

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **24 August 2016**

TRIAL CHAMBER III

Before: Judge Joyce Aluoch , Presiding Judge
Judge Geoffrey Henderson
Judge Chang-ho Chung

**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 submission of information on the current security situation of Witness CAR-OTP-WWWW-0065 and his family”, 26 August 2010,
ICC-01/05-01/08-864-Conf-Exp**

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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At the request of Trial Chamber III (“Chamber”), the Office of the Prosecutor (“Prosecution”) submits updated information regarding Witness CAR-OTP-WWWW-0065 (“Witness 65”) and his family.

I. Request for confidentiality

1. The Prosecution requests that this submission be received by the Chamber as Confidential, *Ex Parte*, Prosecution and Victims and Witnesses Unit (“VWU”) only as it contains information that should not be disclosed to the Defence.

II. Information on the situation of Witness 65 and his family

2. Witness 65 is a former *Armée de Libération du Congo* (“ALC”) member who [REDACTED] at the *Mouvement de Libération du Congo* (“MLC”) [REDACTED], Gbadolite, Democratic Republic of the Congo (“DRC”). He has inside knowledge about the [REDACTED] structure within the MLC and the nature of instructions passed from the Accused to his field commanders. He lives with his family [REDACTED].

3. The Prosecution interviewed Witness 65 in July 2008. During the Confirmation Hearing, it provided a summary of his statement to the Defence, as ordered by Pre-Trial Chamber III. On 9 November 2009, following an order from the Chamber, his statement was disclosed to the Defence with limited redactions.

4. On 5 February 2010, the Prosecution referred Witness 65 and two other witnesses to the VWU for inclusion into the International Criminal Court Protection Programme (“ICCPP”).

5. In March 2010, acting on the aforesaid referral, the VWU met with the witnesses [REDACTED] in order to assess whether these witnesses meet the VWU criteria for inclusion into the ICCPP.

6. The VWU subsequently postponed the assessment of Witness 65 when it was apparent to the VWU that the witness had not precisely briefed his wife about his collaboration with the Court, the VWU meeting and assessment. The witness also confirmed to the VWU that he did not brief his wife and dependants about the assessment because he thought that would have constituted a breach of confidentiality. The witness also informed the VWU that he was reluctant to testify during the upcoming trial, because he had security concerns. Having been informed of this by the VWU, the Prosecution requested the VWU to put on hold Witness 65's assessment for possible inclusion into the ICCPP, to give the Prosecution time to resolve his concerns.

7. In the meantime, the Prosecution maintained telephone contact with Witness 65 until the 12 May 2010, when a meeting between the Prosecution and the witness took place, [REDACTED]. During this meeting, the witness reiterated that he had no problem with the Prosecution disclosing his statement to the Defence without redactions, but stated that he was hesitant to testify in court. In view of this, the Prosecution decided to give the witness time to reflect and decide on whether he still wanted to testify in court. Another meeting was therefore scheduled to take place at the end of June 2010 to follow-up on this issue and that of the security of the witness.

8. During the status conference of 27 May 2010, the VWU informed the Chamber that its assessment of the other two referred witnesses was complete and that the referrals had been placed before the Registrar for her consideration and decision. The

VWU also informed the Chamber that one application for referral was put on hold following a request by the Prosecution.¹

9. On 15 June 2010, the VWU informed the Prosecution that it agreed to relocate the two other witnesses, but the request with respect to Witness 65 is still under consideration.²

10. On 24 June 2010, the Prosecution requested in-court protective measures for Witness 65, consisting of image and voice distortion and the assignment of a pseudonym.³ The requested measures will be necessary regardless whether the witness is accepted into the ICCPP, to protect him and his family members and/or to ensure the effectiveness of the ICCPP.

11. On 09 July 2010, the Prosecution met with Witness 65 and, on 10 July 2010, the Prosecution met with the witness and his wife. The purpose of these meetings was to elicit from them and discuss any fears or concerns they might have. In addition, the Prosecution also explained to the witness the importance of testifying in court during trial, as well as the importance of cooperating with the VWU during its assessment of the witness and his family for their possible inclusion into the ICCPP. Although this meeting was initially scheduled to take place at the end of June 2010 as stated in paragraph 7 above, the same was postponed to 9 July 2010 due to a travel restriction imposed by the United Nations Department of Safety and Security. The restriction which was in force during the celebration of the independence of the DRC lasted from the 25 June 2010 until 06 July 2010.

¹ ICC-01/05-01/08-T-23-CONF-EXP-ENG, Page 9, lines 16-25.

² [REDACTED].

³ ICC-01/05-01/08-800-Conf-Exp-Corr, Corrigendum to "Prosecution's Request for Protective and Special Measures for Prosecution Witnesses at Trial", 6 July 2010, at para. 57(i).

12. On 13 July 2010, Witness 65 informed the Prosecution of his intention to testify in court and his willingness to fully cooperate with the VWU.

13. On 16 August 2010, the VWU informed the Prosecution that it intends to proceed with the assessment of the witness between the 21 and 24 of August 2010.



Fatou Bensouda , Prosecutor

Dated this 24th Day of August 2016

At The Hague, The Netherlands