, the defence would have no other choice than basing its own questioning on the written statements of this witness: such questioning may take a significant amount of time as the defence may well challenge the factual allegations of Witness 32.[19] The Chamber thus finds that in terms of expeditiousness, there is little advantage in having this evidence submitted in writing.

14. The Chamber underlines that if the sole advantage, as stated by the

[17] ICC-01/05-01/08-801-Conf-Exp-tENG and ICC-01/05-01/08-801-Red, paragraph 9.
[18] Pre-Trial Chamber III, Decision Adjourning the Hearing pursuant to Article 61(7)(c)(ii) of the Rome Statute, 3 March 2009, ICC-01/05-01/08-388, paragraphs 40-49.
[19] ICC-01/05-01/08-829-Conf-Exp, paragraph 5.

prosecution, is to encourage the expeditious and effective conduct of the proceedings, this legitimate goal may be achieved otherwise, namely by reducing the time of the prosecution's questioning of this witness.

15. In addition, although the Chamber rejects the defence's argument that its rights would be prejudiced if Witness 32's statements were to be admitted as prior-recorded testimony, it finds that for this particular witness, the advantage in terms of expeditiousness is only hypothetical. Therefore, the Chamber is not convinced that the prosecution has shown exceptional circumstances justifying any derogation from the general principle of giving *viva voce* evidence.

16. For these reasons, Witness 32 shall testify in person pursuant to Article 69(2) of the Statute.

Witness 80

17. The prosecution summarises the statements of Witness 80 as follows:

> [Witness 80] was raped at the same time as other members of her family by several MLC soldiers in November 2002 in her home at PK12. Everything she owned was pillaged by the MLC soldiers. Her statement establishes that the MLC troops targeted the civilian population, whom they accused of supporting Bozizé's rebels. The MLC soldiers went systematically to every house. The sexual abuses perpetrated by the soldiers were committed in public, often in front of the victims' families. [Witness 80] identifies those who attacked her as MLC soldiers and provides information about the arrival of those troops and their movements at PK12 and PK22. She was present during the period from October 2002 to March 2003, and her statements provide information regarding the armed nature of the conflict.[20]

18. Considering the above summary, Witness 80 is a crime-based prosecution witness. She may be considered as a vulnerable witness and may benefit, upon request or at the Chamber's own motion, from special protective

[20] ICC-01/05-01/08-801-Conf-Exp-tENG and ICC-01/05-01/08-801-Red, paragraph 10.

measures at trial pursuant to Article 68(1) and (2) of the Statute and Rules 87(1) and 88(1) of the Rules. The Chamber notes that it is currently seised of a prosecution request for special protective measures concerning this particular witness.[21] In addressing this latter request, the Chamber will determine whether Witness 80 needs to be protected in order to avoid repeated traumatisation when testifying in court. The Chamber also observes that the prosecution has not based its Application for the admission of the prior-recorded testimony of Witness 80 on Article 68 of the Statute, but has rather limited itself to considerations of expeditiousness.

19. Although Witness 80's statements will allegedly be corroborated by three other witnesses,[22] the Chamber is not persuaded that avoiding questioning by the prosecution in court will have the effect of expediting the proceedings. On the contrary, direct questioning by the defence based on written statements given in September 2008, two years ago and around six years after the alleged events suffered, is likely to take a significant amount of time as this evidence is contested by it. In addition, the Chamber is concerned that direct questioning by the defence would not facilitate her testimony in court and may cause distress to the witness. Rather, the Chamber is of the view that if the prosecution's questioning is conducted first, it is likely to assist Witness 80 in giving her evidence and may prepare her to face any questions by the defence which she may find challenging.

20. The Chamber finds no specific advantage in having Witness 80's statements submitted in writing. In addition, as stated above as regards Witness 32, expeditiousness can equally be ensured by reducing the estimated time of the prosecution's questioning.

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[21] See the pending "Prosecution's Request for Protective and Special Measures for Prosecution Witnesses at Trial" concerning Witness 80, ICC-01/05-01/08-800-AnxA-Corr-Red4, pages 14 and 15.
[22] ICC-01/05-01/08-801-Conf-Exp-tENG, paragraph 15.

21. Finally, the Chamber notes that Witness 80 is not the only crime-based prosecution witness who has allegedly suffered rape. The Chamber therefore finds that the prosecution has not shown any particular circumstances justifying a different questioning procedure solely for Witness 80.

