

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/05-01/08
Date: 19 February 2014

TRIAL CHAMBER III

Before: Judge Sylvia Steiner, Presiding Judge
Judge Joyce Aluoch
Judge Kuniko Ozaki

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

**Confidential Document
With
Confidential, *EX PARTE*, only available to the Prosecution and Registry, Annex A
Prosecution's Response to "Defence Motion for the lifting of redactions of the 9
April 2013 status conference transcript"**

Source: Office of the Prosecutor

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

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I. Introduction

1. On 6 December 2013, the Trial Chamber III ("Chamber") issued its "Order on the reclassification of documents" ("First Order"),¹ in which, *inter alia*, it ordered that the transcript of the confidential *ex parte* – Prosecution and Registry only – status conference held on 9 April 2013, Transcript ICC-01/05-01/08-T-303-CONF-EXP-ENG ET ("the transcript"),² should be made available to all parties and participants, subject to the application of any necessary redactions.³
2. On 11 December 2013, the Office of the Prosecutor ("Prosecution"), pursuant to the Chamber's First Order, provided the Registry with its proposals for the necessary redactions to the transcript.⁴
3. On 22 January 2014, the Chamber issued its "Second Order on the reclassification of documents related to Decision ICC-01/05-01/08-2606-Conf" ("Second Order"),⁵ in which, *inter alia*, having reviewed the Registry's proposals for redactions, it ordered the Registry to prepare, in accordance with the directions included in its confidential *ex parte* Annex, a confidential redacted version of the transcript and to file it by 31 January 2014. By email of 30 January 2014, the Registry transmitted the confidential redacted version of the transcript.⁶
4. On 11 February 2014, the Defence of Jean-Pierre BEMBA GOMBO ("Defence")

¹ ICC-01/05-01/08-2920-Conf, Order on the reclassification of documents, 6 December 2013.

² ICC-01/05-01/08-T-303-CONF-EXP-ENG ET, 9 April 2013. *See also* ICC-01/05-01/08-2560-Conf-Exp, Order convening a confidential *ex parte* Prosecution and Registry only Status Conference, 22 March 2013 and ICC-01/05-01/08-2560-Red, Public redacted version of "Order convening a confidential *ex parte* Prosecution and Registry only Status Conference" of 22 March 2013, 8 April 2013.

³ ICC-01/05-01/08-2920-Conf, para. 5.

⁴ Email sent by Prosecution to Registry, 11 December 2013, 11:06 hrs.

⁵ ICC-01/05-01/08-2943-Conf + Conf-Exp-Anx, Second Order on the reclassification of documents related to Decision ICC-01/05-01/08-2606-Conf, 22 January 2014.

⁶ ICC-01/05-01/08-2970-Conf, Order shortening the time for a response on the Defence Motion for the lifting of redactions of the 9 April 2013 status conference transcript, 12 February 2014.

filed a motion requesting lifting of redactions to the transcript.⁷

5. On 12 February 2014, the Chamber ordered shortening of the time for a response by Wednesday 19 February 2014.⁸

6. The Prosecution submits that a lesser redacted version of the transcript can be provided to the Defence and the participants. The Prosecution annexes a proposed lesser redacted version as confidential, *ex parte*, only available to the Prosecution and the Registry.

II. Request for Confidentiality

7. Given references to filings of confidential nature, the Prosecution requests that the Chamber receive this response as a confidential document.

8. With regard to Annex A, the Prosecution requests that the Chamber receive it as *ex parte* only available to the Prosecution and the Registry because it requires the Chamber's approval of the proposed redactions.

III. Submission

9. The Chamber ordered that the Prosecution "in consultation with the Registry, addresses the issue of whether some or all of the redactions implemented in ICC-01/05-01/08-T-303-CONF-EXP-ENG ET could be lifted, without prejudicing the Registry's practices in their management of the detention centre and further or on-going investigations or putting the safety, physical and psychological well-being,

⁷ ICC-01/05-01/08-2967-Conf, Defence Motion for the lifting of redactions of the 9 April 2013 status conference transcript, 11 February 2014.

⁸ ICC-01/05-01/08-2970-Conf, Order shortening the time for a response on the Defence Motion for the lifting of redactions of the 9 April 2013 status conference transcript, 12 February 2014.

dignity and privacy of victims and witnesses at risk.”⁹

10. The Prosecution considers the development of the proceedings in the case ICC-01/05-01/13 since its submission of proposals to redact the transcript, provided to the Registry on 11 December 2013 pursuant to the Chamber’s First Order on 6 December 2013.¹⁰

11. The Prosecution also notes the information already available to the Defence regarding the issue of the contact with its witnesses.¹¹

12. The Prosecution further notes the information available to the Defence team in the case ICC-01/05-01/13 and to the public regarding the activities related to Prosecution’s investigations in the case ICC-01/05-01/13.¹²

13. Based on the above, the Prosecution submits that all of the redactions to the transcript related to the on-going investigations as well as the prosecutorial strategy in the case ICC-01/05-01/13 should be lifted, with the exception of the redactions proposed at page 19 of the transcript. The Prosecution submits that these minimal proposed redactions are necessary to protect the safety, physical well-being and privacy of the concerned individuals.

14. With regard to redactions of the transcript related to the Registry’s practices in the management of the detention centre, the Prosecution submits that a lesser redacted version of it can be made available to the Defence and to the participants upon approval of the Chamber.

⁹ *Ibid*, para. 5.

¹⁰ ICC-01/05-01/08-2920-Conf, Order on the reclassification of documents, 6 December 2013; *see also* Email sent by Prosecution to Registry, 11 December 2013, 11:06 hrs.

¹¹ ICC-01/05-01/08-2971-Conf, Defence Motion on Prosecution contact with its witnesses, 12 February 2014, paras. 5 and 6.

¹² ICC-01/05-44-Red, “Public Redacted version of ‘Request for Judicial Assistance to Obtain Evidence for Investigation under Article 70’, 3 May 2013, ICC-01/05-44-Conf-Exp”, 12 February 2014, para. 38.

15. The above submission is made after consultations between the Prosecution and the Registry. The Prosecution fully endorses the Registry's input to maintain some of the lesser redactions to the Registry's submissions in the transcript to protect current and future Registry's practices in its management of the detention centre.

IV. Relief Sought

16. Based on the above, the Prosecution respectfully:

- Requests that the Chamber reject the Defence motion to receive the transcript in a non-redacted version.
- Requests that the Chamber approve the lesser redacted version of the transcript contained in Annex A.



Fatou Bensouda, Prosecutor

Dated this 19th Day of February 2014
At The Hague, The Netherlands