

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 11 December 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

**Public redacted version of "Decision on the reclassification of documents
related to Witnesses 178 and 169"**

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 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

Defence Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

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*, issues the following Order on the reclassification of documents.

1. On 19 January 2012, the Chamber issued its “Order on the reclassification of documents”.¹ In the order the Chamber indicated that, for the rights afforded to the accused pursuant to Article 67(1)(b) and (2) of the Rome Statute (“Statute”) and Rule 77 of the Rules of Procedure and Evidence (“Rules”) to be meaningful, the Defence of Mr Jean-Pierre Bemba (“defence”) was entitled to be made aware in a timely fashion of apparent inconsistencies between alleged incidents of [REDACTED] reported by Witnesses 169 and 178 and [REDACTED] by the Victims and Witnesses Unit (“VWU”).² Accordingly, and pursuant to Articles 64(2), 64(6)(f), 67 and 68(1) of the Statute as well as Rules 81(2) and (4) of the Rules,³ the Chamber ordered the Office of the Prosecutor (“prosecution”) and the VWU to propose redactions to: (i) the “Prosecution’s Report to the Trial Chamber III on the current [REDACTED] of Witnesses 169 and 178” (“prosecution’s Report”);⁴ (ii) the transcripts of two *ex parte* prosecution and VWU only hearings held on 26 August 2011 and 7 September 2011;⁵ and (iii) the “Victim’s and Witnesses Unit’s report on the [REDACTED] of CAR-OTP-PPPP-0169, CAR-OTP-PPPP-0178, and CAR-OTP-PPPP-0178’s [REDACTED]” (“VWU’s Report”) and its four annexes.⁶

¹ Order on the reclassification of documents, 19 January 2012, ICC-01/05-01/08-2049-Conf-Exp.

² ICC-01/05-01/08-2049-Conf-Exp, paragraph 5.

³ ICC-01/05-01/08-2049-Conf-Exp, paragraph 7.

⁴ Prosecution’s Report to the Trial Chamber III on the current [REDACTED] of Witnesses 169 and 178, 15 July 2011, ICC-01/05-01/08-1623-Conf-Exp.

⁵ Transcript of *ex parte* hearings held on 26 August 2011, ICC-01/05-01/08-T-148-Conf-Exp-ENG ET; Transcript of *ex parte* hearings held on 7 September 2011, ICC-01/05-01/08-T-155-Conf-Exp-ENG ET.

⁶ Victims and Witnesses Unit’s report on the analysis of the [REDACTED] CAR-OTP-PPPP-0169, CAR-OTP-PPPP-0178 and CAR-OTP-PPPP-0178’s [REDACTED], 4 October 2011, ICC-01/05-01/08-1816-Conf-Exp and four confidential, *ex parte* annexes. A corrigendum to annex 2 was filed on 11 October 2011: Corrigendum to Annex 2: Victims and Witnesses Unit’s report on the analysis of the [REDACTED] CAR-OTP-PPPP-0169, CAR-OTP-PPPP-0178 and CAR-OTP-PPPP-0178’s wife, 11 October 2011, ICC-01/05-01/08-1816-Conf-Exp-Anx2-Corr.

2. On 14 February 2012, given the disparity of the redactions proposed by the prosecution and the VWU,⁷ the Chamber issued its “Order for joint submission by the prosecution and Victims and Witnesses Unit pursuant to the ‘Order on the reclassification of documents’ of 19 January 2012”,⁸ wherein the prosecution and VWU were ordered to constructively engage with each other and submit proposed redactions by Tuesday 21 February 2012 at 16.00.⁹

3. On 21 February 2012, the prosecution and the VWU respectively¹⁰ submitted the “Prosecution’s Second submission of Proposed redacted Versions of ICC-01/05-01/08-1623-Conf-Exp, ICC-01/05-01/08-T-148-CONF-EXP and 01/05-01/08-T-155-CONF-EXP”¹¹ and the “Victims and Witnesses Unit’s new proposal for redacted versions of annexes to document ICC-01/05-01/08-1816-Conf-Exp pursuant to Order ICC-01/05-01/08-2128-Conf-Exp”,¹² wherein redactions were proposed in accordance with Rule 81(2) and (4) of the Rules.