22. For these reasons, Witness 80 shall testify in person pursuant to Article 69(2) of the Statute.

Witness 108

23. The prosecution summarises the statements of Witness 108 as follows:

> [Witness 108] is the direct victim of the pillaging of his house by MLC soldiers, who subsequently occupied the house for three months. His statement describes the pillaging, of which he was informed by [Witness 110], [Witness 112], amongst others, and also the possessions that were taken from him. This incident was the subject of a complaint set out in document CAR-OTP- 0037-0122. Afterwards, the witness discovered military documents that the occupiers had left behind, registered under references CAR-OTP-0037-0092 and CAR-OTP-0037-0126. He noted the arrival of MLC troops at PK8 and provides evidence relating to their identity, such as the fact that the soldiers spoke and sang in Lingala, wore a mix of uniforms and were armed with Kalashnikovs. His statements also provide contextual information on the conflict in question.[23]

24. The Chamber notes that the prosecution appended to Witness 108's statements incriminating documentary evidence found in his house, which was allegedly occupied by MLC soldiers for several months. As the witness was, for obvious reasons, not present at the time of the alleged crime, the Chamber finds that there will be an advantage in hearing the *viva voce* testimony of Witness 108, in particular as regards the circumstances in which the annexed documentary evidence was found. Even though Witness 108's statements may be corroborated by two other witnesses who will testify in person, the Chamber finds that it is of importance for the defence to have the possibility to challenge the authenticity and relevance of the discovered documents. Although it would be open to the Chamber to admit the prior-

[23] ICC-01/05-01/08-801-Conf-Exp-tENG and ICC-01/05-01/08-801-Red, paragraph 11.

recorded testimony of Witness 108 whilst refusing to admit into evidence the documents annexed to it,[24] in the present circumstances, the Chamber considers that since the witness will be questioned by the prosecution about the documents he discovered, there will be little advantage in not hearing his entire testimony in person.

25. For these reasons, Witness 108 shall testify in person pursuant to Article 69(2) of the Statute.

IV. Conclusions

26. The Chamber rejects the prosecution's Application in its entirety.

27. Pursuant to Regulation 54(d) of the Regulations of the Court, the Chamber orders the prosecution to make all reasonable efforts to reduce the estimated time for questioning of the three witnesses set out at paragraph 18 of its Application.

28. Given the conclusions above, the Chamber further orders the prosecution to file an updated list of its witnesses in the order it intends to call them, as well as an updated document on the estimated length of the presentation of its incriminating evidence including the time allocated to question Witnesses 32, 80 and 108 no later than 21 September 2010.

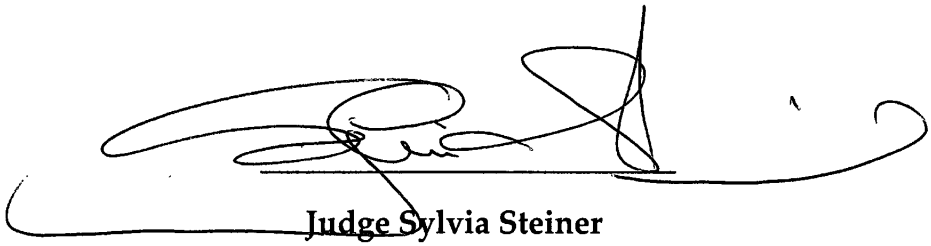
29. The Chamber finally notes that, in its Response, the defence did not set out any legal and factual basis for the chosen classification - "confidential *ex parte*" - as required by Regulation 23*bis*(1) of the Regulations of the Court. The Chamber does not see any justification for such a level of confidentiality

[24] See for a similar approach Trial Chamber II's oral decision on the admission of a written statement by Witness 173 and the related appendices refusing to place photographs appended to the statement on the record as evidence, ICC-01/04-01/07-T-124-Red-ENG, page 2, line 4 to page 3, line 11.

as the information contained in the defence' s Response is otherwise provided to the public in the redacted version of the prosecution' s Application.

30. For these reasons, pursuant to Regulation 23*bis*(3) of the Regulations of the Court, the Chamber orders the Registry to reclassify the defence's Response as a public document.

Done in both English and French, the English version being authoritative.



Judge Sylvia Steiner

Judge Joyce Aluoch

Judge Kuniko Ozaki

Dated this 16 September 2010

At The Hague, The Netherlands