

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 26 November 2009

TRIAL CHAMBER III

Before: Judge Adrian Fulford, Presiding Judge
Judge Elisabeth Odio-Benito
Judge Joyce Aluoch

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

**Public document
with
Confidential, *Ex parte*, Prosecution and Victims and Witnesses Unit Only Annexes
A, B-1, B-2, B-3, B-4 and C**

**Prosecution's Request to Apply Redactions to Additional Statements and a
Related Document of Witness CAR-OTP-WWWW-0178**

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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Introduction

1. During the status conference of 7 October 2009, Trial Chamber III (“the Chamber”) ordered the Office of the Prosecutor (“the Prosecution”) to effect its disclosure obligations in their entirety by 30 November 2009.¹ The Chamber, at the same status conference, further requested that the Prosecution submit all requests relating to redactions by 20 October 2009.² Upon the Prosecution’s request, the Chamber extended the deadline until 26 October 2009.³

2. On 26 October 2009, the Prosecution filed its Request to Lift, Maintain and Apply Redactions to Witnesses’ Statements and Related Documents, (“Request of 26 October 2009”)⁴, in which the Prosecution requested, among others, the imposition of a limited scope of redactions to the statements of Witness CAR-OTP-WWWW-0178 (“Witness 0178”).⁵

3. On 4 November 2009, the Chamber ordered the Prosecution to serve the material subject to its Request of 26 October 2009 in its current redacted form pending a decision of the Chamber on that request (“Chamber’s order of 4 November 2009”).⁶

4. From 1 to 4 November 2009, after the time limit set by the Chamber for requesting redactions and prior to the time limit set for the Prosecution to effect its disclosure obligations, additional statements of Witness 0178 became available to the Prosecution.

¹ ICC-01/05-01/08-T-14-ENG, p.16, lines 5-6. This order was further reiterated on 4 November 2009, see, ICC-01/05-01/08-590 at para. 7.

² ICC-01/05-01/08-T-14-ENG, page 21, lines 6 – 7.

³ Email sent by the Legal Advisor of the Trial Division on 14 October 2009 at 09:35 informing the Prosecution of the Chamber’s authorization to extend the time limit to 26 October 2009.

⁴ ICC-01/05-01/08-572-Conf-Exp.

⁵ *Ibid* at paras. 10 and 22 (d) and ICC-01/05-01/08-572-Conf-Exp-Annexes 32-A, 32-B-1, 32-B-2, 32-B-3 and 32-B-4.

⁶ ICC-01/05-01/08-590 at para. 6.

5. The Prosecution herewith seeks the authorisation of the Chamber to apply strictly limited redactions to the additional statements and a related document of Witness 0178, consistent with the Request of 26 October 2009. To that effect, the Prosecution respectfully requests that the Chamber extend the time-limit stipulated for submission of requests for redaction from 26 October 2009 to the date of this filing, 26 November 2009.

Request for the receipt of the Annexes as Confidential, *Ex Parte*, Prosecution and Victims and Witnesses Unit (“VWU”) Only

6. The Prosecution requests that the Annexes appended to this application be received by the Chamber as Confidential, *Ex Parte*, Prosecution and VWU only, since they contain information pertaining to applying redactions, communication of which will defeat the object and purpose of the application.

The Prosecution’s submissions

7. The proposed redactions are related to four statements of Witness 0178 and a photograph provided by the witness in his interview on 2 November 2009. The scope of the redactions sought is strictly limited to the fixed residential address of the witness in his statements and the image of his face in the indicated photo.

8. The Prosecution seeks to apply the requested redactions as the least intrusive measures necessary for the protection of the witness and his family pursuant to Articles 68(1), 54(3)(f) of the Rome Statute (“the Statute”) and Rule 81 (4) of the Rules of procedure and evidence.

9. Given that the previous statements of the witness as well as his name and identity have already been disclosed to the Accused,⁷ and that he will be in possession of the additional evidence that the witness provides, the Prosecution submits that redacting the fixed address and photograph of the witness would not prejudice the Accused's ability to prepare his case, whereas revealing such information would jeopardise the safety and privacy of the witness and his family.

10. For the purpose of disclosing this evidence within the time limit stipulated by the Chamber and in light of the Chamber's order of 4 November 2009, the Prosecution proposes to serve the additional evidence of Witness 0178 with the requested redactions pending a decision of the Chamber.

11. The Prosecution seeks the Chamber's authorisation to submit the request for redaction pursuant to Regulation 35(2) of the Regulations of the Court ("the Regulations"). The Prosecution submits that its request is based on good cause serving the interest of justice. The statements only became available in early November within the time in which the Prosecution could continue collecting its evidence, though after the date set by the Chamber for submitting requests for redactions. The redactions sought – to the address and photograph of the witness -- are, as noted above, minimal, necessary to protect the safety of the witness, and not unfairly prejudicial to the interests of the defence.

Relief sought

12. For the foregoing reasons, the Prosecution respectfully requests that the Chamber authorize:

⁷ ICC-01/05-01/08-610-Conf-Exp-AnxH

- i) The extension of the time limit set for submission of requests for redaction to the date of this filing, 26 November 2009;
- ii) The proposed redactions as submitted in the Annexes appended to this application; and
- iii) The disclosure of the additional evidence provided by Witness 0178 in its current form, pending a decision of the Chamber on the proposed redactions.



Luis Moreno-Ocampo, Prosecutor

Dated this 26th Day of November 2009

At The Hague, The Netherlands