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No.: ICC-01/05-01/08
Date: 22 November 2017

TRIAL CHAMBER III

Before: Judge Joyce Aluoch, Presiding Judge
Judge Geoffrey Henderson
Judge Chang-ho Chung

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

Public

**Decision on the Defence's further request for a revision of the timetable for the
filing of documents**

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Jean-Jacques Badibanga

Counsel for the Defence

Mr Peter Haynes QC

Ms Kate Gibson

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**

Mr Xavier-Jean Keita

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

Trial Chamber III (“Chamber”) of the International Criminal Court (“Court”), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, having regard to Regulation 35 of the Regulations of the Court (“Regulations”), issues the following “Decision on the Defence’s further request for a revision of the timetable for the filing of documents”:

I. Procedural background and submissions

1. The Chamber recalls the procedural history set out in its “Decision on the Defence request for an extension of time to file additional observations for reparations” (“First Decision”).¹
2. On 7 November 2017, the Appeals Chamber scheduled a five day hearing on 9-12 and 16 January 2018 to hear submissions and observations by the parties and participants on the appeals against Mr Bemba’s conviction and sentence (“Appeals hearing”).²
3. On 8 November 2017, in its First Decision, the Chamber partially granted the Defence’s request to extend the deadline to file additional information it wishes to be considered in the reparations order (“Additional Information”) to 27 November 2017.³ The amended deadline was equally applied to the Office of Public Counsel for Victims (“OPCV”) and the Legal Representative for Victims (“LRV”).⁴
4. On 8 November 2017, the Defence submitted its “Defence’s further request for a revision of the timetable for the filing of documents” (“Defence Request”).⁵ The Defence submits that the current schedule in the reparations proceedings before this Chamber places an “intolerable burden upon the Defence’s resources at crucial times in both sets of proceedings”,⁶ thereby referring to the schedule in

¹ Decision on the Defence request for an extension of time to file additional observations for reparations, 8 November 2017, ICC-01/05-01/08-3569, paras 1-5.

² Scheduling order for a hearing before the Appeals Chamber, 7 November 2017, ICC-01/05-01/08-3568.

³ First Decision, ICC-01/05-01/08-3569.

⁴ First Decision, ICC-01/05-01/08-3569, para. 8.

⁵ Defence’s further request for a revision of the timetable for the filing of documents, 8 November 2017, ICC-01/05-01/08-3570.

⁶ Defence Request, ICC-01/05-01/08-3570, para. 14.

the concurrent appeals proceedings. The Defence refers to various proximate deadlines in both proceedings and submits that the unexpected scheduling of the Appeals hearing further complicates “the already congested briefing schedule”.⁷ The Defence further submits that the Appeals hearing will likely entail “compendious questions from the Appeals Chamber” and anticipates an “enormous amount of preparation.”⁸ For these reasons, the Defence seeks to amend the current timetable in the reparations proceedings to allow it to file its Additional information by 23 January 2018, and its final submissions on the experts’ report, the submissions of other parties and participants and any other last arguments they wish for the Chamber to consider before rendering its reparations order (“Final Submissions”) by 20 February 2018.⁹

5. On 13 November 2017, the OPCV filed its “Response to the Defence’s further request for a revision of the timetable for the filing of documents” (“OPCV Response”).¹⁰ The OPCV submits the Defence Request should be dismissed *in limine*, as it appears to be a “*de facto* reconsideration request” of the Chamber’s ruling in its First Decision.¹¹ It argues that the Defence has not brought forward any new facts to justify another extension, submitting that at the time of the First Decision, the Appeals Chamber had already decided to hold the Appeals hearing, a circumstance of which it states the Chamber had adequate notice.¹² Alternatively, the OPCV submits, the Chamber should reject the Defence Request, arguing that no good cause has been shown pursuant to

⁷ Defence Request, ICC-01/05-01/08-3570, para. 11. In particular, the Defence stresses that it: (i) has to file responses to the Appeals Chamber’s questions as to the contextual elements on 13 November 2017, (ii) will receive the experts’ report on reparations on 20 November 2017, (iii) has to file Additional Information before this Chamber on 27 November 2017, (iv) will be served with the Office of the Prosecutor’s responses on the abovementioned appeals matter on 27 November 2017, (v) will receive the LRV’s observations on 4 December 2017, (vi) has to reply to the LRV’s submissions by 11 December 2017, (vii) has to file final submissions on the experts’ report, the submissions of other parties and participants and any other last arguments they wish for the Chamber to consider before rendering its reparations order by 18 December 2017, and (viii) commences the five day Appeals hearing on 9 January 2018, see Defence Request, ICC-01/05-01/08-3570, paras 9-10.

⁸ Defence Request, ICC-01/05-01/08-3570, para. 11.

