

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Original: French

Date: 22 September 2008

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra, Single Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF**

THE PROSECUTOR v. Jean-Pierre BEMBA GOMBO

Under Seal

Ex parte only available to the Prosecutor

Order on Witness Protection and Risk Assessment Report

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

The Office of the Prosecutor

Fatou Bensouda, Deputy Prosecutor
Petra Kneuer, Trial Lawyer

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Simo Vaatainen

Detention Section

**Victims Participation and Reparations
Section**

Other

1. **Judge Fatoumata Dembele Diarra**, judge at the International Criminal Court (“the Court”), acting as Single Judge¹ on behalf of Pre-Trial Chamber III (“the Chamber”), recalls that on 1 August 2008, Judge Hans-Peter Kaul,² the then Single Judge from 1 to 31 August 2008, received a request from the Prosecutor seeking authorisation for redactions proposed by the Prosecutor (“the Prosecutor’s Request for Redactions”).³ These proposals for redactions pertain both to the “Prosecutor’s Application for Warrant of Arrest under Article 58”⁴ and the “Prosecutor’s Submission on Further Information and Materials”⁵ and to the annexes thereto.

2. The Single Judge further recalls that Judge Hans-Peter Kaul held a status conference on 28 August 2008⁶ in order to, *inter alia*, obtain specific information from the Prosecutor about the safety of witnesses on whose statements he intends to rely at the conformation hearing. Following the status conference, the Prosecutor stated in a document filed on 4 September 2008 that he had completed his report on the assessment of potential risks to the fourteen witnesses he had identified.⁷

3. The Single Judge further recalls that in the same document, the Prosecutor stated that he had transmitted a summary of the said report to the Victim and Witnesses Unit (“the VWU”) on 3 September 2008 and that the final version would be completed by 4 September 2008 and immediately transmitted to the VWU.⁸

4. The Single Judge notes articles 57(3)(c) and 68 of the Statute, rules 81, 87 and 88 of the *Rules of Procedure and Evidence* (“the Rules”).

5. The Single Judge recalls that under articles 57(3)(c) and 68(1) of the Statute, she must ensure the protection and respect for the privacy of victims and witnesses

¹ ICC-01/05-01/08-86.

² ICC-01/05-01/08-53.

³ ICC-01/05-01/08-58-US-Exp.

⁴ ICC-01/05-01/08-26-US-Exp.

⁵ ICC-01/05-01/08-29-US-Exp.

⁶ ICC-01/05-01/08-T-4-CONF-EXP-ENG ET WT.

⁷ ICC-01/05-01/08-91-US-Exp, para. 11.

⁸ ICC-01/05-01/08-91-US-Exp, para. 11. “Individual risk assessments for the fourteen witnesses will be finalized today [4 September 2008] and immediately transmitted to VWU”.

and take appropriate measures to protect their safety, their physical and psychological well-being and their dignity.

6. The Single Judge observes that in order to rule on the Prosecutor's Request for Redactions, the Chamber is required to ensure that every request for redaction is justified and to apply the criteria laid down by the Appeals Chamber, namely, *inter alia*, to assess the existence of an objectively verifiable danger to a witness's safety from which it can be concluded that identifying information should not be disclosed to the Defence.

7. The Single Judge considers that an examination of any report on the safety of the fourteen prosecution witnesses is necessary to enable her to properly assess the risk to each witness in the event that their names and certain other identifying information were to be disclosed to the Defence.

FOR THESE REASONS, THE SINGLE JUDGE

orders the Prosecutor to submit to the Chamber no later than 23 September 2008 any assessment report on the risks to the fourteen witnesses on whose statements he intends to rely at the confirmation hearing.

[signed]

**Judge Fatoumata Dembele Diarra,
Single Judge**

Dated this 22 September 2008

At The Hague, The Netherlands