

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 21 March 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***

**Public Document
With Confidential Annexes 1 to 7**

**Prosecution's Request for Reclassification of 10 Documents as Public and for
Application of Redactions**

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

Ms Fatou Bensouda

Mr James Stewart

Mr Jean-Jacques Badibanga

Counsel for the Defence of Jean-Pierre Bemba

Mr Peter Haynes

Ms Kate Gibson

Legal Representatives of Victims

Ms Marie-Edith Douzima-Lawson

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

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States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman Von Hebel

Counsel Support Section

Victims and Witnesses Unit

Mr Patrick Craig

Detention Section

Victims Participation and Reparations Other Section

I. Background

1. On 17 February 2014, the Defence of Mr. Jean-Pierre Bemba (“Defence”) requested Trial Chamber III (“Chamber”) to reclassify as public 10 confidential documents notified in Annex A (“Annex A”) of “*Defence motion for reclassification of Documents*” (“*Defence Motion*”).¹

2. On 18 February 2014, the Chamber ordered the Office of the Prosecutor (“Prosecution”) to submit observations on the Defence Motion.²

3. On 10 March 2014, the Prosecution filed its observations on the Defence Motion wherein it submitted that it does not object to the reclassification as public of a number of documents notified in Annex A. However, should the Chamber order the reclassification of the documents requested in the Defence Motion, the Prosecution should be given the opportunity to propose additional redactions.³

4. On 14 March 2014, the Chamber granted the Prosecution’s request to propose additional redactions to the documents notified in Annex A (“14 March 2014 Decision”).⁴

II. Request for Confidentiality

5. The Prosecution requests that annexes 1 to 7 be received by the Chamber as “confidential” as they refer to materials that are currently confidential, and contain

¹ ICC-01/05-01/08-2978-Conf, Defence motion for reclassification of documents, 17 February 2014, para. 32.

² Email from Associate Legal Officer of Trial Chamber III, 18 February 2014 at 17:20.

³ ICC-01/05-01/08-3006-Conf, Prosecution’s observations on ICC-01/05-01/08-2978-Conf, “Defence motion for reclassification of documents”, 10 March, para. 2.

⁴ Email from the Associate Legal Officer of Trial Chamber III, 14 March 2014 at 09:02.

confidential information for which redactions are sought.

III. Prosecution's request and appended annexes

6. In compliance with the 14 March 2014 Decision, the Prosecution reviewed the level of confidentiality of documents in Annex A and herewith requests the Chamber to: (i) reclassify nine documents as public without redactions;⁵ (ii) reclassify seven documents as public with proposed redactions highlighted in yellow;⁶ and (iii) maintain confidentiality in respect of two documents.⁷

7. The Prosecution requests to maintain the confidentiality level of two documents. ICC-01/05-01/08-2441-Conf-Anx1-Red2 is a table of Defence witness expenses detailing payments made to Defence witnesses by the Registry, while ICC-01/05-01/08-2548-Conf-AnxA is the Prosecution's "Notice to the Trial Chamber of Article 70 Investigation and Request for Judicial Assistance to Obtain Evidence".⁸ Most of the information contained in this Annex refers to names, addresses, telephone numbers and the amounts of money paid by persons, including alleged suspects in the Article 70 proceedings, to Defence

⁵ These are documents: ICC-01/05-01/08-2441-Conf, Registry's Observations relating to the "Decision requesting the Registry's observations on the prosecution's request relating to Article 70 investigations", 26 November 2012; ICC-01/05-01/08-2441-Conf-Anx3; ICC-01/05-01/08-2441-Conf-Anx5; ICC-01/05-01/08-2412-Conf, Prosecution's Request for Record of Payments made by the Registry to Witnesses called by the Defence of Mr. Jean-Pierre Bemba Gombo, 15 November 2012; ICC-01/05-01/08-2421-Conf, Decision requesting the Registry's observations on the prosecution's request relating to Article 70 investigation, 19 November 2012; ICC-01/05-01/08-2461-Conf, Decision on the Registry's observations on the prosecution's request relating to Article 70 investigations, 4 December 2012; ICC-01/05-01/08-2462-Conf, Victims and Witnesses Unit's Complementary Information to the "Registry's Observations relating to the "Decision requesting the Registry's observations on the prosecution's request relating to Article 70 investigations" (ICC-01/05-01/08-2421-Conf-Exp)", 3 December 2012; ICC-01/05-01/08-2606-Conf, Decision on the prosecution's request relating to Article 70 investigation, 26 April 2013; ICC-01/05-01/08-2943-Conf, Second Order on the reclassification of documents related to Decision ICC-01/05-01/08-2606-Conf, 22 January 2014.

