

**Cour
Pénale
Internationale**

ICC-01/05-01/08-39 22-09-2009 1/5 IO PT
Pursuant to Decision ICC-01/05-01/08-528 of 18/09/2009, this document is reclassified "Public"



**International
Criminal
Court**

Original: English

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

Date: 4 July 2008

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra, Presiding Judge
Judge Hans-Peter Kaul
Judge Ekaterina Trendafilova

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

Under Seal

Ex parte only available to the Prosecution and the Victims and Witnesses Unit

**Victims and Witnesses Unit's Observations on the Prosecution's Application
Pursuant to Rules 81(2) and 81(4) for redactions to the Application for a Warrant of
Arrest and the Further Submission**

Source: Registrar

Document 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

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Legal Representatives of Victims

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Legal Representatives of Applicants

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Unrepresented Victims

-

**Unrepresented Applicants for
Participation/Reparation**

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**The Office of Public Counsel for
Victims**

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**The Office of Public Counsel for the
Defence**

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States Representatives

-

Amicus Curiae

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REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

-

Victims and Witnesses Unit

Mr Simo Väättäinen

Detention Section

-

**Victims Participation and Reparations
Section**

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Other

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The Registrar of the International Criminal Court (the Court);

NOTING the "Ordonnance sollicitant du Procureur et de la Division d'aide aux victimes et aux témoins des observations relatives à la levée des scellés concernant certains documents et à la modification du niveau de confidentialité de ceux-ci"¹ (the "Order of the Pre-Trial Chamber"), issued by the Pre-Trial Chamber on 20 June 2008;

NOTING the Prosecution's "Application Pursuant to Rules 81(2) and 81(4) for redactions to the Application for a Warrant of Arrest and the Further Submission"² (the "Prosecution's Application for redactions"), submitted on 30 June 2008;

NOTING Articles 68(1) and (4) and 43(6) of the Rome Statute, Rules 17 to 19, 81, 87 and 88 of the Rules of Procedure and Evidence, and Regulations 23 *bis* and 41 of the Regulations of the Court;

CONSIDERING that the Pre-Trial Chamber has ordered the Victims and Witnesses Unit to submit by 4 July 2008, in light of the Prosecution's Application for redactions, its observations in relation to the treatment of the "Prosecutor's Application for Warrant of Arrest under Article 58"³ and the "Prosecutor's Submission on Further Information and Materials"⁴, and on the possibility of unsealing these documents, as well as on the possible need to maintain the redactions proposed by the Prosecution before the documents are unsealed, and the scope of such redactions or the need for further redactions;⁵

¹ ICC-01/05-01/08-21.

² ICC-01/05-01/08-31-US-Exp + Anxs.

³ ICC-01/05-13-US-Exp.

⁴ ICC-01/05-16-US-Exp.

⁵ ICC-01/05-01/08-21, page 6.

CONSIDERING that the Pre-Trial Chamber ordered the Prosecution's Application for redactions to be presented under seal, *ex parte*, only available to the Prosecution and Victims and Witnesses Unit;⁶

SUBMITS the following observations.

1. It must be noted that the Victims and Witnesses Unit has at this stage not received any applications for protective measures from the Prosecution in this case.
2. The Victims and Witnesses Unit notes that, when reviewing the Prosecution's proposed treatment of the "Prosecutor's Application for Warrant of Arrest under Article 58" and the "Prosecutor's Submission on Further Information and Materials", it keeps its specific mandate in mind and focuses on issues in relation to that mandate. Consequently, the Victims and Witnesses Unit must focus its review on the protection of the identity of victims and witnesses and any information which could first to their identification and/or reveal procedural and operational measures related to the work of the Victims and Witnesses Unit. Assessment of other possible reasons for redaction falls outside the mandate of the Victims and Witnesses Unit.
3. The Victims and Witnesses Unit has examined the Prosecution's Application for redactions. In the absence of any applications for protection, it is not in a position to endorse or reject the treatment recommended, nor the reasons provided for such treatment. However, as a precautionary measure, in case the Prosecution were to submit applications for protection at a later stage, the "Prosecutor's Application for Warrant of Arrest under Article 58" and the "Prosecutor's Submission on Further Information and Materials" should only be unsealed and made available

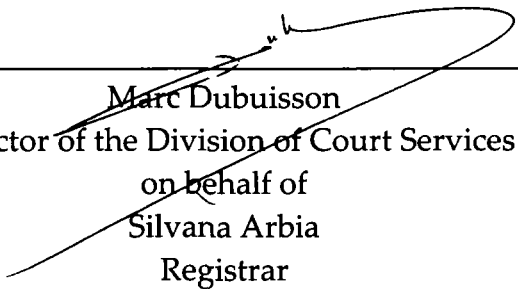
⁶ ICC-01/05-01/08-21, page 6.

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to the public, provided that the relevant parts of the documents are redacted as set out in the Prosecution's Application for redactions.

3. With regard to redactions to the defence, the Victims and Witnesses Unit notes that it does not want to impact on the Prosecution's obligation to disclose materials *vis à vis* the Defense. It will be able to assess whether redactions to the Defence are necessary when provided with more information by the Prosecution.



Marc Dubuisson
Director of the Division of Court Services
on behalf of
Silvana Arbia
Registrar

Dated this 4 July 2008

At the Hague, the Netherlands