

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **18 July 2008**

PRE-TRIAL CHAMBER III

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

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

PUBLIC

**Prosecutor's Response to Defence "Motion to unseal certain documents and
decisions"**

Source: The Office of the Prosecutor

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

The Office of the Prosecutor

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 Bemba**

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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

**The Office of Public Counsel for
 Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana ARBIA

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

Other

Background

- 1 On 20 June 2008, the Pre-Trial Chamber III (hereinafter referred to as "PTC III") rendered the "Decision on unsealing and re-classification of certain documents and decisions"¹ (hereinafter "20 June 2008 Decision"). On 2 July 2008, the Court Management Service (the "CMS") sent notification of the "Implementation of 20 June 2008 Decision"² (hereinafter "2 July 2008 Implementation Decision"), pursuant to which it implemented the re-classification of documents ordered by the PTC in the 20 June 2008 Decision.

2. On 14 July 2008, the Defence filed a "Motion to unseal certain documents and decisions"³ (hereinafter the "Defence Motion") in which it requested PTC III to unseal and reclassify 6 documents. The Prosecution hereby submits its response to the Defence Motion pursuant to Regulation 24 (1) of the Regulations of the Court (hereinafter referred to as the "Regulations").

Prosecution's Response

- 3 The Prosecution notes that pursuant to the 20 June 2008 and 2 July 2008 Implementation Decisions, 4 of the documents requested to be re-classified by the Defence have already been re-classified as public and transferred from the Situation ICC-01/05 into the ICC-01/05-01/08 Case file.⁴ In this regard, the Prosecution provides a list of these 4 documents in their original and re-classified registration numbers:

¹ ICC-01/05-01/08-20

² E-mail dated 2 July 2008, addressed by the CMS on the Implementation of Decision, ICC-01/05-01/08-20. The subject of the e-mail was "Implementation of Decision ICC-01/05-01/08-20".

³ ICC-01/05-01/08-42, p. 5-6.

⁴ Reference to e-mail addressed by CMS on 2 July 2008, in which it stated that documents have been re-classified as public pursuant to the terms of 20 June 2008 Decision. By the terms of this e-mail notification, the 4 documents referred to in the Defence's Application were re-classified as public.

ICC-01/05-10-US-Exp, entitled "Notification to Pre-Trial Chamber III and request for Extension of Page Limit and Expedited Consideration" is now reclassified as ICC-01/05-01/08-24;

ICC-01/05-12-US-Exp, entitled "Decision on the Prosecutor's Notification to Pre-Trial Chamber III and Request for Extension of Page Limit and Expedited Consideration" is now reclassified as ICC-01/05-01/08-25;

ICC-01/05-14-US-Exp, entitled "Decision Requesting Additional Information in Respect of the Prosecutor's Application for Warrant of Arrest under Article 58" is now reclassified as ICC-01/05-01/08-27,

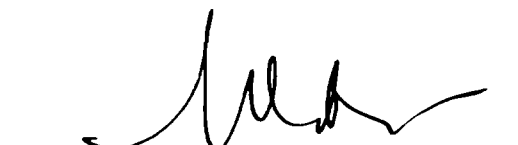
ICC-01/05-15-US-Exp, entitled "Prosecutor's Application for Request for Provisional Arrest under Article 92" is now reclassified as ICC-01/05-01/08-28.

4. In relation to the 2 outstanding documents⁵ contained in the Defence Motion, the Prosecution further notes that it has submitted these documents to the PTC III for authorization to redact these documents, pursuant to Rules 81 (2) and 81 (4) of the Rules of Procedure and Evidence and Article 54 (3) (f) of the Rome Statute

⁵ These documents are ICC-01/05-13 US-Exp, entitled the Prosecution's Application for Warrant of Arrest under Article 58'' and its annexes 1-14 and ICC-01/05-16-US-Exp, entitled Prosecutor's Submission of Further Information and Materials and its annexes 1-8. The Prosecution notes that the public documents appended as annexes to these documents have also been re-classified as public pursuant to the terms of 20 June 2008 Decision

Conclusion

5. In light of the foregoing, the Prosecution submits that the Defence's Request should be dismissed in respect of the 4 documents already re-classified as public and be deferred in respect of the two remaining documents and their annexes until such time that the PTC III renders a decision on the treatment of these documents.



Massimo Scaliotti, Trial Lawyer

Dated this 18th day of July 2008

At The Hague, The Netherlands