⁶ ICC-01/05-01/08-2441-Conf Anx2, ICC-01/05-01/08-2441-Anx4, ICC-01/05-01/08-2441-Red-Anx6 and the 2606-Conf, ICC-01/05-01/08-2548-Conf-Exp, Prosecution's Notice to the Trial Chamber of Article 70 Investigation and Request for Judicial Assistance to Obtain Evidence, 20 March 2013; ICC-01/05-01/08-2943-Conf-Exp-Anx, ICC-01/05-01/08-T-303-Conf, EXP – ENG ET, 9 April 2013.

⁷ ICC-01/05-01/08-2548-Conf-AnxA, ICC-01/05-01/08-2441-Conf-Anx1-Red2.

⁸ ICC-01/05-01/08-2548-Conf-AnxA.

witnesses in this case. Redactions would make the documents incomprehensible.

8. Annex 1 is an email from Mr Kilolo to the Office of The Registrar (“OTR”) Counsel Support Section regarding, *inter alia*, payments of Defence expert witness General Seara.⁹ Annex 2 is two emails from Mr Kilolo and Mr Mangenda to OTR Counsel Support Section regarding *inter alia* payments to Defence expert witnesses.¹⁰ Annex 3 is an email exchange between Mr Kilolo, OTR Counsel Support Section and Defence expert witness Seara regarding payments to the Defence expert witness.¹¹ Annex 4 is the Chamber’s Decision on the Prosecution’s request relating to Article 70 investigation.¹² Annex 5 is the transcript of the 9 April 2014 Status Conference.¹³ Annex 6 is an annex to the Chamber’s decision ordering the Prosecution to add or lift redactions.¹⁴ Annex 7 is the “Prosecution’s Notice to the Trial Chamber of Article 70 Investigation and Request for Judicial Assistance to Obtain Evidence”.¹⁵ The Prosecution has applied yellow highlights in respect of the information it seeks to be redacted in these documents.

9. With respect to the Status Conference transcript,¹⁶ filings from the Registry¹⁷ and the Victims and Witnesses Unit (“VWU”),¹⁸ the Prosecution proposes that the Registry, including VWU in particular, be given an opportunity to propose any redactions.

⁹ ICC-01/05-01/08-2441-Conf-Anx2.

¹⁰ ICC-01/05-01/08-2441-Conf-Anx4.

¹¹ ICC-01/05-01/08-2441-Conf-Red-Anx6.

¹² ICC-01/05-01/08-2606-Conf.

¹³ ICC-01/05-01/08-T-303-Conf-EXP-ENG ET.

¹⁴ ICC-01/05-01/08-2943-Conf-Exp-Anx.

¹⁵ ICC-01/05-01/08-2548-Conf-Exp.

¹⁶ ICC-01/05-01/08-T-303-Conf-EXP-ENG ET. Proposed redactions by the Prosecution in this transcript are in yellow. The redactions in red are those that were previously authorised by the Chamber.

¹⁷ ICC-01/05-01/08-2441-Conf, ICC-01/05-01/08-2441-Conf-Anx1; ICC-01/05-01/08-2441-Conf-Anx2; ICC-01/05-01/08-2441-Conf-Anx3; ICC-01/05-01/08-2441-Conf-Anx4; ICC-01/05-01/08-2441-Conf-Anx5; ICC-01/05-01/08-2441-Conf-Anx6; See also ICC-01/05-01/08-2461-Conf, Decision on the Registry’s observations on the prosecution’s request relating to Article 70 investigations, 4 December 2012.

¹⁸ ICC-01/05-01/08-2462-Conf; ICC-01/05-01/08-2462-Conf-Anx1-Red.

IV. Relief Sought

10. For the foregoing reasons, the Prosecution respectfully requests that the Chamber authorise the redactions proposed to seven documents, reclassify the 16 documents as public and maintain the confidentiality of two documents.



Fatou Bensouda, Prosecutor

Dated this 21st Day of March 2014

At The Hague, The Netherlands