

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-01/05-01/08
Date: 15 September 2008

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra (Single Judge)

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

Confidential

**Prosecution's Request for further measures to monitor non privileged
communications of Mr. Jean-Pierre Bemba Gombo**

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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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
Mr Simo Väättäinen

Detention Section

Victims Participation and Reparations
Section

Other

I. Procedural History

1. On 17 June 2008, Pre-Trial Chamber III (hereinafter referred to as “PTC III”) rendered the “Decision convening a status conference”¹ in which PTC III invited the OTP (“Prosecution”) to submit its observations concerning Chamber’s proposal for unsealing and re-classifying certain documents in the record of the case as public. The documents suggested for unsealing by the PTC III were: ICC-01/05-10-US-Exp, ICC-01/05-15-US-Exp, ICC-01/05-01/08-4-US, ICC-01/05-13-US-Exp, Annex 6, Annex 9, Annex 14 and ICC-01/05-16-US-Exp, Annex 4, Annex 6-A, Annex 6-B, Annex 7, Annex 8, Annex 9, Annex10 , Annex 11, Annex 18-A and Annex 18-B. The Prosecution submitted its observations as requested at the status conference on 19 June 2008.²

2. On 31 August 2008, PTC III issued the “First decision on the Prosecutor’s request for redactions” in which it granted temporary protective measures to Witness 0026 (hereinafter referred to as “First Decision”).³

3. On 5 September 2008, the Prosecution filed the “Prosecution’s Submission of Information on the PTC’s disclosure of identities of Witnesses 007, 0009 and 0026 and Request for Appropriate Protective Measures for Witnesses 007, 0009 and 0026.”⁴

4. On 5 September 2008, the Registrar filed a “Request for clarification of the “First Decision on the Prosecutor’s request for redactions” (hereinafter referred to as the “Registrar’s Request for Clarification”).⁵

¹ICC-01/05-01/08-17-Conf-Exp.

² Ibid., p. 6

³ ICC-01/05-01/08-85-Conf, Annex, pps. 25-28

⁴ ICC-01/05-01/08-93-Conf.

⁵ ICC-01/05-01/08-95-Conf.

5. On 11 September 2008, the Prosecution filed a "Corrigendum to Prosecution's Submission of Information on the PTC's disclosure of identities of Witnesses 0007, 0009 and 0026 and Request for Appropriate Protective Measures for Witnesses 0007, 0009 and 0026".⁶

6. On 12 September 2008, PTC III issued "Décision demandant les observations de la Défense sur la Requête du Procureur et sur la Demande de clarifications du Greffier, documents déposés le 5 Septembre 2008" wherein the Defence was ordered to provide its observations to the Registrar's Request for Clarification and the Prosecutor's 5 September Submission.⁷

7. On 12 September 2008 the Defence filed its "Observations sur la Requête du Greffe "Request for clarification of the First Decision on the Prosecutor's request for redactions" du 5 septembre 2008".⁸ This filing was received by the Prosecution on 15 September 2008.

II. Request for Confidentiality

8. The Prosecution requests that this document be received as "Confidential", as the decision to which it is responding has been filed as confidential⁹.

III. Scope of the Present Submission

9. In paragraph 38(d) of the First Decision, the Single Judge of PTC III, ordered that "the Registry to actively monitor regularly the non-privileged communication via telephone of Jean-Pierre Bemba Gombo, subject to the review of the Chamber"

⁶ ICC-01/05-01/08-101-Conf.

⁷ ICC-01/05-01/08-98-Conf.

⁸ ICC-01/05-01/08-104-Conf.

⁹ ICC-/05-01/08-88-Conf.

because, as noted in paragraph 40, Single Judge Kaul found that “there are reasonable grounds to believe that the detained person may be attempting to interfere with or intimidate a witness or to breach an order for non-disclosure of the Single Judge”.

IV. Relief Sought

10. The Prosecution respectfully requests that “monitoring regularly” in paragraph 16 of the First Decision should include both incoming and outgoing telephone calls; and that the duration of the order and its commencement and termination dates be defined.

11. In light of this Court’s earlier finding that “there are reasonable grounds to believe that the detained person may be attempting to interfere with or intimidate a witness or to breach an order for non-disclosure of the Single Judge”, the Prosecution further requests that:

- (a) all other non-privileged forms of Mr. Bemba’s communication including Mr. Bemba’s non-privileged mail and correspondence (including email traffic) and visits be monitored under Regulations 175(1) and 184(1) of the Regulations of the Registry; and
- (b) the Prosecution be provided with a regular update on information that could affect the security of its witnesses.



Luis Moreno-Ocampo, Prosecutor

Dated this 15th day of September 2008
At The Hague, The Netherlands