

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/05-01/08  
Date: 29 January 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**

**Confidential**

**Partly Dissenting Opinion of Judge Ozaki on the Decision on Maître  
Douzima's "Requête de la Représentante légale de victimes en vue de  
soumettre des documents en tant qu'éléments de preuve selon l'article 64(9) du  
Statut de Rome"**

**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

**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 Keïta

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

1. This partly dissenting opinion is in response to the Decision on Maître Douzima's "Requête de la Représentante légale de victimes en vue de soumettre des documents en tant qu'éléments de preuve selon l'article 64(9) du Statut de Rome" ("Decision"), and addresses my disagreement with the Majority regarding the reasoning supporting the admission of the article at ERN page CAR-V20-0001-0181 of document CAR-V20-0001-0177 ("Article").
2. I have previously expressed my opinion that the admission into evidence of newspaper articles and other media reports must be approached with great care when their authors are not called to testify at trial.<sup>1</sup> The fact that the content of such articles may serve to corroborate other pieces of evidence is a factor to be assessed in considering their reliability and probative value but is insufficient in itself to warrant admission.<sup>2</sup> In this instance, I note that it has been submitted that certain elements of the content of the Article is corroborative of the testimony of witnesses in this case.<sup>3</sup> However, as

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<sup>1</sup> Partly Dissenting Opinion of Judge Ozaki on the Prosecution's Application for Admission of Materials into Evidence Pursuant to Article 69(4) of the Rome Statute, 6 September 2012, ICC-01/05-01/08-2300; Partly Dissenting Opinion of Judge Ozaki on the Decision on the admission into evidence of items deferred in the Chamber's 'Decision on the Prosecution's Application for Admission of Materials into Evidence Pursuant to Article 64(9) of the Rome Statute' (ICC-01/05-01/08-2299), 27 June 2013, ICC-01/05-01/08-2721-Anx; Partly Dissenting Opinion of Judge Ozaki on the Third Decision on the prosecution and defence requests for the admission of evidence, 6 November 2013, ICC-01/05-01/08-2864-Conf-Anx.

<sup>2</sup> See Partly Dissenting Opinion of Judge Ozaki on the Prosecution's Application for Admission of Materials into Evidence Pursuant to Article 69(4) of the Rome Statute, 6 September 2012, ICC-01/05-01/08-2300, para. 7.

<sup>3</sup> See e.g. ICC-01/05-01/08-2866-Conf-Anx, pages 7-8.

noted in the Decision, the Article was not used during the examination of any of the witnesses.

3. In the circumstances, I am of the view that the probative value of the Article is insufficient to outweigh the potential prejudice if it is admitted for the truth of its contents. However, I do not object to the admission of the Article solely for the limited purpose of demonstrating that the events described therein were widely reported, which may, for example, be of relevance to the accused's knowledge of the alleged crimes.

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



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**Judge Kuniko Ozaki**

Dated this 29 January 2014

At The Hague, The Netherlands