



Original: English

No. ICC-01/05-01/08 A

Date: 9 November 2016

THE APPEALS CHAMBER

Before: Judge Christine Van den Wyngaert, Presiding Judge
Judge Sanji Mmasenono Monageng
Judge Howard Morrison
Judge Chile Eboe-Osuji
Judge Piotr Hofmański

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

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

Public document

**Order in relation to the “Defence’s filing concerning the Appeals Chamber’s
order ICC-01/05-01/08-3435-Conf”**

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

The Office of the Prosecutor

Ms Fatou Bensouda

Ms Helen Brady

Counsel for the Defence

Mr Peter Haynes

Ms Kate Gibson

Legal Representative of Victims

Ms Marie-Edith Douzima-Lawson

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

Mr Xavier-Jean Keita

REGISTRY

Registrar

Mr Herman von Hebel

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 “Judgment pursuant to Article 74 of the Statute” of 21 March 2016 (ICC-01/05-01/08-3343),

Having before it the “Defence’s filing concerning the Appeals Chamber’s order ICC-01/05-01/08-3435-Conf” of 7 November 2016 (ICC-01/05-01/08-3464),

Issues the following

ORDER

The Registrar shall make available in e-Court in the present case, to the Appeals Chamber and all parties and participants, the 23 documents sought to be introduced as additional evidence by Mr Jean-Pierre Bemba Gombo (ICC-01/05-01/08-3435-Conf).

REASONS

1. On 17 October 2016, the Appeals Chamber rendered a decision¹ (“the Appeals Chamber’s previous decision”) in which it required Mr Jean-Pierre Bemba Gombo (“Mr Bemba”) to “file in the record of the present case the 23 documents sought to be introduced as additional evidence (ICC-01/05-01/08-3435-Conf) such that they are available to the Appeals Chamber and all parties and participants, subject to any authorisation that may be necessary from Trial Chamber VII”.²
2. On 2 November 2016, the filing of the 23 documents in the present case was authorised by Trial Chamber VII.³
3. On 7 November 2016, Mr Bemba made a filing in which he requests, in effect, that the Appeals Chamber vary its above-mentioned decision.⁴ He requests that the

¹ “Decision on the Request of Legal Representative of Victims for Access to Documents”, ICC-01/05-01/08-3445-Conf, p. 3.

² The Appeals Chamber’s previous decision, p. 3.

³ “Decision on the Bemba Defence Request for Authorisation to File 23 Documents in Case ICC-01/05-01/08”, [ICC-01/05-01/13-2000](#).

Legal Representative of Victims and the Appeals Chamber be granted access to the 23 documents by the Registrar modifying the access rights to those documents in e-Court, rather than by the Defence filing them in the record of the case.⁵ Mr Bemba submits that this is because the form and/or size of some of those documents do not enable their filing as an annex;⁶ and that it is the metadata of a number of the 23 documents, which is contained within their e-Court record, that is of significance.⁷

4. In the circumstances described by Mr Bemba, as set out above, the Appeals Chamber is satisfied that access to the 23 documents in question should be by means of e-Court rather than by way of a filing. The Registrar is therefore ordered to grant such access. Save as aforesaid, the remainder of the Appeals Chamber's previous decision remains unaffected by this Order.

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



Judge Christine Van den Wyngaert
Presiding Judge

Dated this 9th day of November 2016

At The Hague, The Netherlands

⁴ “Defence’s filing concerning the Appeals Chamber’s order ICC-01/05-01/08-3435-Conf”, [ICC-01/05-01/08-3464](#) (“Mr Bemba’s Request”).

⁵ [Mr Bemba’s Request](#), paras 6, 9.

⁶ [Mr Bemba’s Request](#), para. 7.

⁷ [Mr Bemba’s Request](#), para. 8.