

**Cour
6 Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **25 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 Document

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

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I. Introduction

1. Taking into account the new schedule of the confirmation hearing proceedings,¹ the Office of the Prosecutor ("Prosecution") submits an 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 an individual who has recently been re-interviewed.

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 (i) one investigator's note; and (ii) one transcript of a meeting with an individual regarding whom the Single Judge has

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.

previously authorised redactions⁵ – in particular, to (i) the name and other identifying information related to the person providing the information; (ii) the name and other identifying information of other persons present at the time of the meeting; and (iii) the specific location where the meeting took place.⁶

5. Similar redactions are proposed for the two additional documents concerned. Specifically, these comprise (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.

6. 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.⁷

7. As noted, 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”;⁸ or that “redaction of the names of staff members of the Court is likewise necessary, with a view not to prejudicing their work.”⁹

8. 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.

⁵ ICC-01/05-01/13-98.

⁶ ICC-01/05-01/13-98, p. 10.

⁷ ICC-01/04-01/07-475 OA, para. 72.

⁸ ICC-01/05-01/13-163, para. 6.

⁹ ICC-01/05-01/13-315, para. 6.

IV. Relief Sought

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



Fatou Bensouda, Prosecutor

Dated this 25th day of June 2014

At The Hague, The Netherlands