

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 2 May 2014

**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**

**Decision on the Defence Request for Interim Relief**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda

Mr Jean-Jacques Badibanga

**Counsel for the Defence**

Mr Peter Haynes

Ms Kate Gibson

Ms Melinda Taylor

**Legal Representative 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**

**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Section**

**Other**

Trial Chamber III (“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 Defence Request for Interim Relief.

## I. Background and submissions

1. On 26 April 2013, the Chamber issued its “Decision on the prosecution’s request relating to Article 70 investigation” (“Decision 2606”),<sup>1</sup> in which it decided that it had no competence to address a request from the Office of the Prosecutor (“prosecution”) for judicial assistance within the context of an investigation related to offences under Article 70 of the Rome Statute (“Statute”).<sup>2</sup> In its Decision 2606, the Chamber stated that “a Pre-Trial Chamber is the competent judicial authority to make determinations on any investigative measures requested by the prosecution in relation to an Article 70 investigation”.<sup>3</sup> Consequently, proceedings related to alleged offences under Article 70 of the Statute (the “Article 70 Investigation”) were initiated by the prosecution before Pre-Trial Chamber II (“case ICC-01/05-01/13”).<sup>4</sup>
2. On 21 January 2014, the defence for Mr Jean-Pierre Bemba Gombo (“defence”) filed its “Defence Request for Interim Relief” (“Defence Request” or “Request”),<sup>5</sup> requesting that the Chamber: (i) order the prosecution to: (a) desist from accessing any material, which emanated from Mr Bemba or the defence team, or from utilising the contents of this material or the prosecution’s knowledge of the contents of this material in any manner; and

<sup>1</sup> Decision on the prosecution’s request relating to Article 70 investigation, 26 April 2013, ICC-01/05-01/08-2606-Red-Exp, paragraph 22. This decision was reclassified as confidential, pursuant to Trial Chamber III’s order ICC-01/05-01/08-2920-Conf, on 9 December 2013. A public redacted version of this decision was filed on 2 May 2014, Public Redacted Version of “Decision on the prosecution’s request relating to Article 70 investigation”, ICC-01/05-01/08-2606-Red.

<sup>2</sup> ICC-01/05-01/08-2606-Red, paragraph 22.

<sup>3</sup> ICC-01/05-01/08-2606-Red, paragraph 21.

<sup>4</sup> See *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, ICC-01/05-01/13.

<sup>5</sup> Defence Request for Interim Relief, 24 January 2014, ICC-01/05-01/08-2945-Conf, and confidential Annex A, ICC-01/05-01/08-2945-Conf-AnxA. A public redacted version was filed on 23 January 2014; Public Redacted Version of Defence Request for Interim Relief, 23 January 2014, ICC-01/05-01/08-2945-Red.

(b) prepare a log of any persons who have had access to the material, and inform the defence as to whether this material has served as the basis for any investigative actions or submissions before the ICC or domestic authorities (“First Request”); (ii) order all States which have been requested to monitor defence communications or seize defence property, including but not limited to Belgium, France, the Democratic Republic of Congo, the Netherlands, and the United Kingdom, to immediately desist from taking any steps concerning the seizure, monitoring or disclosure of information concerning the defence of Mr Bemba (“Second Request”); and (iii) request that the prosecution ask for a suspension of the Article 70 proceedings in their entirety or in part pending full litigation as to the legality of the seizure of defence material and the monitoring of defence communications (“Third Request”).<sup>6</sup> To justify these requests, the defence states that it has “grounds to believe that its rights in relation to this trial may have been, and may continue to be gravely prejudiced by *ex parte* decisions, and litigation before a Chamber before which the Defence has no standing”.<sup>7</sup>

3. The defence submits, *inter alia*, that it appears that the prosecution, by virtue of measures taken in the Article 70 Investigation, “has obtained access to privileged information setting out Defence strategy and information, which should have been protected by Mr. Bemba’s privilege against self-incrimination”.<sup>8</sup> The defence makes detailed submissions as to the protections afforded by the law “as concerns the ability of counsel to communicate with the defendant in a confidential manner”.<sup>9</sup> The defence argues that with respect to measures that infringe on the rights of the accused the defence has a right to be notified and heard, the defence states that it was afforded neither right with respect to measures taken in the

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<sup>6</sup> ICC-01/05-01/08-2945-Red, paragraph 78.

