

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: **11 June 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 Redacted document

Public Redacted version of “Prosecution’s Second Further Request for Disclosure of Evidence in a Related Article 70 Proceeding”, ICC-01/05-01/08-3086-Conf, 10 June 2014

Source: The 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. The Office of the Prosecutor (“Prosecution”) requests authorisation to disclose the unredacted trial transcripts of evidence of Defence witnesses D-6¹ and D-13² in this case to the Defence teams in *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba et al.* (“Article 70 case”).

2. The Prosecution recently received evidence implicating D-6 and D-13 in the Article 70 case. Thus, it did not seek the disclosure of the witnesses’ transcripts in its First Request.³ In view of this new evidence, it is important that the Prosecution is able to rely on the requested transcripts during the confirmation process and in the Document Containing the Charges (“DCC”) in the Article 70 case, which will be filed on 30 June 2014.⁴

3. The requested disclosure is supported by good cause, will not result in any prejudice to the Defence, and is in the interests of justice.

II. Confidentiality

4. This application is filed confidentially because it reveals confidential details of witnesses’ evidence and it refers to filings of the same designation.

III. Submissions

5. On 26 May 2014, the Prosecution received a third report of an independent counsel appointed by Pre-Trial Chamber II to assess for relevance to the Article 70 case recordings of telephone communications placed or received by Messrs Aimé

¹ [REDACTED].

² [REDACTED].

³ ICC-01/05-01/08-3052-Red.

⁴ See ICC-01/05-01/13-443, p. 5.

Kilolo and Jean-Jacques Mangenda ("Report").⁵ The Prosecution immediately began analysing the 130-page Report,⁶ which revealed evidence of D-6's and D-13's involvement in the alleged corrupt influencing of witnesses.

6. Mindful of the 30 June 2014 deadline to file its DCC, the Prosecution now seeks to disclose D-6's and D-13's transcripts to the Defence in the Article 70 case. Disclosure of the requested transcripts is crucial to proving charges that the Prosecution will include in its DCC, particularly as the information implicating these witnesses is not contained in other evidence in the possession of, or otherwise available to, the Prosecution.

7. As in the Prosecution's First Request,⁷ the *Bemba* Defence's proposed redactions to the transcripts, including of D-6's and D-13's name,⁸ restrict the Prosecution's ability to link evidence of alleged corrupt influencing from other sources to the witnesses.

8. The Prosecution incorporates by reference its submissions in the First Request – including on the legal basis for the requested disclosure,⁹ the Prosecution's disclosure obligations,¹⁰ and there being no additional risk to witnesses¹¹ – which the Chamber recently granted.¹²

9. Disclosure of D-6's and D-13's transcripts of evidence causes no prejudice to the Defence, and is manifestly in the interests of justice, particularly to preserve the integrity of proceedings before the Court.

⁵ See ICC-01/05-52-Red2, pp. 7-8; ICC-01/05-01/13-460, p. 4.

⁶ See ICC-01/05-01/13-460, p. 5.

⁷ ICC-01/05-01/08-3052-Red, paras. 14-16.

⁸ See [REDACTED].

⁹ ICC-01/05-01/08-3052-Red, paras. 7-12.

¹⁰ ICC-01/05-01/08-3052-Red, paras. 13-18.

¹¹ ICC-01/05-01/08-3052-Red, para. 21.

¹² [REDACTED].

10. Should the Chamber grant this Request, the Prosecution will inform the Defence in the Article 70 case of the nature of the protective measures granted to D-6 and D-13 and the confidentiality level of the transcripts, in accordance with the Chamber's prior Decision¹³ and Regulation 42(2) of the Regulations of the Court.

IV. Requested Relief

11. The Prosecution requests the Chamber to authorise the Prosecution's disclosure to the Defence teams in the Article 70 case of the unredacted trial transcripts of evidence of Defence witnesses D-6 and D-13.



Fatou Bensouda, Prosecutor

Dated this 11th Day of June 2014
At The Hague, The Netherlands

¹³ [REDACTED].