

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **4 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 Redacted document
With
Confidential, *EX PARTE*, only available to Prosecution and Victims and Witnesses
Unit , Annexes A and B**

**Public Redacted version of: "Information on [REDACTED]", ICC-01/05-01/08-
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Document to be notified in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Jean-Jacques Badibanga

Counsel for the Defence of Jean-Pierre Bemba Gombo

Peter Haynes

Kate Gibson

Legal Representatives of Victims

Marie-Edith Douzima Lawson

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

Paolina Massidda

The Office of Public Counsel for the Defence

Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Natacha Schauder

Detention Section

Victims Participation and Reparations Other Section

I. Introduction

1. The Office of the Prosecutor ("Prosecution") informs the Trial Chamber III ("Chamber") that CAR-OTP-PPPP-0169 ("Witness 169") and CAR-OTP-PPPP-0178 ("Witness 178") [REDACTED].

2. The Prosecution considers that the disclosure of a [REDACTED].

3. The Prosecution considers that the information received and available with regard to the activities of Witness 169 and Witness 178, does not form the basis of a disclosure requirement as per Article 67(2) of the Rome Statute ("Statute").

4. The Prosecution will continue to liaise with the Victims and Witnesses Unit ("VWU") on the matter and will continue to monitor the situation.

II. Request for Confidentiality

5. Prosecution requests that this filing and its annexes be received by the Chamber as Confidential, *Ex parte*, Prosecution and VWU only as it relates to information that if classified otherwise may result [REDACTED].

III. Background

6. Witness 169 testified in Court from 01 until 11 July 2011. Witness 178 also testified in Court from 30 August 2011 until 8 September 2011. They both filed loss of income claims with VWU in relation to their time in the Hague to testify in Court. [REDACTED] complaints addressed by them to several International Criminal Court ("ICC") authorities, including the Prosecutor, as well as several other external actors as listed in paragraph 8.

7. On 7 June 2013, a letter dated 7 June 2013 and signed by Witness 169 was sent to the Prosecutor via e-mail with [REDACTED].¹ On 10 June 2013, Witness 169 resent the same letter to the Prosecutor, via an e-mail, together with another letter, dated 8 June 2013, which was addressed by him to the VWU.²

8. The recipients of the annexed communication are [REDACTED].³ [REDACTED] ⁴ [REDACTED].

9. The letter dated 7 June 2013 and addressed to the Prosecutor contains, *inter alia*, a list of Witness 169's alleged outstanding claims, including loss of income and "money promised by the Prosecutor for witnesses", a request to further discuss his loss of income claim in the presence of two specific VWU staff members, otherwise "there is a risk that this situation will turn sour or lead to my arrest (along) with the other witnesses", the allegation that [REDACTED], they decided to come forward with all the evidence of mistreatment they experienced, with Witness 169 further threatening that, if his claims are not met, he will denounce that publicly in international media and others channels [...]."

10. The list of Witness 169 contains details [REDACTED].

IV. Measures taken by the Prosecution

11. On 11 June 2013, the Prosecution, at an OTP-VWU meeting raised the issue and was informed by the VWU that they were already aware. On 17 June 2013, the Prosecution proceeded with a formal notification of the VWU on the same.

¹ Annex A.

² Annex B.

³ [REDACTED].

⁴ [REDACTED].

12. On 18 June 2013, the Prosecution contacted several [REDACTED]⁵ [REDACTED].

13. Three witnesses, [REDACTED], provided the following information:

- CAR-OTP-PPPP-0119 ("Witness 119"): [REDACTED].
- CAR-OTP-PPPP-0042 ("Witness 42"): [REDACTED],⁶ [REDACTED].
- CAR-OTP-PPPP-0038 ("Witness 38"): [REDACTED].⁷ [REDACTED].

14. Prior to the 10th of June 2013 communication, the following information was also received by the OTP and shared with the VWU: in March 2013, CAR-OTP-PPPP-0068 ("Witness 68") [REDACTED].

15. On 25 June 2013, the Prosecution placed separate telephone calls to Witness 169 and Witness 178 to [REDACTED]:

- Witness 169 stated that (i) Witness 178 [REDACTED].
- Witness 169 explained that the issue of writing letters is not new since he is used to that when he is unhappy with the ICC. He has the impression that this is the only way to provoke a reaction from the ICC which cares so much about its reputation. Witness 169 explained that the processing of their claims lasted for too long. Together with Witness 178 they are convinced that in order to avoid bad publicity and protect their reputation the ICC will grant their requests.

⁵ [REDACTED].

⁶ On 12 February 2013 Witness 169 signed an acknowledgement of receipt form for the amount of [REDACTED], representing all outstanding payments due from VWU.

⁷ [REDACTED].

Witness 169 was briefed about security implications of his behaviour, the potential impact on the security of other witnesses, offences under Article 70 of the Statute and the consequences therein. He was asked to refrain from [REDACTED].

- Witness 178 confirmed his role in [REDACTED]. He further stated that he would 'continue' to act in this way until he receives his loss of income.
- Witness 178 complained about the fact that he tried several time to reach the OTP unsuccessfully and it's only by writing this type of letter that consideration is given to his situation.

Witness 178 was also briefed about security implications of his behaviour, the potential impact on the security of other witnesses, offences under Article 70 and the consequences therein. He was asked to refrain from [REDACTED].

V. Prosecution's assessment

16. Based on the information provided above, the Prosecution considers that [REDACTED].

17. Given that Witness 169 and Witness 178 have demonstrated persistence in [REDACTED], and that Witness 178 has stated that he will not desist, the Prosecution considers that [REDACTED].

18. Nevertheless, the Prosecution considers that, to date, there have been no indications of intent to harm or intimidate any of the witnesses by Witness 169 and/or Witness 178. Furthermore, there are no allegations or suggestions, to date, that the perceived entitlements and/or 'promises', referenced by the two witnesses

above, could have compromised witness testimonies, given the current phase of the case and the post-testimonies' timing of their communication of the [REDACTED].

VI. Relief sought

19. The Prosecution files the information on the above listed activities and measures taken in order to inform the Chamber.

20. The Prosecution considers that the information contained herein as well as in the attached Annex A, does not form the basis of a disclosure requirement as per Article 67(2) of the Statue. However, if the Chamber considers that this is the case, the Prosecution kindly requests that the Chamber sets out the scope of the disclosure of the above referred information in line with the necessity to ensure the safety and wellbeing of all concerned witnesses.

21. The Prosecution will continue to liaise with the VWU to determine whether VWU have been informed of any other activities or attempts to [REDACTED].

22. The Prosecution will continue to monitor the situation.



Fatou Bensouda, Prosecutor

Dated this 4th Day of June 2014

At The Hague, The Netherlands