

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/05-01/08**
Date: **7 November 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 Request for Special Measures for Witness
CAR-OTP-PPPP-0063 at Trial”, 18 February 2011, ICC-01/05-01/08-1262-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 Office of the Prosecutor (“Prosecution”) requests special measures to be applied during the testimony of Witness CAR-OTP-PPPP-0063 (“Witness 63”) during the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*. The Prosecution seeks these special measures pursuant to Articles 68(1) and 64(2) of the Rome Statute and Rule 88 of the Rules of Procedure and Evidence (“Rules”). These provisions authorise the Court to take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses, and to facilitate the testimony of a witness, while at the same time preserving the Accused’s right to a fair and public trial.

2. In particular, the Prosecution, requests that Trial Chamber III (“Chamber”) authorise: (i) image and voice distortion; (ii) continued in-court use of the witness number and pseudonyms in lieu of names; (iii) private or closed sessions for the portions of testimony where the witness provides information that would tend to disclose his identity.

3. The Prosecution contemplates that Witness 63 will testify substantially in open session. Witness 63’s identity is known to the Defence. With the requested measures in place, the Defence will be able to examine Witness 63 publicly, except on discrete matters that bear on Witness 63’s identity, and it will be able to present its case at trial without restriction. The requested measures are intended to prevent the public disclosure at trial of the identity - but not the substantive evidence - of Witness 63.

II. Request for confidentiality

4. The Prosecution requests that this application be received by the Chamber as Confidential since it relates to a request for protective measures, communication of which to the public will defeat the object of the request.

III. Application for special measures

5. The Prosecution’s request for special measures is based on, and supported by, the core texts of this Court and its practice. The Prosecution and the Court have the duties to elicit the truth and, in doing so, to protect the physical and psychological well-being, dignity, and

privacy of its witnesses.¹ In addition, the requested measures also have the function to facilitate the testimony of the witness.²

IV. Witness 63

6. Witness 63 was a [REDACTED].³ [REDACTED]. The Prosecution has previously looked into these threats and came to the conclusion that they were not directly related to his cooperation with the Prosecution. However, they significantly contribute to his subjective perception of risk by Witness 63. In the event that he is publicly identified, it is highly likely that his profile will be raised in [REDACTED] resulting in renewed attention and interest to him which will further elevate his subjective feeling of risk and may impacts on his willingness to continue his cooperation with the Prosecution and to testify before the Court. Therefore the Prosecution requests the above special measures under Rule 88 of the Rules facilitate the testimony of Witness 63 by preventing public disclosure of Witness 63's identity and any information that links Witness 63 to [REDACTED] the Prosecution.

V. Relief sought

7. In light of the foregoing, the Prosecution respectfully requests that the Chamber authorize image and voice distortions and assigns pseudonyms to Witness 63 during his testimony and ensure that evidence regarding the identity or other identifying information of Witness 63 be given in closed session.



Fatou Bensouda, Prosecutor

Dated this 7th Day of November 2016
At The Hague, The Netherlands

¹ Article 68(1) of the Statute; see also ICC-01/04-01/07-776 OA7, Judgment on the appeal of the Prosecutor against the "Decision on Evidentiary Scope of the Confirmation Hearing, Preventive Relocation and Disclosure under Article 67(2) of the Statute and Rule 77 of the Rules" of Pre-Trial Chamber I, 26 November 2008, at para. 101.

² Rule 88(1) of the Rules.

³ Witness 63 has reported [REDACTED].