⁹ Defence Request, ICC-01/05-01/08-3570, para. 15. The Defence also seeks “any other ancillary amendments to the timetable for filing documents by the parties”.

¹⁰ Response to the Defence’s further request for a revision of the timetable for the filing of documents, 13 November 2017, ICC-01/05-01/08-3572.

¹¹ OPCV Response, ICC-01/05-01/08-3572, paras 3, 16.

¹² OPCV Response, ICC-01/05-01/08-3572, para. 19.

Regulation 35(2) of the Regulations because, *inter alia*, (i) crucial aspects of the appeal have already been litigated and therefore the complexity of the appeal is limited, (ii) by virtue of the amendment of the timetable in the First Decision the parties will now receive the experts report prior to the Additional Information deadline, which reduces the complexity of these submissions, (iii) the Chamber has already granted almost six months for the preparation of these submissions, (iv) the scope of the Additional Information, if any, is limited.¹³ Finally, the OPCV emphasises the victims' right to expeditious reparations proceedings.¹⁴

6. On 14 November 2017, the LRV and OPCV ("Legal Representatives") filed their "Joint Request for Extension of the Page Limit for the filing of Additional Submissions on Reparations" ("Joint Request"), noting their intention to file Additional Submissions and requesting an extension of the page limit of up to 15 pages for their joint filing.¹⁵ They submit that the joint filing will reduce the number of documents filed in the proceedings as well as the maximum number of pages, and will prevent repetitions.¹⁶
7. On 15 November and 16 November 2017, after having been invited to make observations by the Chamber,¹⁷ the LRV and the Trust Fund for Victims ("TFV") respectively informed the Chamber that they do not intend to file observations on the Defence Request.¹⁸

II. Analysis

8. Pursuant to Regulation 35(2) of the Regulations, the Chamber may extend or reduce a time limit if good cause is shown, and, where appropriate, after having given the participants an opportunity to be heard.

¹³ OPCV Response, ICC-01/05-01/08-3572, paras 4, 20-25. See further submissions in paras 26-27.

¹⁴ OPCV Response, ICC-01/05-01/08-3572, paras 2, 15.

¹⁵ Joint Request for Extension of the Page Limit for the filing of Additional Submissions on Reparations, 14 November 2017, ICC-01/05-01/08-3574.

¹⁶ Joint Request, ICC-01/05-01/08-3574, para. 9.

¹⁷ Email from the Chamber to the LRV and TFV, 13 November 2017, 15:39.

¹⁸ Email from the LRV to the Chamber, 15 November 2017, 13:38; Email from the TFV to the Chamber, 16 November 2017, 09:45.

9. As a preliminary matter, the Chamber disagrees with the OPCV's argument that the Defence Request seeks a "reconsideration" of the ruling in the First Decision. The Chamber notes that the scheduling of the Appeals hearing constitutes a change in circumstances, which warrants a new request under Regulation 35(2) of the Regulations.
10. The Chamber considers that the Defence's various competing deadlines before this Chamber and the Appeals Chamber, in particular the proximity between the Appeals hearing and the deadline for the Final Submissions before this Chamber and the amount of preparation required therefor, amount to good cause for extending the Defence's Additional Information and Final Submissions deadline.
11. However, in view of the amount of time the Defence has already had to prepare its submissions, the Chamber considers that granting in full the extension requested is unnecessary. The Chamber considers that an extension until 31 January 2018 to file combined submissions covering both, the Additional Information, if any, and the Final Submissions ("Combined Final Submissions"), is sufficient to accommodate the Defence's time constraints.
12. The existing deadlines are maintained for the Legal Representatives, noting that no extension was sought by them, in the interests of the efficiency of the proceedings. In this context, the Chamber also emphasises that the Defence will now receive the Legal Representatives' Additional Information and Final Submissions *before* filing its Combined Final Submissions, which will further facilitate its preparations thereof.
13. To account for the consolidation of the Defence's submissions, the Chamber allows the Defence to submit an additional 15 pages, amounting to a total of 65 pages, for its Combined Final Submissions.
14. Finally, in relation to the Joint Request, the Chamber agrees to receive joint submissions from the Legal Representatives on the Additional Information for

the reasons expressed in the Joint Request. The Chamber therefore considers that an extension of 15 pages, amounting to 35 pages in total, for the Legal Representatives' Additional Information submissions is in the interest of the expeditiousness of the proceedings.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

PARTIALLY GRANTS the Defence Request;

ORDERS the Defence to file Combined Final Submissions by 31 January 2018;

SETS the Defence's page limit for its Combined Final Submissions to 65 pages;

GRANTS the Joint Request.

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

 <hr/> Judge Geoffrey Henderson	 <hr/> Judge Joyce Aluoch	 <hr/> Judge Chang-ho Chung
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Dated this 22 November 2017

At The Hague, The Netherlands