

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08
Date: 29 February 2016

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

**Order on issues related to "Corrigendum to Decision on requests for
transmission of documents" (ICC-01/05-01/08-3331-Corr)**

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 Defence

Mr Peter Haynes
Ms Kate Gibson

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

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other
Trial Chamber VII

Trial Chamber III (“Chamber”) of the International Criminal Court, in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (“Bemba case”), issues the following Order on issues related to “Corrigendum to the Decision on requests for transmission of documents” (ICC-01/05-01/08-3331-Corr) (“Order”).

1. On 5 February 2016, the Chamber issued its “Corrigendum to Decision on requests for transmission of documents” (“Decision 3331”),¹ in which it, *inter alia*, (i) rejected the request of the Defence for Mr Bemba in the case of the *Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu, and Narcisse Arido* (respectively “Mr Bemba’s case ICC-01/05-01/13 Defence” and “case ICC-01/05-01/13”) for the transmission to the parties in case ICC-01/05-01/13 of the document listed as Item 36 in its “Urgent Defence Request for Reclassification” (respectively “Item 36” and “Initial Request”)² for “failure to specifically identify the requested document”;³ and (ii) ordered the Victims and Witnesses Unit (“VWU”) to review ten documents and advise the Chamber on any necessary redactions, before transmitting those documents to the parties in case ICC-01/05-01/13.⁴
2. On 10 February 2016, the VWU filed its “Victim and Witnesses Unit’s observations pursuant to the ‘Decision on requests for transmission of

¹ Corrigendum to Decision on requests for transmission of documents, 5 February 2016, ICC-01/05-01/08-3331-Corr.

² Urgent Defence Request for Reclassification, 19 January 2016, ICC-01/05-01/08-33317-Anx1, confidential *ex-parte* and confidential redacted annexes, ICC-01/05-01/08-33317-Conf-Exp-AnxA and ICC-01/05-01/08-33317-Conf-AnxA-Red, respectively.

³ ICC-01/05-01/08-3331-Corr, paras 23 and 44(ix).

⁴ ICC-01/05-01/08-3331-Corr, paras 30, 31 and 44(viii).

documents' (ICC-01/05-01/08-3331-Corr)".⁵ The VWU advised that Documents ICC-01/05-01/08-2436-Conf and ICC-01/05-01/08-2479-Conf could be transmitted to Mr Bemba's case ICC-01/05-01/13 Defence without redactions.⁶ Additionally, the VWU recommended redactions be applied to Documents ICC-01/05-01/08-2466-Conf-Exp,⁷ ICC-01/05-01/08-2485-Conf-Exp-Anx3,⁸ ICC-01/05-01/08-2663-Conf, ICC-01/05-01/08-2694-Conf, ICC-01/05-01/08-2701-Conf,⁹ ICC-01/05-01/08-2746-Conf, and ICC-01/05-01/08-2873-Conf.¹⁰ Further, in an email to the Chamber, the VWU recommended redactions be applied to Document ICC-01/05-01/08-2852-Conf.¹¹

3. On 11 February 2016, the Registry transmitted¹² a request from Mr Bemba's case ICC-01/05-01/13 Defence entitled "Supplementary Request for Access to confidential documents" ("Supplementary Request").¹³ In the Supplementary Request, Mr Bemba's case ICC-01/05-01/13 Defence clarifies, in relation to Item 36, that due to a "typing error", it had merged the references for two documents into one requested document,¹⁴ and that it requests that the Chamber allow a number of identified paragraphs in Documents ICC-01/05-01/08-

⁵ Victim and Witnesses Unit's observations pursuant to the "Decision on requests for transmission of documents" (ICC-01/05-01/08-3331-Corr), 10 February 2016, ICC-01/05-01/08-3332.

⁶ ICC-01/05-01/08-3332, para. 3.

⁷ ICC-01/05-01/08-3332, para. 4.

⁸ ICC-01/05-01/08-3332, para. 5.

⁹ ICC-01/05-01/08-3332, para. 6.

¹⁰ ICC-01/05-01/08-3332, para. 7.

¹¹ Email from VWU to the Chamber on 11 February 2016.

¹² Registry transmission of a "Supplementary Request for Access to confidential documents", 10 February 2016, ICC-01/05-01/08-3333-Conf, with confidential annex, ICC-01/05-01/08-3333-Conf-Anx. The Chamber notes that while the Supplementary Request is classified as confidential, the present Decision is classified as public. To the extent that it makes reference to documents that are classified as confidential, the Chamber considers that the information concerned does not warrant confidential treatment at this time.

¹³ Supplementary Request for Access to confidential documents, 8 February 2016, ICC-01/05-01/08-3333-Conf-Anx.

