

JEAN - PIERRE BEMBA GOMBO

INFORMAL WEEKLY SUMMARY  
APRIL 4<sup>TH</sup> - APRIL 8<sup>TH</sup> 2011



<b>Situation Case</b>	Central African Republic 01/05-01/08 <b>The Prosecutor vs. Jean-Pierre Bemba Gombo</b>	<u>Jean-Pierre Bemba Gombo</u> : born in 1962 in Bokada, Equateur Province; National of the DRC; Alleged President and Commander-in-chief of the <i>Mouvement de libération du Congo</i> (Movement for the Liberation of the Congo) (MLC).
<b>Hearing Chamber</b>	Trial Proceedings <b>Trial Chamber III</b> : Judge Sylvia Steiner (Presiding Judge), Judge Joyce Aluoch and Judge Kuniko Ozaki	
<b>Parties:</b>	OTP: Ms. Bensouda, Ms. Kneuer and team Defence: Mr. Nkwebe Richard Liriss, Mr. Aimé Kilolo-Musamba and team	<b>Alleged crimes:</b> <u>Jean-Pierre Bemba Gombo</u> is allegedly responsible, as military commander, of: <ul style="list-style-type: none"> <li>o <b>Crimes against humanity:</b> Murder and rape.</li> <li>o <b>War crimes:</b> Murder, rape and pillaging.</li> </ul>
<b>Participants:</b>	1312 victims represented by Legal Representatives for Victims: Ms. Marie Edith Douzima-Lawson and Mr. Assingambi Zarambaud	<b>Start of Trial:</b> 22 November 2010

This week, **Expert Witness 6** (OTP's 17<sup>th</sup> Witness) Mr. Firmin Feindiro gave evidence.

Mr. Feindiro was appointed General Prosecutor of the Central African Republic (CAR) on August 1<sup>st</sup> 2003<sup>1</sup>, in which capacity he received a letter from the CAR Minister of Justice in May 2003, accompanied by a Committee report<sup>2</sup>. This letter and report asked him to commence legal investigations into the conflict that took place in 2002-2003, in order to determine the criminal responsibility of the alleged perpetrators of crimes committed during said period. The investigation began in August 2003 and lasted until September 2004, during which Mr. Feindiro assisted the examining judge of the legal investigation during the questioning of victims and witnesses.

April 4<sup>th</sup> 2011 - Prosecution's examination-in-chief of **Expert Witness 6**.

- The witness gave evidence relating to the investigation he carried out in the CAR:
- **Types of violations investigated:** Murder, rape, pillaging etc.
  - **Criminal Responsibility:** The criminal responsibility of many high ranking individuals<sup>3</sup> was examined, including Patassé as President of the CAR and Bemba as leader of the MLC<sup>4</sup>.

<sup>1</sup> Mr. Feindiro is also a Central African judge in Bangui and is currently completing a doctoral thesis in international public law; he is a member of the Central African NGO called the *Human Rights Observatory* and he is the standing secretary of the *Observatory for the Fight against Corruption in Central Africa*.

<sup>2</sup> The Committee detailed the number of victims of crimes during that period and was the result of a medical investigation carried out after the CAR conflict in 2003 by a committee which consisted of the United Nations Development Program (UNDP), the United Nations Children Fund and the Central African Ministry of Social Affairs.

<sup>3</sup> The criminal responsibility of General Bombayacki, Colonel Abdoulaye Miskine and the French Gendarme Paul Barille were also examined, among many other high ranking officers and CAR Government officials

Nature and scope of the investigation undertaken by the witness:

- **Role of the witness during the investigation:** His role as prosecutor assisting the examining judge was limited to asking victims and witness questions in order to clarify issues and unclear explanations.
- **Attendance at witness and victim Interviews:** The witness did not attend all testimonies given during the investigation. However, in his role as prosecutor he became acquainted with all elements of evidence provided throughout the investigation in order to write a legal opinion for the examining judge who would then render a final decision on the results of the investigation.

The witness explained conclusions that resulted from the investigation:

- **Alleged perpetrators:** Mr. Feindiro testified that during the investigation, the victims and witnesses identified their alleged attackers as the *Banyamulenge*. He and the examining judge concluded that "rebel elements of the MLC" were involved in relation to the crimes of rape, pillaging and murder.

April 5<sup>th</sup> 2011

Prosecution continued its examination-in-chief of Witness 6.