<sup>7</sup> ICC-01/05-01/08-2945-Red, paragraph 1.

<sup>8</sup> ICC-01/05-01/08-2945-Red, paragraph 2.

<sup>9</sup> ICC-01/05-01/08-2945-Red, paragraphs 13 to 32.

Article 70 Investigation.<sup>10</sup> The defence also states that the prosecution “does not appear to have erected any ‘Chinese walls’ between the two proceedings” and that the “Prosecution has confirmed that materials are shared between the two teams”.<sup>11</sup>

4. The defence notes that counsel representing the accused in case ICC-01/05-01/13 are not instructed in connection with the *Bemba* case and, as such, cannot raise issues concerning the impact of the Article 70 Investigation on Mr Bemba’s rights in the *Bemba* case.<sup>12</sup> Similarly, the defence states that it has no standing before Pre-Trial Chamber II.<sup>13</sup> The defence concludes that these factors reveal an “egregious legal vacuum concerning the right of the Defence to be heard in connection with issues which directly or indirectly impact on his fair trial rights in relation to the main case”.<sup>14</sup> Thus, the defence submits that “it cannot be said that Mr. Bemba’s rights related to [the *Bemba* case] were protected or represented during the course of the Article 70 proceedings”.<sup>15</sup>
  
5. The defence also challenges the legal competence of the Single Judge of Pre-Trial Chamber II, Judge Cuno Tarfusser (“Single Judge”), or the Pre-Trial Chamber, “to issue any orders or decisions concerning Mr. Bemba’s legal privilege, which is intrinsically linked to the professional relationship created by the main trial”.<sup>16</sup> It is the defence’s submission that the prosecution should have sought to lift the accused’s privilege, or make submissions concerning its scope, before the Trial Chamber.<sup>17</sup> The defence submits that the Trial Chamber is the “only judicial entity which can

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<sup>10</sup> ICC-01/05-01/08-2945-Red, paragraphs 6 and 34.

<sup>11</sup> ICC-01/05-01/08-2945-Red, paragraph 55.

<sup>12</sup> ICC-01/05-01/08-2945-Red, paragraph 35.

<sup>13</sup> ICC-01/05-01/08-2945-Red, paragraphs 1 and 74.

<sup>14</sup> ICC-01/05-01/08-2945-Red, paragraph 36.

<sup>15</sup> ICC-01/05-01/08-2945-Red, paragraph 53.

<sup>16</sup> ICC-01/05-01/08-2945-Red, paragraph 38.

<sup>17</sup> ICC-01/05-01/08-2945-Red, paragraph 39.

pronounce, at first instance, on the scope of the professional relationship concerning this case".<sup>18</sup>

6. The defence argues that, due to the lack of information disclosed to it, it is not yet in a position to litigate the extent of the prejudice to the accused, but asserts that in light of the potential implications for the accused's right to a fair trial, "there is an immediate need to take steps to prevent or at least, mitigate any further prejudice to this right".<sup>19</sup> The defence sets out in more detail information that it asserts is sufficient "to determine that there is an immediate risk that Mr. Bemba's rights as concerns the main trial could be prejudiced irremediably by actions that are being undertaken in the Article 70 proceedings".<sup>20</sup> The defence notes that the prosecution has "refused to disclose the requested information, notwithstanding the fact that the information falls squarely within well-recognised categories of disclosure".<sup>21</sup>
7. In addition to the arguments regarding the prejudice arising out of the alleged violation of the accused's privilege, the defence sets out a number of arguments alleging prejudice to the accused's right to adequate time and resources resulting from the multiplication of legal proceedings, concluding that the main trial must "take precedence over all ancillary proceedings".<sup>22</sup>
8. In support of the relief it requests, the defence submits that the Chamber "has the duty and power to take such measures as are necessary to protect Mr. Bemba's right to a fair trial",<sup>23</sup> and sets out more detailed arguments in this regard.<sup>24</sup>

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<sup>18</sup> ICC-01/05-01/08-2945-Red, paragraphs 40.

<sup>19</sup> ICC-01/05-01/08-2945-Red, paragraphs 8, 9, 43, and 44.

<sup>20</sup> ICC-01/05-01/08-2945-Red, paragraphs 45 to 58.

<sup>21</sup> ICC-01/05-01/08-2945-Red, paragraph 43.

<sup>22</sup> ICC-01/05-01/08-2945-Red, paragraphs 59 to 62.