¹⁴ ICC-01/05-01/08-3333-Conf-Anx, para. 3.

3079-Conf-Corr and ICC-01/05-01/08-3141-Conf to be relied upon in case ICC-01/05-01/13.¹⁵

4. Noting Articles 21(1), 64(2), (6)(c), and (e), 67(1), and 68(1) of the Rome Statute, Rule 15(1) of the Rules of Procedure and Evidence, and Regulations 23*bis* and 42 of the Regulations of the Court, the Chamber recalls its approach to the transmission of documents from the *Bemba* case to the parties in case ICC-01/05-01/13.¹⁶
5. With regard to the Supplementary Request, the Chamber is satisfied that it specifically identifies the requested documents. The Chamber further finds that Mr Bemba's case ICC-01/05-01/13 Defence provided a substantiated justification for the transmission of these documents, by explaining that the documents are relevant to specific allegations in case ICC-01/05-01/13.¹⁷ Finally, the Chamber notes that the requested portions do not contain any confidential or identifying information about witnesses or victims, and may therefore be transmitted without redactions. Accordingly, the Chamber grants Mr Bemba's case ICC-01/05-01/13 Defence's request to rely upon the relevant portions of Documents ICC-01/05-01/08-3079-Conf-Corr and ICC-01/05-01/08-3141-Conf in case ICC-01/05-01/13, and orders the Registry to transmit the relevant paragraphs to the parties in case ICC-01/05-01/13.
6. Regarding the documents listed in paragraph 44(viii) of Decision 3331, and in relation to the VWU's recommendation to redact any identifying characteristics of witnesses in Documents ICC-01/05-01/08-2663-Conf, ICC-01/05-01/08-2694-Conf, ICC-01/05-01/08-2701-Conf,

¹⁵ ICC-01/05-01/08-3333-Conf-Anx, para. 5.

¹⁶ ICC-01/05-01/08-3331-Corr, para. 5.

¹⁷ ICC-01/05-01/08-3333-Conf-Anx, paras 7 to 8

ICC-01/05-01/08-2746-Conf, ICC-01/05-01/08-2873-Conf,¹⁸ and ICC-01/05-01/08-2852-Conf,¹⁹ the Chamber notes that confidential versions of the transcripts of testimony in relation to the relevant witnesses were already transmitted to the parties in case ICC-01/05-01/13.²⁰ As the confidential transcripts contain information on the identities of the relevant witnesses, the Chamber finds that redacting identifying information is not required.

7. In view of the above, the Chamber hereby:

- (i) **ORDERS** the Registry to grant the parties in case ICC-01/05-01/13 access to paragraphs 3, 10 to 11, 17 to 18, 127, 130, and 151 of Document ICC-01/05-01/08-3079-Conf-Corr and paragraphs 96 to 100, and 109 of Document ICC-01/05-01/08-3141-Conf;
- (ii) **ORDERS** the Registry to grant the parties in case ICC-01/05-01/13 access to Documents ICC-01/05-01/08-2436-Conf and ICC-01/05-01/08-2479-Conf;
- (iii) **ORDERS** the Registry to prepare a redacted version of Document ICC-01/05-01/08-2485-Conf-Exp-Anx3, and grant the parties in case ICC-01/05-01/13 access thereto by 24 February 2016;
- (iv) **ORDERS** the Registry to grant the parties in case ICC-01/05-01/13 access to the confidential redacted versions of Documents

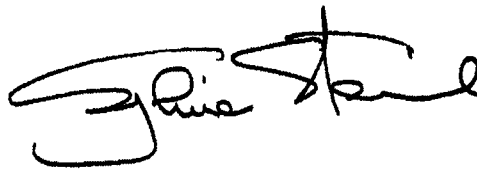
¹⁸ ICC-01/05-01/08-3332, paras 6 to 7.

¹⁹ Email from VWU to the Chamber on 11 February 2016.

²⁰ See Decision on "Prosecution's Urgent Further Request for Disclosure of Evidence in a Related Article 70 Proceeding", 27 May 2014, ICC-01/05-01/08-3074, and Redacted Version of "Decision on 'Prosecution's Second Further Request for Disclosure of Evidence in a Related Article 70 Proceeding'", 26 June 2014, ICC-01/05-01/08-3098-Red.

ICC-01/05-01/08-2466-Conf-Exp, ICC-01/05-01/08-2663-Conf,
ICC-01/05-01/08-2694-Conf, ICC-01/05-01/08-2701-Conf, ICC-
01/05-01/08-2746-Conf, ICC-01/05-01/08-2873-Conf, and ICC-
01/05-01/08-2852-Conf.

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



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 29 February 2016

At The Hague, the Netherlands