

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 June 2016

TRIAL CHAMBER VII

Before: Judge Bertram Schmitt, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Raul Pangalangan

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 Redacted Document

with

**Confidential, *EX PARTE*, Annexes A and B, only available to the Prosecution and
the Registry**

**Public redacted version of "Prosecution's Application for Redactions pursuant to
Rule 81(4) of the Rules of Procedure and Evidence", 29 August 2014,
ICC-01/05-01/13-657-Conf**

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 Prosecution hereby submits its application for redactions pursuant to Articles 54(3)(f) and 68 of the Statute and Rule 81(4) of the Rules, to material related to witness P-260, whose identity has already been disclosed to the Defence.

II. Confidentiality

2. Pursuant to Regulation 23*bis*(1) of the Regulations of the Court, the Prosecution requests that this filing and annexes A and B be classified as “Confidential, *EX PARTE*, only available to the Prosecution and the Registry”, as they contain confidential information, to which the Defence is not entitled and which forms the substance of this request.¹

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 the trial”.² Additionally, the Appeals Chamber envisaged that withholding certain information from the Defence under Rule 81(4) may be necessary so as to preserve an individual’s fundamental rights.³ In fact, Rule 76(4) provides a limitation on the Prosecution’s disclosure of prior statements to the Defence for the protection and privacy of victims and witnesses and the protection of confidential information as provided for in the Statute and Rules 81 and 82.⁴ Last, the protection of a witness’s right to privacy and dignity – provided for in Article 68 - is envisaged by and subsumed in, Article 54(3)(f) and Rule 81(4).⁵

4. The Prosecution seeks redactions to one interview transcript of P-260.⁶ The

¹ See, ICC-01/05-01/13-98, para. 5.

² ICC-01/04-01/07-475 OA, para. 68.

³ ICC-01/04-01/07-475 OA, paras. 57- 58.

⁴ Rule 76 of the Rules.

⁵ See Article 68(1): “The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses”; Article 54(3)(f) and Rule 81(4).

⁶ CAR-OTP-0080-0021.

identified information was inadvertently disclosed to the Defence on 20 June 2014.⁷ The redactions sought concern information of [REDACTED] that aim to protect the witness's dignity and privacy.⁸

5. The proposed redactions are limited in scope and necessary to protect P-260's dignity and privacy. The non-disclosure of such information is not prejudicial to or inconsistent with the suspects' rights because the information has no bearing on the material facts of this case.⁹

6. The Single Judge has previously granted authorisation to redact information of a personal nature relating to Prosecution witnesses, even when the witnesses are known to the suspects, considering that "there are nevertheless circumstances warranting the redaction of some information for the purposes of rule 81(4)".¹⁰

7. Confidential, *Ex parte*, Annex A contains the justification for each proposed redaction while Confidential, *Ex parte*, Annex B contains the transcript (CAR-OTP-0080-0021) where requested redactions are applied in highlights.

IV. Relief Sought

8. The Prosecution requests the Single Judge to authorise the proposed redactions as explained in Annex A and applied in highlights in Annex B.



Fatou Bensouda, Prosecutor

Dated this 21th Day of June 2016
At The Hague, The Netherlands

⁷ The Prosecution informed the Defence of the inadvertent disclosure of confidential information contained in CAR-OTP-0080-0021 *via* email on 27 August 2014 and requested the immediate deletion of any copies of such document from their system.

⁸ See Article 68(1) read together with Article 54 and Rule 81(4).

⁹ ICC-01/04-01/07-475 OA, para. 72.

¹⁰ ICC-01/05-01/13-163, para. 5.