

**Cour
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***

Confidential

With

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

**Confidential Redacted Version of "Prosecution's Application for Redactions
pursuant to Rules 81(2) and 81(4) of the Rules of Procedure and Evidence", 27 May
2014, ICC-01/05-01/13-432-Conf-Exp**

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 Section Others

I. Introduction

1. The Office of the Prosecutor ("Prosecution") hereby applies 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").

2. [REDACTED]. In principle, it will be in a position to disclose their 21 interview transcripts before the end of this week.

3. The Prosecution identified information in their transcripts for which it seeks redactions namely: (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.

II. Confidentiality

4. Pursuant to Regulation 23(1)*bis* of the Regulations of the Court ("RoC"), the Prosecution requests that this filing, as well as Annexes A and B, 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 yet entitled.¹

III. Submission

5. The Appeals Chamber has held that "it may be permissible to withhold the disclosure of certain information from the Defence prior to confirming the charges

¹ See, ICC-01/05-01/13-98, para. 5 ("It is - and should be - obvious that, for the procedure leading to the Chamber's determination of a request to be effective, the specific, factual reasons underlying a request for redaction under rule 81 must only be submitted to the Chamber and not divulged to the other parties prior to the Chamber's determination as to whether the grounds set forth in rule 81 are met.").

that could not be withheld prior to the trial”.² 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.³

6. The Prosecution seeks redactions to 16 documents. 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.⁴

7. It concerns the following information:

- [REDACTED]

8. In addition, the Prosecution requests authorisation to apply the redactions indicated in paragraph 7 to the corresponding audio recordings of Witness P-0245’s interview,⁵ to the extent that their disclosure may become necessary, additional to the disclosed transcripts.

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

² ICC-01/04-01/07-475, para. 68.

³ ICC-01/04-01/07-475 OA, para. 43.

⁴ ICC-01/04-01/07-475 OA, para. 72.

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

⁶ ICC-01/05-01/13-163, para. 6.

⁷ ICC-01/05-01/13-315, para. 6.

10. *Confidential, Ex parte*, Annexes A and B contain the evidence for which redactions are sought.

IV. Relief Sought

11. The Prosecution requests that the Single Judge authorise the proposed redactions as requested herein and as highlighted in *Confidential, Ex parte*, Annex A and B of this Application.



Fatou Bensouda, Prosecutor

Dated this 6th day of June 2014

At The Hague, The Netherlands