

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 December 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 reclassification of documents**



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 Liriss Nkwebe
Mr Aimé Kilolo-Musamba

Legal Representatives of Victims
Ms Marie-Edith Douzima Lawson

The Office of Public Counsel for Victims
Ms Paolina Massida

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),

Unanimously,

Pursuant to regulation 23*bis* (3) of the Regulations of the Court,

Issues the following

ORDER

The Registrar shall reclassify as public documents ICC-01/05-01/08-944-Conf-AnxC, ICC-01/05-01/08-944-Conf-AnxD and ICC-01/05-01/08-951-Conf-AnxA.

REASONS

1. On 14 October 2010, the Appeals Chamber issued the “Order on the reasons for the classification of documents”, instructing the Prosecutor to state the factual and legal basis if any, for why ICC-01/05-01/08-944-AnxC and ICC-01/05-01/08-944-AnxD could not be reclassified as public, and to file CAR-OTP-0062-0203 to 0205 in an accompanying annex.¹

2. On 14 October 2010, the Prosecutor filed the “Prosecution’s Response to the Appeals Chamber Order on the reasons for the classification of documents” with

¹ ICC-01/05-01/08-948 (OA 3).

confidential Annex A.² The Prosecutor stated that ICC-01/05-01/08-944-Conf-AnxC, ICC-01/05-01/08-944-Conf-AnxD, and ICC-01/05-01/08-951-Conf-AnxA were treated as confidential on the basis that, *inter alia*, it is “standard practice” to accord restricted access to documents received from States unless indicated otherwise.³ The Prosecutor noted, however, that “the information contained in the documents does not in and of itself require maintaining the confidential status”.⁴

3. On 25 October 2010, the Appeals Chamber issued an order to the Registrar “to consult with the authorities of the Central African Republic concerning whether documents ICC-01/05-01/08-944-Conf-AnxC, ICC-01/05-01/08-944-Conf-AnxD and ICC-01/05-01/08-951-Conf-AnxA, or any information contained therein, could be reclassified as public”.⁵ Following the mistaken transmission of ICC-01/05-01/08-944-AnxA to the Central African Republic by the Registry instead of ICC-01/05-01/08-951-Conf-AnxA,⁶ the Appeals Chamber issued a second order to the Registrar setting a new time limit for a report on its consultations with the Central African Republic concerning the three documents.⁷

4. On 19 November 2010, the Registrar filed the “Transmission by the Registrar’s of the observations of the Central African Republic pursuant to the Appeals Chamber’s « Second order to consult with the authorities of the Central African Republic » (ICC-01/05-01/08-1018) dated 19 November 2010”.⁸ In Annex 3 of the Registrar’s filing, the authorities of the Central African Republic indicate that there is no reason that the above-mentioned documents should not be made public.

5. Pursuant to regulation 23 *bis* (3) of the Regulations of the Court, a Chamber may reclassify a document when the basis for the original classification no longer exists. In light of the Central African Republic’s submission, the Appeals Chamber considers that there is no reason to maintain the classification as confidential of

² ICC-01/05-01/08-951 (OA3).

³ ICC-01/05-01/08-951 (OA 3), para. 5.

⁴ ICC-01/05-01/08-951 (OA 3), para. 6.

⁵ “Order to consult with the authorities of the Central African Republic”, ICC-01/05-01/08-973 (OA 3).

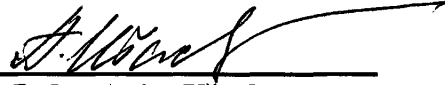
⁶ “The Registrar’s transmission of the observations of the Central African Republic pursuant to the Appeals Chamber’s ‘Order to consult with the authorities of the Central African Republic’”, 25 October 2010, ICC-01/05-01/08-973 (OA 3).

⁷ “Second order to consult with the authorities of the Central African Republic”, 19 November 2010, ICC-01/05-01/08-1018 (OA 3).

⁸ ICC-01/05-01/08-1040 +Conf-Anxs (OA3).

documents ICC-01/05-01/08-944-Conf-AnxC, ICC-01/05-01/08-944-Conf-AnxD and ICC-01/05-01/08-951-Conf-AnxA, and therefore instructs the Registrar to reclassify them as public.

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



Judge Anita Ušacka
Presiding Judge

Dated this 3rd day of December 2010

At The Hague, The Netherlands