Pursuant to Order ICC-01/05-01/08-701 OA2, dated 24 February 2010, this document is reclassified as Public

Cour Pénale Internationale



International Criminal Court

Original English

No.: ICC-01/05-01/08 OA 2 Date 2 September 2009

THE APPEALS CHAMBER

Before:

Judge Akua Kuenyehia, Presiding Judge

Judge Sang-Hyun Song Judge Erkki Kourula Judge Anita Ušacka

Judge Daniel David Ntanda Nsereko

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF THE PROSECUTOR

٧.

JEAN-PIERRE BEMBA GOMBO

Confidential

Order on the Reclassification as Confidential of the Response to the Document in Support of the Appeal and on the Filing of a Public Redacted Version



Pursuant to Order ICC-01/05-01/08-701 OA2, dated 24 February 2010, this document is reclassified as Public

Decision/Order/Judgment to be notified in accordance with regulation 31 of the Regulations of the Court to

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms I atou Bensouda, Deputy Prosecutor

Counsel for the Defence of Mr Jean-Pierre Bemba Gombo Mr Nkwebe Liriss Mr Karim A A Khan

REGISTRY

-Registrar

Ms Silvana Arbia



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The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor dated 14 August 2009 and entitled "Prosecution's Appeal against 'Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Lederal Republic of Germany, the Italian Republic, and the Republic of South Africa" (ICC-01/05-01/08-476) against the decision of Pre-Trial Chamber II dated 14 August 2009 entitled "Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic and the Republic of South Africa" (ICC-01/05-01/08-475),

Having before it the 'Réponse de la Défense à l'acte d'appui d appel du Procureur ainsi que sa demande de l'effet suspensif' dated 31 August 2009 (ICC-01/05-01/08-493),

Pursuant to regulation 29 (1) of the Regulations of the Court,

Issues unanimously the following

ORDER

- The Registral shall reclassify the "Réponse de la Défense à l'acte d'appui d'appel du Procureur ainsi que sa demande de l'effet suspensif" as confidential
- 2) Mr Bemba shall file, by 4 pm on Γriday, 4 September 2009, a public reducted version of the 'Réponse de la Défense à l'acte d'appui d'appel du Procureur ainsi que sa demande de l'effet suspensif", in which all references to confidential information, notably those contained in paragraph 40 of the document, are reducted

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REASONS

- On 31 August 2009, Mr Bemba filed, classified as public, the "Réponse de la Détense à l'acte d'appui d'appel du Procuieur ainsi que sa demande de l'effet suspensif" dated 31 August 2009 (ICC-01/05-01/08-493, hereinafter 'Response to the Document in Support of the Appeal"), it was registered on 1 September 2009
- 2 The Appeals Chamber notes that in the Response to the Document in Support of the Appeal, Mr. Bemba refers to information that is contained in documents that are currently classified as "confidential". Notably, in paragraph 40 of the Response to the Document in Support of the Appeal, Mr. Bemba discloses information contained in the observations on his request for release made by States. These observations are currently classified as confidential.
- Regulation 23*his* (2) of the Regulations of the Court provides that '[u]nless otherwise ordered by a Chamber, any response, reply or other document referring to a document, decision or order marked 'ex parte', 'under seal' or 'confidential' shall be filed with the same classification' The Appeals Chamber understands this regulation to cover not only references to the titles or document numbers of confidential documents, decisions or orders, but also to references to information contained in such documents, decisions or orders. Accordingly, the public filing of the Response to the Document in Support of the Appeal did not comply with regulation 23*bis* (2) of the Regulations of the Court
- In case of non-compliance with a provision of the Regulations of the Court, the Chamber may issue any order that it deems necessary in the interests of justice (regulation 29 (1) of the Regulations of the Court). In the present case, the Chamber considers it necessary to instruct the Registrar to reclassify the Response to the Document in Support of the Appeal and to order the filing of a public reducted version.

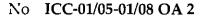
No ICC-01/05-01/08 OA 2

¹ See ICC-01/05-01/08-448-Conf-Anx1, ICC-01/05-01/08-Conf-Anx2, ICC-01/05-01/08-461-Conf-Anx2 ICC-01/05-01/08-465-Conf-Anx2, ICC-01/05-01/08-472-Conf-Anx1

Done in both English and French the English version being authoritative

Judge Akua Kuenyehia Presiding Judge

Dated this 2nd day of September 2009 At The Hague, The Netherlands





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