

**Cour
6 Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/05-01/13**

Date: **6 June 2014**

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF

***THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO, AIME KILOLO
MUSAMBA, JEAN-JACQUES MANGENDA KABONGO, FIDELE BABALA WANDU
AND NARCISSE ARIDO***

**Public
with**

**Confidential, *EX PARTE*, Annexes A to C, only available to the Prosecution and
Victims and Witnesses Unit**

**Prosecution's Application for Redactions pursuant to Rules 81(2) and 81(4) of the
Rules of Procedure and Evidence**

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

Fatou Bensouda

James Stewart

Kweku Vanderpuye

Counsel for the Defence of Jean-Pierre Bemba

Nicholas Kaufman

Counsel for the Defence of Aimé Kilolo Musamba

Ghislain Mabanga

Counsel for the Defence of Jean – Jacques Mangenda Kabongo

Jean Flamme

Counsel for Fidèle Babala Wandu

Jean-Pierre Kilenda Kakengi Basila

Counsel for Narcisse Arido

Göran Sluiter

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Natacha Schauder

Detention Section

Victims Participation and Reparations Others Section

I. Introduction

1. In view of the postponement of the confirmation hearing proceedings,¹ the Office of the Prosecutor (“Prosecution”) renews its application for redactions pursuant to Articles 54(3)(f) and 68 of the Rome Statute (“Statute”), and Rules 81(2) and 81(4) of the Rules of Procedure and Evidence (“Rules”) to material related to two witnesses: P-0245 and P-0260, whose identities can now be disclosed to the Defence.

II. Confidentiality

2. Pursuant to Regulation 23(1)*bis* of the Regulations of the Court (“RoC”), the Prosecution requests that Annexes A to C be classified as “Confidential, *Ex parte*, only available to the Prosecution and Victims and Witnesses Unit”, as they contain confidential information to which the Defence is not entitled.²

III. Submission

3. The Appeals Chamber has held that “it may be permissible to withhold the disclosure of certain information from the Defence prior to the hearing to confirm the charges that could not be withheld prior to trial”.³ Additionally, pursuant to Rule 81(4) of the Rules and Article 54(3)(f) of the Statute, the Prosecution may propose redactions to ensure the safety of third persons who may be at risk on account of the Court’s activities.⁴

4. The Prosecution seeks redactions to 16 interview transcripts of Witnesses P-

¹ ICC-01/05-01/13-443, p. 5.

² See, ICC-01/05-01/13-98, para. 5.

³ ICC-01/04-01/07-475 OA, para. 68.

⁴ ICC-01/04-01/07-475 OA, para. 43.

0245 and P-0260. The redactions concern (i) information related to third persons who might be at risk on account of the Court's activities; and (ii) information that may prejudice further or ongoing investigation. In addition, the Prosecution requests leave to apply the corresponding redactions to the audio recordings of Witness P-0245's interview.⁵

5. The proposed redactions are limited in scope and necessary to protect the safety of the persons concerned. The non-disclosure of such information is not prejudicial to or inconsistent with the rights of the Suspects because the information has no bearing on the material facts of this case.⁶

6. The Single Judge has previously granted authorisation to redact similar information in this case, considering such redactions "necessary and adequate with a view to ensuring the protection of the interests enshrined in rule 81(4) of the Rules"; "the least intrusive measure available";⁷ or that "redaction of the names of staff members of the Court is likewise necessary, with a view not to prejudicing their work."⁸

7. *Confidential, Ex parte*, Annex A contains the justification for each proposed redaction while *Confidential, Ex parte*, Annexes B and C contain the evidence for which redactions are sought.

IV. Relief Sought

8. The Prosecution requests that the Single Judge authorise the proposed redactions as set out in *Confidential, Ex parte*, Annex A of this Application and

⁵ CAR-OTP-0077-1092; CAR-OTP-0077-1093.

⁶ ICC-01/04-01/07-475 OA, para. 72.

⁷ ICC-01/05-01/13-163, para. 6.

⁸ ICC-01/05-01/13-315, para. 6.

highlighted in Confidential, *Ex parte*, Annexes B and C.

A handwritten signature in blue ink, appearing to read 'Bensouda', with a large, stylized flourish above it.

Fatou Bensouda, Prosecutor

Dated this 6th day of June 2014

At The Hague, The Netherlands