



Original: **English**

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

Date: **18 June 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
with confidential Annexes A, B, C, D and E**

**Decision on the classification of items admitted into evidence pursuant to
Decision ICC-01/05-01/08-3019-Conf**

Decision 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 Edith 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

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

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 Decision on the classification of items admitted into evidence pursuant to Decision ICC-01/05-01/08-3019-Conf (“Decision”).

1. On 17 March 2014, the Chamber issued its “Decision on the admission into evidence of items deferred in the Chamber’s previous decisions, items related to the testimony of Witness CHM-01 and written statements of witnesses who provided testimony before the Chamber”,¹ in which it admitted into evidence 27 items submitted by the parties and participants.² In addition, the Chamber ordered the parties and participants to review the level of confidentiality of the items admitted in that decision and:³

- (a) provide to the Registry, within 10 days of notification of the present Decision with the correct metadata as to the level of confidentiality of all items in relation to which the information is either not clear or has not been previously provided; and

- (b) request to the Chamber, within 10 days of notification of the present Decision, the reclassification as Public, with or without redactions, of items in relation to which the reasons to maintain their confidentiality do not longer exist and/or to inform the Chamber of the reasons for maintaining the confidentiality of all items for which no reclassification as public is requested.

2. On 27 March 2014, the Office of the Prosecutor (“prosecution”) submitted its “Prosecution’s Submission pursuant to the Order to review the confidentiality level of items admitted in Decision ICC-01/05-01/08-3019-Conf”.⁴ The prosecution provides the correct metadata for four items,⁵ and submits that five

¹ Decision on the admission into evidence of items deferred in the Chamber’s previous decisions, items related to the testimony of Witness CHM-01 and written statements of witnesses who provided testimony before the Chamber, 17 March 2014, ICC-01/05-01/08-3019-Conf.

² ICC-01/05-01/08-3019-Conf, paragraphs 89(a) and (b).

³ ICC-01/05-01/08-3019-Conf, paragraph 90(e).

⁴ Prosecution’s Submission pursuant to the Order to review the confidentiality level of items admitted in Decision ICC-01/05-01/08-3019-Conf, 27 March 2014, ICC-01/05-01/08-3025, with confidential Annex A, ICC-01/05-01/08-3025-Conf-AnxA.

⁵ These are items CAR-OTP-0013-0052, CAR-OTP-0013-0090, CAR-OTP-0013-0113, and CAR-OTP-0013-0115, all to be classified as public.

other items currently classified as confidential⁶ can be reclassified as public with redactions to be proposed in a separate filing.⁷

3. On 4 April 2014, the prosecution filed its “Prosecution’s Request for Application of Redactions to five admitted Documents”,⁸ in which it proposes redactions to five documents currently classified as confidential in order to enable their reclassification as public.⁹ The proposals for redactions are included in Annexes 1 to 5.¹⁰

4. On 31 March 2014, the defence for Mr Jean-Pierre Bemba Gombo (“defence”) filed its “Defence Submission pursuant to Trial Chamber’s order to reclassify Defence filings and review the level of confidentiality of documents admitted into evidence” (“Defence Submission”).¹¹ The defence submits that 15 documents are currently classified as public and should stay at this level of confidentiality.¹² In addition, the defence submits that one document currently classified as confidential can be reclassified as public, with the redactions it suggests in Annex B.

5. In accordance with Article 21(1) of the Rome Statute (“Statute”), the Chamber has considered Articles 64(2), 64(6)(c), 64(7), 64(10), 67(1), 68, and 69(5) of the Statute, Rules 87 and 137(2) of the Rules of Procedure and Evidence,

⁶ These are CAR-ICC-0001-0102, CAR-ICC-0001-0103, CAR-OTP-0069-0010, CAR-OTP-0069-0043 and CAR-OTP-0069-0045.

⁷ ICC-01/05-01/08-3025, paragraph 5.

⁸ Prosecution’s Request for Application of Redactions to five admitted Documents, 4 April 2014, ICC-01/05-01/08-3032, with Annex A and Annexes 1 to 5.

⁹ ICC-01/05-01/08-3032, paragraph 4.