The witness provided explanations on the methodology of the investigation and its legal findings:

- **Testimonies provided during the investigation:** A wide range of people were questioned including; alleged victims, their families, witnesses to acts of violence, high ranking officers and government officials, among others.
- **Credibility of testimonies:** Testimonies of alleged victims were verified using medical reports and detailed reports from the Committee<sup>5</sup> to which they could compare their statements.
- **Compensation:** The witness was unaware of any of the alleged victims receiving any compensation for the damages they suffered.
- **OCODEFAD<sup>6</sup>:** This NGO would contact the witness when a new victim was discovered so that they could provide testimony. Otherwise, OCODEFAD took no part in the investigation.
- **Number of victims:** Over a thousand victims came forward but only 300 to 350 victims were heard during the investigation.
- **Rape:** Over  $\frac{3}{4}$  of the victims that provided testimony during the investigation were allegedly raped by men who did not speak *Sango*<sup>7</sup>.
- **Pillaging:** Witnesses and victims that pillaging was widespread all over the Bangui region - the witness allegedly saw houses being pillaged by MLC troops with his own eyes. Furthermore, the witness' neighbour allegedly saw MLC soldiers pillage the witness' home after he had fled with his family.
- **Murder:** Witnesses provided testimonies of seeing relatives or neighbours being murdered or being taken away by MLC soldiers and never returning home. The

<sup>4</sup> The witness confirmed that the MLC corresponds to the term *Banyamulenge* and that Central Africans know the MLC troops as the *Banyamulenge*.

<sup>5</sup> The Committee consisted of the United Nations Development Program (UNDP), the United Nations Children Fund and the Central African Ministry of Social Affairs

<sup>6</sup> OCODEFAD stands for *L'Organisation pour la compassion et le développement des familles en détresse*; it is an NGO that helps rape survivors to fill in application forms to participate in trial. It was founded by Madame Bernadette Sayo.

<sup>7</sup> *Sango* is the primary language spoken in the Central African Republic

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witness himself allegedly saw an unarmed man taken away and shot by MLC soldiers.

- **Presence of other armed groups:** CEN-SAD<sup>8</sup>, Colonel Abdoulaye Miskine's troops<sup>9</sup>, Patassé's Private Security Group (SCPS)<sup>10</sup>, United Presidential Security (USP)<sup>11</sup>, Sowari militia group, Karako militia group, Balawa militia group were present in support of Patassé; and on the other side of the conflict was Bozizé's rebels in support of Bozizé.
- **Distinction between MLC troops and Miskine's soldiers:** Both armed groups did not have proper military uniforms with insignia or military boots. However, witnesses indicated that both of these groups occupied different locations in the CAR during the period of events and furthermore, Miskine's soldiers were Central Africans who spoke *Sango* and would have been easily recognized by their peers from their communities.
- **Distinction between MLC soldiers and USP soldiers:** According to the witness, USP soldiers were trained military men who wore proper uniforms with insignia, proper military boots, used army vehicles with FACA licence plates or USP licence plates and spoke *Sango*. In light of all the evidence provided, nothing identified USP soldiers as perpetrators of crimes.
- **Arrival of MLC troops:** Upon their arrival in Bangui on the 29<sup>th</sup> of October 2002, Patassé had given orders to provide the MLC troops with weapons, transportation and other equipment.
- **Bozize's rebels:** In light of all the evidence examined, the witness stated that there was no indication that Bozize's rebels committed any acts of violence against civilian population.

April 6<sup>th</sup> 2011

Prosecution completed its examination-in-chief of Witness 6.

The witness provided further insight on the conclusions and the legal findings of his investigation:

#### In relation to Rape:

- **Start Date/Duration:** Rapes allegedly began on the 29<sup>th</sup> of October 2002, the day the MLC troops arrived in the Bangui region. There was no official end date to the rapes but the evidence suggested that rape went on in a widespread manner for four or five days.
- **Method of invasion by MLC soldiers:** Allegedly, MLC soldiers would arrive in a neighbourhood and enter homes in groups. Some soldiers would begin pillaging the home, while others would rape any young girls and women found in the home. If any resistance was shown, weapons were used.

<sup>8</sup> CEN-SAD is a community of Saharan-Sahel States and consists of an international organisation made of 21 States founded with strong Libyan backing in February 1998.

<sup>9</sup> Miskine's troop consisted of around 600 soldiers.

