

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 10 April 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

Third 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
Mr Jean-Jacques Badibanga

Counsel for the Defence

Mr Peter Haynes
Ms Kate Gibson
Ms Melinda Taylor

Legal Representatives of the Victims

Ms Marie-Édith Douzima-Lawson

Legal Representatives of the 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 Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman Von Hebel

Counsel Support Section

Victims and Witnesses Unit

Mr Patrick Craig

Detention Section

Victims Participation and Other Reparations Section

Trial Chamber III (“Chamber”) of the International Criminal Court (“Court”), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, pursuant to Articles 64(2), (6)(c), (7) and (10), 67(1) and 68(1) and (2) of the Rome Statute (“Statute”), Rules 15, 43, 86, 87, and 137 of the Rules of Procedure and Evidence (“Rules”), and Regulations 20, 21, 26, 27 and 42 of the Regulations of the Court (“Regulations”), issues the following Third Order on the reclassification of transcripts (“Order”).

1. On 5 March 2012, the Chamber issued its “Order on the reclassification of transcripts”,¹ in which it, *inter alia*, directed the Office of the Prosecutor (“prosecution”) to review the transcripts of the testimony of witnesses called by the prosecution that were given in private and closed sessions and to “identify [...] any parts of the transcripts that could be reclassified as public, along with any proposals for redactions that appear to be absolutely necessary.”²

2. On 4 June 2012, the Chamber issued its “Second Order on the reclassification of transcripts” (“Second Order”),³ in which it, *inter alia*, (i) adjusted the procedure for the submission of proposals for redactions to transcripts of the testimony of witnesses called by the prosecution; and (ii) set out the procedure to be followed for the submission of proposals for redactions to transcripts of the testimony of witnesses called by the legal representative of victims, Me Marie-Edith Douzima-Lawson (“Me Douzima”), and the defence for Mr Jean-Pierre Bemba Gombo (“defence”). The parties and Me Douzima duly complied with the Second Order and transmitted their proposals for redactions to the Chamber on a rolling basis.

3. On 7 April 2014, the Chamber issued its “Decision on closure of evidence and

¹ Order on the reclassification of transcripts, 5 March 2012, ICC-01/05-01/08-2153.

² ICC-01/05-01/08-2153, paragraph 6.

³ Second Order on the reclassification of transcripts, 4 June 2012, ICC-01/05-01/08-2223.

other procedural matters”,⁴ in which it, *inter alia*, (i) declared the submission of evidence closed; and (ii) ordered the prosecution and Me Douzima to submit their final closing briefs by 2 June 2014, in line with the schedule established in the “Decision on the timeline for the completion of the defence’s presentation of evidence and issues related to the closing of the case” (“Decision 2731”).⁵

4. In view of the principle of publicity of the proceedings, the Chamber considers that public redacted versions of transcripts, or, in cases where a first public redacted version is already available, a second – lesser - redacted version of the relevant transcripts should be released as soon as possible. In particular, in view of the schedule established in Decision 2731, the Chamber finds that it would be beneficial for these documents to be available for the presentation of the final oral submissions which are expected to take place in October 2014, at the latest.
5. With respect to the transcripts relating to prosecution witnesses, the Chamber continues its review of these transcripts and will continue to convey its directions to the prosecution on a rolling basis. Concerning the proposals for redactions to the transcripts of the two witnesses called by Me Douzima, the Chamber, after having completed its review, conveyed its directions by email on 31 March 2014.
6. In order to expedite the release to the public of redacted or second – lesser – redacted transcripts of witnesses called by the defence,⁶ the Chamber considers it necessary to amend the procedure set out in the Second Order with regard to the transcripts relating to witnesses called by the defence.

⁴ Decision on closure of evidence and other procedural matters, 7 April 2014, ICC-01/05-01/08-3035.

⁵ Decision on the timeline for the completion of the defence’s presentation of evidence and issues related to the closing of the case, 16 July 2013, ICC-01/05-01/08-2731.

⁶The Chamber notes that with respect to some transcripts relating to witnesses called by the defence, both confidential and public redacted versions are already available, while with respect to others only confidential versions are available.

7. In this regard, the Chamber directs the prosecution to review the defence's proposals for redacted versions of transcripts relating to witnesses called by the defence⁷ and to inform the defence whether it has any objections to the proposals. This information shall be transmitted via email from the prosecution to the defence and on a rolling basis by 8 July 2014.
8. Where the prosecution has no objections to the defence's proposals or where, following *inter partes* consultations, the parties reach an agreement on the redactions to be applied, the defence shall immediately transmit English and French versions of the transcripts indicating the agreed redactions to the Registry. The Registry will then implement the redactions in the English and French versions of the transcripts and register the documents in the record of the case.
9. In the event that the prosecution raises objections and the parties, after conclusion of their *inter partes* consultations, fail to reach an agreement on the redactions to be applied, the defence shall refer the dispute to the Victims and Witnesses Unit ("VWU"), together with the relevant transcripts. Any such disputes shall be referred to the VWU on a rolling basis by 1 August 2014.
10. The VWU shall then determine, as soon as practicable, whether the disputed redactions are necessary for the protection of witnesses, victims or other individuals at risk as a result of the activities of the Court. Subsequently, the VWU shall provide the Chamber with a report on the VWU's recommendations on the disputed redactions. These reports shall be submitted by email on a rolling basis for the Chamber's final decision. Once informed of the Chamber's final decision on the disputed redactions, the Registry shall immediately implement the redactions in the English and French versions of the transcripts and register the relevant documents in the

⁷ See emails sent by the defence to the Chamber, copying the prosecution and the legal representatives of victims, between 7 June 2013 and 17 January 2014.

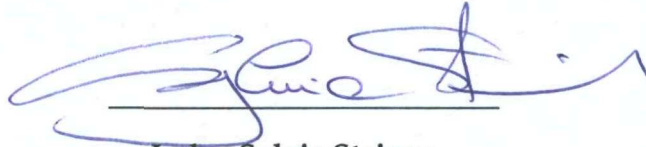
record of the case.

11. When registering the documents in the record of the case, and in circumstances where a first redacted version of a transcript is already available to the public, the Registry shall ensure that only the second – lesser - redacted version of the transcript is available in the TRIM system and on the website of the Court.

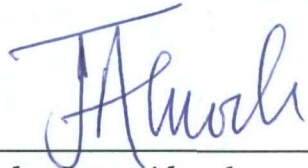
12. In view of the above, the Chamber hereby

ORDERS the parties and the VWU to comply with the amended procedure for the review of transcripts of witnesses called by the defence set out in paragraphs 7 to 11 of the present Order.

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 10 April 2014

At The Hague, the Netherlands