

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 5 March 2012

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

Order on the reclassification of transcripts

Order to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor
 Ms Fatou Bensouda, Deputy Prosecutor
 Ms Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence
 Mr Aimé Kilolo Musamba
 Mr Peter Haynes

Legal Representatives of the Victims
 Ms Marie Edith Douzima-Lawson
 Mr Assingambi Zarambaud

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

Registrar
 Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit
 Ms Maria Luisa Martinod Jacome

Detention Section

Victims Participation and Reparations Section

Other

Trial Chamber III (“Chamber”) of the International Criminal Court in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* issues the following Order on the reclassification of transcripts.

1. This Order seeks to address the high proportion of expunged passages in the public redacted versions of the transcripts which is a result of the frequent use of private sessions in proceedings before the Chamber.
2. On 19 November 2010, the Chamber filed its “Decision on Directions for the Conduct of the Proceedings” (“Decision”),¹ in which it ruled that “closed sessions should remain a protective measure granted only on an exceptional basis, as it deprives the public from understanding parts of, or the entirety of, a witness’s testimony and therefore, may affect the overall fairness of the proceedings”.² In light of this principle, the Chamber adopted a set of “best practices” for the use of closed or private sessions, with a view to enabling the public to follow the proceedings as much as possible, as required by the principle of publicity of the proceedings pursuant to Article 64(7) of the Rome Statute (“Statute”). In this context, at paragraph 23(g) of the Decision, the Chamber states that “in addition to the Chamber’s *proprio motu* power to reclassify a document, parties and participants should draw the attention of the Chamber to any part of the transcript of a private session that could be reclassified as public after more detailed analysis or a change in circumstances.”
3. In accordance with Article 21(1) of the Statute, the Chamber, in making its determination, has considered Articles 64(7), 67(1), 68(1) and (2) of the Statute, Rules 81 and 87 of the Rules of Procedure and Evidence, and Regulation 94 of the Regulations of the Registry.

¹ Decision on Directions for the Conduct of the Proceedings, 19 November 2010, ICC-01/05-01/08-1023.

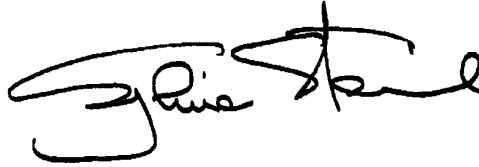
² ICC-01/05-01/08-1023, paragraph 23.

4. The Chamber has the responsibility to ensure an appropriate balance between its duty to respect the principle of publicity of the proceedings and its obligation to protect victims and witnesses. The Chamber therefore reminds the parties and participants of the Chamber's instruction to review the transcripts of private and closed sessions to determine whether they can be made public in whole or in part.
5. Given that the witnesses who have appeared before the Chamber until now are exclusively prosecution witnesses, the prosecution is expected to review the public redacted versions of any transcripts published since the beginning of the trial, and to identify any portions of the transcripts of hearings held in private and closed sessions that could be reclassified as public.
6. To that end, the Chamber orders the prosecution, in consultation with the Victims and Witnesses Unit ("VWU") as necessary, to provide the actual transcripts for each witness, identifying any parts of the transcripts that could be reclassified as public, along with any proposals for redactions that appear to be absolutely necessary. The review should deal with both versions of the transcripts (English and French). This review should also address redaction orders issued during evidence given in public session. The Chamber requests the prosecution to provide it with the redactions' proposals to the transcripts by way of email in the interests of efficiency. These emails should be copied to the defence and legal representatives for their information.
7. The Chamber instructs the prosecution to undertake this task as a matter of urgency. To expedite the Chamber's review of the prosecution's proposals for redactions to the transcripts, the latter are to be provided on

a rolling basis in several batches: one batch should include the transcripts of hearings for the testimonies of one witness only. Upon review, the Chamber will instruct the Registry to prepare and notify the redacted versions of the transcripts.

8. For the foregoing reasons, the Chamber hereby orders the prosecution:
 - a. to inform the Chamber of the amount of time required for its review of the public redacted versions of transcripts of testimony of each prosecution witness and to file a time table clearly indicating the anticipated sequence of the filings of proposed public redacted versions of the transcripts in accordance with paragraph 6 above no later than 16:00 on 9 March 2012;
 - b. to file with the Chamber by way of email any such proposal for limited redactions for all prosecution witnesses on a rolling basis and in accordance with the time table to be provided under paragraph 8(a); and
 - c. to start reviewing the public redacted versions of the transcripts of the testimony of each prosecution witness without delay, in consultation with the VWU as necessary, starting with the testimony of Witness 38.

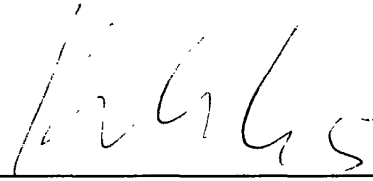
Done in both English and French, the English version being authoritative.



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 5 March 2012

At The Hague, The Netherlands