<sup>23</sup> ICC-01/05-01/08-2945-Red, paragraphs 7, 11, and 12.

<sup>24</sup> ICC-01/05-01/08-2945-Red, paragraphs 37 to 42, 63 to 73.

9. On 10 February 2014, the prosecution filed its “Prosecution’s Response to ‘Defence Request for Interim Relief’” (“Prosecution Response”),<sup>25</sup> in which it requests that the Chamber reject the Defence Request in its entirety.<sup>26</sup> The prosecution asserts, *inter alia*, that it “is not privy to any information that is protected by legitimate professional privilege”,<sup>27</sup> and that the Defence Request is therefore speculative and unsubstantiated.<sup>28</sup> The prosecution submits that the Defence Request improperly places issues before the Chamber which should be brought by the accused before Pre-Trial Chamber II and that the defence seeks relief that is not legally supported or is beyond the powers of the Chamber.<sup>29</sup>
10. The prosecution sets out detailed legal arguments relating to the scope of professional privilege in support of its contention that it has not gained access to any “legitimately privileged” materials.<sup>30</sup> In addition, the prosecution quotes the Single Judge who stated that “we made sure that no privileged document came in the possession of the Prosecution”.<sup>31</sup> The prosecution concludes that “[t]he defence fails to show that the Prosecution has access to privileged material, let alone advance a sound argument that any member of the Prosecution team in the Main Case has accessed information it should not otherwise have”.<sup>32</sup>
11. The prosecution states that the defence seeks to litigate issues that have already been decided by Pre-Trial Chamber II and which should properly be brought before that Chamber by the accused.<sup>33</sup> The prosecution further

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<sup>25</sup> Prosecution’s Response to “Defence Request for Interim Relief”, 10 February 2014, ICC-01/05-01/08-2965-Conf. A public redacted version was filed on 12 February 2014: Public Redacted Version of “Prosecution’s Response to ‘Defence Request for Interim Relief’”, 12 February 2014, ICC-01/05-01/08-2965-Red.

<sup>26</sup> ICC-01/05-01/08-2965-Red, paragraph 22.

<sup>27</sup> ICC-01/05-01/08-2965-Red, paragraphs 1 and 2.

<sup>28</sup> ICC-01/05-01/08-2965-Red, paragraphs 2 and 3.

<sup>29</sup> ICC-01/05-01/08-2965-Red, paragraph 3.

<sup>30</sup> ICC-01/05-01/08-2965-Red, paragraphs 4 to 13, and 18.

<sup>31</sup> ICC-01/05-01/08-2965-Red, paragraphs 1 and 2.

<sup>32</sup> ICC-01/05-01/08-2965-Red, paragraph 13.

<sup>33</sup> ICC-01/05-01/08-2965-Red, paragraphs 12 and 17.

asserts that the only issues which can be addressed by the Chamber are “(i) whether or not the Prosecution is in possession of any ‘privileged information setting out Defence strategy and information’ in this case; and (ii) whether or not the Chamber will allow applications to admit additional evidence of witness credibility arising from Article 70 investigations into the Main Case.”<sup>34</sup> The prosecution also argues that the Chamber cannot be asked to “sit as an appeals court” in relation to decisions issued by Pre-Trial Chamber II.<sup>35</sup>

12. On 21 February 2014, with the Chamber’s leave,<sup>36</sup> the defence filed its “Defence Reply to the ‘Defence Request for Interim Relief’” (“Defence Reply” or “Reply”).<sup>37</sup> In its Reply, the defence submits detailed arguments in support of its assertions that the prosecution advances a “factually incorrect position concerning its possession of privileged material, and relies on an erroneously [narrow] definition [of privilege]”.<sup>38</sup> In addition, the defence also makes detailed submissions challenging the legal definition of privilege adopted by the Single Judge and raising a number of legal and factual aspects of the procedure adopted in case ICC-01/05-01/13 it alleges may have allowed the prosecution to access material that should have been privileged.<sup>39</sup>

13. The defence submits that the prosecution, while apparently claiming that a “Chinese wall” exists between the prosecution teams in the main case and

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<sup>34</sup> ICC-01/05-01/08-2965-Red, paragraph 17.

<sup>35</sup> ICC-01/05-01/08-2965-Red, paragraph 12.

