

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/05-01/08 OA 3

Date: 16 September 2010

THE APPEALS CHAMBER

Before: Judge Anita Ušacka, Presiding Judge
Judge Sang-Hyun Song
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Daniel David Ntanda Nsereko

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO

Public document

Order

**on the filing of a public redacted version of and reclassifying annexes to
“The Registrar’s transmission of the observations of the Central African
Republic pursuant to the Appeals Chamber’s « *Decision on the Central African
Republic’s request for an extension of the time limit* » (ICC-01/05-01/08-878) dated
8 September 2010”**

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

The Office of the Prosecutor

Ms Fatou Bensouda, Deputy Prosecutor

Mr Fabricio Guariglia

Counsel for the Defence

Mr Nkwebe Liriss

Mr Aimé Kilolo Musamba

Legal Representatives of Victims

Ms Marie-Edith Douzima Lawson

The Office of Public Counsel for Victims

Ms Paolina Massidda

States Representatives

The Government of the Central African

Republic

REGISTRY

Registrar

Ms Silvana Arbia



The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III entitled “Decision on the Admissibility and Abuse of Process Challenges” of 24 June 2010 (ICC-01/05-01/08-802),

Having before it the “The Registrar’s transmission of the observations of the Central African Republic pursuant to the Appeals Chamber’s « *Decision on the Central African Republic’s request for an extension of the time limit* » (ICC-01/05-01/08-878) dated 8 September 2010” of 13 September 2010 (ICC-01/05-01/08-881),

Unanimously,

Issues the following

ORDER

1) The Registrar is ordered to file a public redacted version of annex 1 of “The Registrar’s transmission of the observations of the Central African Republic pursuant to the Appeals Chamber’s « *Decision on the Central African Republic’s request for an extension of the time limit* » (ICC-01/05-01/08-878) dated 8 September 2010” (ICC-01/05-01/08-881-Conf-Anx1).

2) The Registrar is ordered to reclassify as public annex 2 of “The Registrar’s transmission of the observations of the Central African Republic pursuant to the Appeals Chamber’s « *Decision on the Central African Republic’s request for an extension of the time limit* » (ICC-01/05-01/08-878) dated 8 September 2010” (ICC-01/05-01/08-881-Conf-Anx2).

REASONS

1. On 13 September 2010, the Registrar filed “The Registrar’s transmission of the observations of the Central African Republic pursuant to the Appeals Chamber’s « *Decision on the Central African Republic’s request for an extension of the time* »



limit » (ICC-01/05-01/08-878) dated 8 September 2010¹ (hereinafter: “Registrar’s Transmission Report”). Annexed to the Registrar’s Transmission Report were, as annex 1, the *note verbale* transmitted by the Registry to the Central African Republic dated 8 September 2010² (hereinafter: “Note Verbale”) and, as annex 2, the observations of the Central African Republic³ (hereinafter: “CAR Observations”) on the appeal of Mr Bemba Gombo against Trial Chamber III’s “Decision on the Admissibility and Abuse of Process Challenges”⁴ of 24 June 2010. While the Registrar’s Transmission Report is a public document, both the Note Verbale and the CAR Observations were filed as confidential. The Registrar states that this was done “because the annexes contain names of staff of the Court and the communication from the State”.⁵

2. Regulation 23*bis* (1) of the Regulations of the Court provides that:

Any document filed by the Registrar or a participant and marked “*ex parte*”, “under seal” or “confidential”, shall state the factual and legal basis for the chosen classification and, unless otherwise ordered by a Chamber, shall be treated according to that classification throughout the proceedings.

3. Regulation 23*bis* (1) of the Regulations of the Court thus recognises the power of the Chambers of this Court to reclassify documents in appropriate circumstances.

4. The Appeals Chamber accepts that the names of the staff members of the Court mentioned in the Note Verbale should be treated as confidential. However, the Registrar is ordered to file a public redacted version of the Note Verbale, in order to ensure the transparency of the present proceedings.

5. The Appeals Chamber notes that the CAR Observations were filed in the framework of article 19 (3), second sentence, of the Statute, which provides, in relevant part, that “[i]n proceedings with respect to [...] admissibility, those who referred the situation under article 13 [...] may also submit observations to the Court”. The CAR Observations are not marked as confidential or under seal. Moreover, none

¹ ICC-01/05-01/08-881.

² ICC-01/05-01/08-881-Conf-Anx1.

³ “Memoire en réponse de l’Etat de la République Centrafricaine au Mémoire à l’appui de l’appel de la Défense contre la « Décision on the Admissibility and Abuse of Process Challenge » de la Chambre de première instance III du 24 juin 2010”, ICC-01/05-01/08-881-Conf-Anx2.

⁴ ICC-01/05-01/08-802.

⁵ Registrar’s Transmission Report, p. 4.

of the information contained therein appears to require a confidential classification. The Appeals Chamber therefore considers that a reclassification of the CAR Observations as public is appropriate.

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



Judge Anita Ušacka
Presiding Judge

Dated this 16th day of September 2010

At The Hague, The Netherlands