

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08
Date: 23 October 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, *EX PARTE*, only available to the Prosecution and the Victims and
Witnesses Unit, Annexes A to C**

**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

Ms Fatou Bensouda

Mr James Stewart

Mr Jean-Jacques Badibanga

Counsel for the Defence of Jean-Pierre Bemba Gombo

Mr Peter Haynes

Ms Kate Gibson

Ms Melinda Taylor

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

Ms Paolina Massidda

The Office of Public Counsel for the Defence

Mr Xavier-Jean Keita

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman Von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Other Section

I. Introduction

1. On 21 October 2014, the Trial Chamber III (“Chamber”) ordered that “[i]n the interest of efficiency, the prosecution may disclose the relevant items in a redacted version, to be followed by an application for authorisation of redactions, to be filed as soon as practicable.”¹ The Office of the Prosecutor (“Prosecution” or “OTP”) herewith 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”).

II. Request for Confidentiality

2. Pursuant to Regulation 23(1)*bis* of the Regulations of the Court, the Prosecution requests that Annexes A - C appended to this Application be received by the Chamber as “Confidential, *EX PARTE*, only available to the Prosecution and the Victims and Witnesses Unit” in accordance with Rules 81(2) and 81(4) of the Rules as they relate to confidential information that should not be released to the Defence.²

III. Submissions

3. Pursuant to Rule 81(4) of the Rules and Articles 54(3)(f) and 68 of the Statute, the Prosecution may submit proposals for redactions in order to ensure the safety of witnesses, their family members and third persons that may be at risk on account of the Court’s activities.³ Furthermore, Rule 81(2) applies to requests for non-disclosure of information that may prejudice further or on-going investigations.

¹ Email from Legal Officer of the Chamber on 21 October 2014 at 13:46.

² Rule 81(2) stipulates that such matters shall be heard on an *ex parte* basis by the Chamber. Also, see, for example, ICC-01/05-01/13-98, Decision on the “Prosecution’s Application for Redactions pursuant to Rule 81(2) of the Rules of Procedure and Evidence”, 15 January 2014, 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.”

³ *Prosecutor v. Katanga*, Judgment on Prosecution’s Appeal against the First Redaction Decision, ICC-01/04-01/07-475 OA, 13 May 2008, para. 43: In addition to Rule 81(4), “other provisions of the Statute and the Rules

4. The Prosecution seeks limited redactions for two documents that were disclosed to the Defence on 22 October 2014.⁴ The redacted information includes temporary or permanent post-testimony locations where witnesses and/or family members were lodged, current telephone numbers of witnesses, and specific interview or meeting locations used by the OTP. The proposed redactions are limited in scope; necessary to protect the safety of the persons concerned or affect future and on-going investigations or witness protection operations; and non-disclosure will not prejudice the Accused because the information has no bearing on the limited issues necessitating P-0169's recall.⁵ Annex A contains justification for each of the proposed redactions; whilst Annexes B and C contain the evidence for which redactions are sought.

IV. Relief Sought

5. The Prosecution requests the Chamber to grant the proposed redactions as set out in Annex A of this Application and highlighted in Annexes B and C.



Fatou Bensouda, Prosecutor

Dated this 23rd October 2014
At The Hague, The Netherlands

that are aimed at ensuring that persons are not put at risk through the activities of the Court and which are not limited to the protection of witnesses and victims and members of their families only.”, including Articles 43(6), 54(3)(f) and 68(4), and Rules 16-18, 59(2) and 87(1).

⁴ ICC-01/05-01/08-3171-Conf-AnxC, Prosecution's Communication of Evidence disclosed to the Defence on 22 October 2014 pursuant to Article 67(2) of the Rome Statute and Rule 77 of the Rules of Procedure and Evidence, 22 October 2014.

⁵ ICC-01/05-01/08-3155 - Notice of limited reopening of the presentation of evidence and rescheduling of closing statements, 2 October 2014. See, also, *Prosecutor v. Katanga*, Judgment on Prosecution's Appeal Against the First Redaction Decision, ICC-01/04-01/07-475 OA, 13 May 2008, para. 72.