<sup>36</sup> Defence Request for Leave to Reply to the “Defence Request for Interim Relief” [*sic*], 18 February 2014, ICC-01/05-01/08-2983-Conf. A public redacted version was filed on the same day: Public Redacted Version of Defence Request for Leave to Reply to the “Defence Request for Interim Relief”, 18 February 2014, ICC-01/05-01/08-2983-Red; and Decision on defence request for leave to reply to “Prosecution’s Response to ‘Defence Request for Interim Relief’”, 19 February 2014, ICC-01/05-01/08-2985, paragraph 7.

<sup>37</sup> Defence Reply to the ‘Defence Request for Interim Relief [*sic*], 21 February 2014, ICC-01/05-01/08-2991-Conf. A public redacted version was filed on the same day: Public Redacted Version of Defence reply to the ‘Defence request for interim relief’”, 21 February 2014, ICC-01/05-01/08-2991-Red.

<sup>38</sup> ICC-01/05-01/08-2991-Red, paragraphs 3 to 17.

<sup>39</sup> ICC-01/05-01/08-2991-Red, paragraphs 18 to 45.



case ICC-01/05-01/13, has in fact put in place no such measure.<sup>40</sup> The defence further asserts that the prosecution has used its powers under Article 70 to circumvent judicial rulings in the *Bemba* case, and argues that the prosecution's investigative powers under Article 54 of the Statute cannot be exercised in a manner which is contrary to the rights of the accused, to evade its disclosure obligations, or to shield its actions from scrutiny.<sup>41</sup> The defence argues that the Chamber has the duty to "intervene to provide a remedy in circumstances in which the actions of the Prosecution have prejudiced the rights of the Defence".<sup>42</sup> Further, the defence contests the prosecution's argument that Mr Bemba's rights vis-à-vis the *Bemba* case are adequately protected by virtue of Mr Bemba having standing before Pre-Trial Chamber II in case ICC-01/05-01/13.<sup>43</sup>

## II. Analysis

14. In accordance with Article 21(1) of the Rome Statute, the Chamber has considered Articles 42(1), 54, 64(2), and 67(1)(b) of the Statute, and Rule 165 of the Rules of Procedure and Evidence ("Rules").
15. At the outset, the Chamber notes that the parties make detailed submissions as to the legal definition of privilege and the legality of the orders issued by the Single Judge.<sup>44</sup> The Chamber hereby reiterates its finding in Decision 2606 that "a Pre-Trial Chamber is the competent judicial authority to make determinations on any investigative measures requested by the prosecution in relation to an Article 70 investigation".<sup>45</sup> In line with this position, the

<sup>40</sup> ICC-01/05-01/08-2991-Red, paragraphs 47 and 48.

<sup>41</sup> ICC-01/05-01/08-2991-Red, paragraphs 50 to 57.

<sup>42</sup> ICC-01/05-01/08-2991-Red, paragraph 57.

<sup>43</sup> ICC-01/05-01/08-2991-Red, paragraphs 66 to 68.

<sup>44</sup> See ICC-01/05-01/08-2945-Red, paragraphs 13 to 32; ICC-01/05-01/08-2965-Red, paragraphs 4 to 15 and 18; and ICC-01/05-01/08-2991-Red, paragraphs 18 to 45.

<sup>45</sup> ICC-01/05-01/08-2606-Red, paragraph 21.

Chamber considers that it is not competent to make any determinations on investigative measures relating to an Article 70 investigation.

16. In addition to its lack of competence, the Chamber is also of the view that it would be inappropriate for it to review the legality of investigative measures ordered by the Single Judge of Pre-Trial Chamber II. To find otherwise would allow an accused to challenge the legality of decisions of a Chamber through a route not envisioned in the statutory framework, with the effect that the same concrete legal and factual issue could come to be addressed before two different chambers of the Court simultaneously.<sup>46</sup> In this vein, the Chamber reiterates its view that it “does not consider it in the interests of justice for matters which may be central to the charges before the Pre-Trial Chamber to be litigated in parallel before the Trial Chamber”.<sup>47</sup> The Chamber will therefore not enter into analysis of the legality of the decisions of the Single Judge.