<sup>10</sup> The official name of this armed group is *La Société Centrafricaine de protection et de surveillance*, was led by Patasse's chauffeur and consisted of mainly Central Africans (1000 - 2000 soldiers), armed with Kalashnikovs, wore different uniforms and remained in the surroundings of Patassé. The investigation did not provide any evidence indicating that the SCPS committed any acts of violence against civilians.

<sup>11</sup> Led by General Ferdinand Bombayacki. The USP patrolled areas of Bangui that were not occupied by the MLC troops. They were Central African soldiers who spoke *Sango* and sometimes French.

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#### In relation to Pillaging:

- **Start Date/Duration:** Pillaging allegedly began on the 29<sup>th</sup> of October 2002, the day the MLC troops arrived in the Bangui region. Evidence suggested that pillaging went on in a widespread manner until March 15<sup>th</sup> 2003.
- **Pillaged items:** Were put onto boats and transported to the town of Zongo in the DRC.

#### In relation to Murder:

- **Start Date:** Murders commenced the day of the arrival of MLC forces in Bangui on October 29<sup>th</sup> 2002, but were more sporadic and less widespread than the rapes and pillaging

#### Criminal responsibility for pillaging and rape:

- **Legal Conclusions:** The examining judge and the witness concluded that Bemba as Leader of the MLC and Patassé as President of the CAR were both criminally responsible<sup>12</sup> as co-perpetrators<sup>13</sup> for the crimes of pillaging and rape.
- **Two pieces of evidence** demonstrated that both Bemba and Patassé were aware of acts of violence being committed by MLC troops:
  - **Bemba's letter:** Bemba sent a letter in April 2003 to the UN Secretariat in Bangui, stating that he would court marshal those responsible for acts of violence against civilians.
  - **Patassé's phone call:** A colonel<sup>14</sup> alleged that while in the field, he witnessed an MLC soldier commit an act of violence against a civilian. When the Colonel expressed his concern to Patassé over the phone about this act of violence, Patassé firmly responded to the Colonel "let the MLC soldiers do their work".

**April 7<sup>th</sup> 2011**

The Legal Representatives for Victims (LRV) questioned **Witness 6** before the Defence began its cross-examination of the Witness.

**Maitre Zarambaud** from the LRV asked the witness questions pertaining to:

- The fear Central Africans had against reprisals from their alleged attackers should they file a complaint; The destination of pillaged items; The status of the mass graves at PK15. The legal status of Bemba during the investigation as chief of the MLC.
- The witness confirmed that despite all the evidence provided during the investigation, there was no legal or constitutional document/agreement that would have legitimized the intervention of the MLC during the CAR conflict of 2002-2003.

<sup>12</sup> Other high ranking commanders and officials such as Miskine were found criminally responsible for acts of violence as well but the witness did not elaborate on this findings.

<sup>13</sup> The witness explained that in the eyes of Central African law, their liability falls under the crime of command responsibility.

<sup>14</sup> This Colonel remained unnamed in open session.

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The Defence began its cross-examination of Witness 6:

- **Patassé as primary suspect:** The witness stated that during the legal investigation, President Patassé “was always at the top of the list” but this was because he was the Central African President at the time who allegedly called upon numerous militant groups, including the MLC.
- **Payment of MLC troops:** The witness confirmed a statement he gave to ICC investigators in 2008 stating that MLC troops were paid with money from the CAR treasury, this payment was authorized by Patassé and Martin Zigélé<sup>15</sup>.
- **Confirmation of documents:** The defence read out several passages of the witness’ statement which confirmed the criminal responsibility of Patassé regarding the crimes committed by the MLC forces<sup>16</sup>.
- **Dismissal of charges:** The witness confirmed that the examining judge who rendered the final legal decision after the investigation dismissed all charges against Bemba<sup>17</sup>.
- **Witness’ Requests:** In response to the examining judge’s dismissal of charges, the witness asked for the case to be referred to the ICC in order to guarantee fairness and effectiveness in the legal proceedings.

April 8<sup>th</sup> 2011 - No hearing

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<sup>15</sup> Martin Zigélé was the Central African Prime Minister under Patassé, from April 2001 until March 2003.

<sup>16</sup> The witness made efforts to remind Defence counsel that his legal findings never denied the responsibility of President Patassé, and that Patassé’s criminal liability does not take away from the fact that others were also found criminally liable for crimes committed during the CAR conflict of 2002-2003.

<sup>17</sup> One of the main reasons behind this dismissal of charges was that Bemba became Vice-President of the DRC and therefore was granted immunity despite Central African authorities concluding that his troops were responsible for committing the crimes of rape, pillaging and murder.

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