¹⁰ ICC-01/05-01/08-3032-Conf-Anx1 (for item CAR-ICC-0001-0102), ICC-01/05-01/08-3032-Conf-Anx2 (for item CAR-ICC-0001-0103), ICC-01/05-01/08-3032-Conf-Anx3 (for item CAR-OTP-0069-0010), ICC-01/05-01/08-3032-Conf-Anx4 (for item CAR-OTP-0069-0043), and ICC-01/05-01/08-3032-Conf-Anx5 (for item CAR-OTP-0069-0045).

¹¹ Defence Submission pursuant to Trial Chamber’s order to reclassify Defence filings and review the level of confidentiality of documents admitted into evidence, 31 March 2014, ICC-01/05-01/08-3026, with Annexes A and B. A corrigendum to Annex B was filed on 1 April 2014: ICC-01/05-01/08-3026-Conf-AnxB-Corr.

¹² ICC-01-05-01/08-3026, paragraph 7. These are documents CAR-D04-0003-0128, CAR-D04-0003-0135, CAR-D04-0003-0129, CAR-D04-0003-0130, CAR-D04-0003-0131, CAR-D04-0003-0132, CAR-D04-0003-0133, CAR-D04-0003-0134, CAR-D04-0003-0136, CAR-D04-0003-0137, CAR-D04-0003-0138, CAR-D04-0003-0139, CAR-D04-0003-0140, CAR-D04-0003-0141, and CAR-D04-0003-0342.

Regulations 20(3), 21(7), 23*bis*(3), and 26 of the Regulations of the Court, and Regulations 10, 14, and 18 of the Regulations of the Registry.

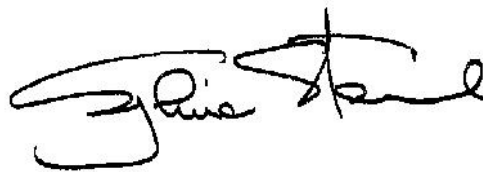
6. The prosecution requests the reclassification as public of the following items and proposes limited redactions to them: (i) CAR-ICC-0001-0102 (EVD-T-OTP-00850), an annotated map of the Central African Republic (“CAR”); (ii) CAR-ICC-0001-0103 (EVD-T-OTP-00851), an annotated map of Bangui; (iii) CAR-OTP-0069-0010 (EVD-T-OTP-00858), a written statement of Witness CHM-01; (iv) CAR-OTP-0069-0043 (EVD-T-OTP-00856), a CAR Presidential Decree; and (v) CAR-OTP-0069-0045 (EVD-T-OTP-00857), a CAR Presidential Decree. Having reviewed the proposals for redactions submitted by the prosecution, the Chamber is of the view that they are insufficient to protect witnesses, victims or any third persons at risk on account of the Court’s activities. The Chamber has therefore applied further redactions, which are detailed in Annexes A, B, C, D and E to the present Decision. Consequently, the abovementioned documents can be reclassified as public, as requested by the prosecution, once the redactions set out in Annexes A to E are applied.

7. The defence requests the reclassification as public of item CAR-D04-0003-0398 (EVD-T-D04-00071), the expert report of Witness D04-59, and proposes limited redactions to it. Having reviewed the proposals for redactions submitted by the defence, the Chamber is satisfied that the redactions are limited and sufficient to protect witnesses, victims or any third persons at risk on account of the Court’s activities. As such, the Chamber is satisfied that the abovementioned document can be reclassified as public, once the redactions proposed in Annex B-Corr to the Defence Submission are applied.

8. In view of the above, the Chamber hereby:
 - a) ORDERS the Registry to implement the redactions instructed in Annexes A, B, C, D, and E to the present Decision;

- b) GRANTS the prosecution's request to reclassify as public, with the redactions ordered by the Chamber in sub-paragraph a) above, items CAR-ICC-0001-0102, CAR-ICC-0001-0103, CAR-OTP-0069-0010, CAR-OTP-0069-0043 and CAR-OTP-0069-0045;
- c) GRANTS the defence's request to reclassify as public, with the redactions proposed in Annex B-Corr of the Defence Submission, item CAR-D04-0003-0398; and
- d) ORDERS the Registry to implement the redactions authorised in sub-paragraph c) above.

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 18 June 2014

At The Hague, the Netherlands