17. As to the specific requests for various forms of relief made by the defence, the Chamber notes that all are underlain by the core argument that the accused’s rights in relation to the *Bemba* trial may have been, and may continue to be, gravely prejudiced by *ex parte* decisions and litigation before Pre-Trial Chamber II, a Chamber before which the defence in the *Bemba* case states it has no legal standing.<sup>48</sup> The prejudice, the defence argues, arises from the prosecution team in the *Bemba* case having gained access to privileged information “setting out Defence strategy and information” that may have “informed [the prosecution’s] strategy”.<sup>49</sup>

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<sup>46</sup> See Decision on the status before the Trial Chamber of the evidence heard by the Pre-Trial Chamber and the decisions of the Pre-Trial Chamber in trial proceedings, and the manner in which evidence shall be submitted, 13 December 2007, ICC-01/04-01/06-1084, paragraph 44.

<sup>47</sup> Decision on “Prosecution’s Application to Submit Additional Evidence”, 2 April 2014, ICC-01/05-01/08-3029, paragraph 26.

<sup>48</sup> ICC-01/05-01/08-2945-Red, paragraph 1.

<sup>49</sup> ICC-01/05-01/08-2945-Red, paragraphs 2, 50, and 56.

18. Although, as noted above, this Trial Chamber is not competent to review decisions taken by Pre-Trial Chamber II in the course of the Article 70 Investigation, it is nevertheless bound by its duty to ensure that the trial in the *Bemba* case is fair, expeditious, and conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses, as provided for in Article 64(2) of the Statute. In this regard, the Chamber considers it necessary to determine whether the defence claim that the accused in the *Bemba* case has suffered prejudice as a result of the proceedings in case ICC-01/05-01/13 is substantiated
19. The Chamber considers it relevant to recall that the procedure for the monitoring of communications and seizure of materials in case ICC-01/05-01/13 was conducted under the orders and supervision of the Single Judge of Pre-Trial Chamber II. The Chamber notes the statement of the Single Judge, referred to by the prosecution, that “we made sure that no privileged document came in the possession of the Prosecution”.<sup>50</sup> At this stage, taking the above into account and based on the information before it, the Chamber has no reason to doubt the prosecution’s assertion that it “is not privy to any information that is protected by legitimate professional privilege”.<sup>51</sup>
20. The Chamber notes that the defence alleges that members of the prosecution’s team in the *Bemba* case have gained access to materials revealing “information setting out Defence strategy and information” and “the innermost strategies and internal communications concerning the Defence case”, which may have “informed [the prosecution’s] strategy thus far”.<sup>52</sup> In addition, the defence also implies that the proceedings in case ICC-01/05-01/13 could “prejudice Defence preparation, or violate the defendant’s privilege against self-incrimination”.<sup>53</sup> However, the Chamber considers that

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<sup>50</sup> ICC-01/05-01/08-2965-Red, paragraphs 1 and 2.

<sup>51</sup> ICC-01/05-01/08-2965-Red, paragraph 2.

<sup>52</sup> ICC-01/05-01/08-2945-Red, paragraphs 2, 50, and 56.

<sup>53</sup> ICC-01/05-01/08-2945-Red, paragraph 39.

the defence provides little to support these contentions. Although the defence sets out detailed arguments regarding a range of issues,<sup>54</sup> its arguments as to prejudice ultimately amount to an inference that there is a risk that the prosecution has gained access to privileged material;<sup>55</sup> the defence does not articulate any concrete instance of prejudicial impact on the accused's interests in the *Bemba* case that would justify the broad interim relief it seeks. While the defence attributes this lack of precision to a lack of available information,<sup>56</sup> the Chamber notes that the defence may file requests for access to information before the relevant chamber.<sup>57</sup>

21. In addition to raising allegations of prejudice based on the assertion that the prosecution has gained access to defence information, the defence also argues that the accused's right to adequate time and facilities for the preparation of his defence is prejudiced by having to defend himself in connection with two contemporaneous criminal proceedings,<sup>58</sup> stressing that "[t]he diversion of time and resources to ancillary and domestic proceedings will inevitably prejudice Mr. Bemba's right to have adequate time and resources concerning the main trial".<sup>59</sup>

22. With regard to the diversion of resources to case ICC-01/05-01/13, the Chamber notes that the accused has a separate defence team representing him in that case. Moreover, the Defence Request merely asserts that the

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<sup>54</sup> These submissions relate to (i) the legality of the monitoring of communication and seizure of materials in case ICC-01/05-01/13 and whether the accused's right to privileged communication has been violated, *see* ICC-01/05-01/08-2945-Red, paragraphs 2, 13 to 32, and 55; and ICC-01/05-01/08-2991-Red, paragraphs 3 to 45; (ii) the competence of the Single Judge to issue orders or decisions concerning Mr Bemba's legal privilege, *see* ICC-01/05-01/08-2945-Red, paragraphs 38, 40 to 42, 73; and (iii) its claim to a right to be notified and heard in connection with measures which infringe on the accused's right to privileged communication, *see* ICC-01/05-01/08-2945-Red, paragraphs 6, 33, and 47.