4. After analysing the redactions proposed by the prosecution and the VWU after consultations with each other, the Chamber is satisfied that they are appropriate in order not to jeopardise further or ongoing investigations and to ensure the confidentiality of information to protect the safety, dignity and privacy of witnesses and victims and members of their families pursuant to Article 68(1) of the Statute and Rule 81(2) of the Rules. The Chamber is further

⁷ Victims and Witnesses Unit’s proposal for redacted version of annexes to document ICC-01/05-01/08-1816-Conf-Exp pursuant to Trial Chamber III’s “Order on the reclassification of documents” dated 19 January 2012, 26 January 2012, ICC-01/05-01/08-2067-Conf-Exp and five confidential *ex parte* annexes; Prosecution’s Submission of Proposed Redacted Versions of ICC-01/05-01/08-1623-Conf-Exp, ICC-01/05-01/08-T-148-CONF-EXP and 01/05-01/08-T-155-CONF-EXP, 27 January 2012, ICC-01/05-01/08-2079-Conf-Exp and nine confidential *ex parte* annexes.

⁸ Order for joint submission by the prosecution and Victims and Witnesses Unit pursuant to the “Order for the reclassification of documents” of 19 January 2012, 14 February 2012, ICC-01/05-01/08-2128-Conf-Exp

⁹ ICC-01/05-01/08-2128-Conf-Exp, paragraph 11.

¹⁰ For practical reasons, the separate filing of proposed redactions by the prosecution and the VWU was authorised by the Chamber via email sent on 20 February 2012 at 14:47 hours.

¹¹ Prosecution’s Second Submission of Proposed Redacted Versions of ICC-01/05-01/08-1623-Conf-Exp, ICC-01/05-01/08-T-148-CONF-EXP and 01/05-01/08-T-155-CONF-EXP, 21 February 2012, ICC-01/05-01/08-2134-Conf-Exp and nine confidential *ex parte* annexes.

¹² Victims and Witnesses Unit’s new proposal for redacted versions of annexes to document ICC-01/05-01/08-1816-Conf-Exp pursuant to Order n°ICC-01/05-01/08-2128-Conf-Exp, 21 February 2012, ICC-01/05-01/08-2136-Conf-Exp and five confidential *ex parte* annexes.

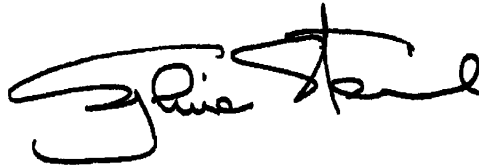
satisfied that these proposed redactions are not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

5. For the reasons set out above, the Chamber hereby:

- (i) APPROVES the redactions proposed by the prosecution and the VWU after consultations with each other, as submitted in documents ICC-01/05-01/08-2134-Conf-Exp-B-1, ICC-01/05-01/08-2134-Conf-Exp-C-1, ICC-01/05-01/08-2134-Conf-Exp-C-2, ICC-01/05-01/08-2134-Conf-Exp-D-1, ICC-01/05-01/08-2134-Conf-Exp-D-2 and ICC-01/05-01/08-2136-Conf-Anx 1 to 4;
- (ii) INSTRUCTS the prosecution to implement the redactions proposed to the “Prosecution’s Report to the Trial Chamber III on the current [REDACTED] of Witnesses 169 and 178” (ICC-01/05-01/08-1623-CONF-EXP) and to re-file it as a confidential redacted document;
- (iii) INSTRUCTS the VWU to implement the redactions proposed to the “Victim’s and Witnesses Unit’s report on the [REDACTED] of CAR-OTP-PPPP-0169, CAR-OTP-PPPP-0178, and CAR-OTP-PPPP-0178’s [REDACTED]” (ICC-01/05-01/08-1816-CONF-EXP), and its four annexes, and to re-file them as confidential redacted documents;
- (iv) INSTRUCTS the Registry to implement the redactions proposed to the English and French versions of the transcripts of the two *ex parte* prosecution and VWU only hearings held on 26 August 2011 (ICC-01/05-01/08-T-148-CONF-EXP) and 7 September 2011 (ICC-01/05-01/08-155-CONF-EXP) and to reclassify them as confidential redacted documents;
- (v) REMINDS the parties and participants to be alert to the possible dangers that its investigation may have for third persons and

ORDERS them to actively exercise all care to ensure the protection of victims, witnesses or any other person at risk.

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 11 December 2014

At The Hague, The Netherlands