<sup>55</sup> ICC-01/05-01/08-2945-Red, paragraphs 13 to 33, 45 to 51, and 55 to 58; and ICC-01/05-01/08-2991-Red, paragraphs 3 to 49.

<sup>56</sup> ICC-01/05-01/08-2945-Red, paragraphs 8, 9, 43, and 44.

<sup>57</sup> *See* Decision on the "Defence Request for access to confidential transcripts and filings" dated 1 April 2014 submitted by the Defence for Jean-Pierre Bemba Gombo in case ICC-01/05-01/08, 15 April 2014, ICC-01/05-01/13-338.

<sup>58</sup> ICC-01/05-01/08-2945-Red, paragraphs 59 to 62 and 65.

<sup>59</sup> ICC-01/05-01/08-2945-Red, paragraph 61.

accused's right will "inevitably" be prejudiced.<sup>60</sup> The defence fails to identify any specific prejudice in terms of time or facilities affecting the accused's preparation of his defence in this case.

23. The defence also submits that there is an "egregious legal vacuum" concerning Mr Bemba's right to be heard in relation to issues in case ICC-01/05-01/13 "which directly or indirectly impact on his fair trial rights in relation to the main case."<sup>61</sup> The defence asserts that Mr Bemba's counsel in case ICC-01/05-01/13 "have no legal mandate to raise issues concerning [...] Mr. Bemba's rights concerning the main proceedings", while, at the same time, his counsel in the *Bemba* case "have no *locus* [...] before the Pre-Trial Chamber" and have "never been given any opportunity to make submissions" in relation to these issues.<sup>62</sup> In this regard, the Chamber notes that the accused is represented in both the *Bemba* case and case ICC-01/05-01/13 by counsel of his choosing. His counsel in both cases have a number of procedural remedies available to them before the competent Chamber to ensure that the accused's rights and interests are fully protected.

24. In view of the above, the Chamber considers that the defence has failed to substantiate its claim that the accused has suffered or is suffering prejudice in the *Bemba* case, caused by the proceedings related to case ICC-01/05-01/13, giving rise to "an immediate need"<sup>63</sup> for the Chamber to grant interim relief. The Chamber also considers that the defence has failed to identify any deficiency in the legal representation of the accused.

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<sup>60</sup> ICC-01/05-01/08-2945-Red, paragraphs 59 to 62 and 65.

<sup>61</sup> ICC-01/05-01/08-2945-Red, paragraph 1, 33, 35, 36, 47, 52, 53, and 74, and ICC-01/05-01/08-2991-Red, paragraphs 66 to 68.

<sup>62</sup> ICC-01/05-01/08-2945-Red, paragraph 1, 33, 35, 36, 47, 52, 53, and 74, and ICC-01/05-01/08-2991-Red, paragraphs 66 to 68 (emphasis in the original).

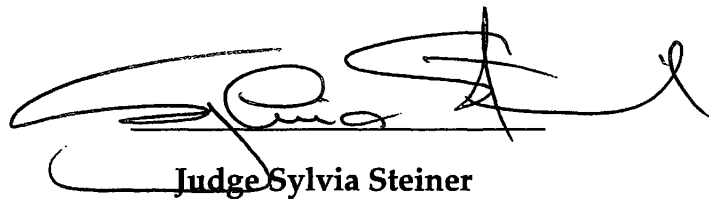
<sup>63</sup> ICC-01/05-01/08-2945-Red, paragraph 9.

25. As the defence has failed to substantiate the prejudice for which it seeks relief, the Chamber does not consider it necessary to address the specific forms of relief requested.

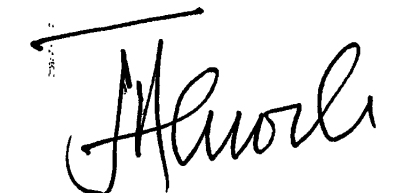
### III. Conclusion

26. In view of the foregoing, the Chamber hereby **REJECTS** the First, Second, and Third Requests.

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 2 May 2014

At The Hague, the Netherlands