



Original: English

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

Date: 8 December 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 with Confidential Annex 1 and a Public Redacted Version of
Annex 1
Order on reclassification**

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),

Issues the following

ORDER

1. The Registrar is directed to reclassify as public the following documents:
ICC-01/05-01/08-3439-Conf;
ICC-01/05-01/08-3440-Conf;
ICC-01/05-01/08-3441-Conf;
ICC-01/05-01/08-3443-Conf;
ICC-01/05-01/08-3445-Conf; and
ICC-01/05-01/08-3446-Conf.
2. The Registrar shall re-stamp filing ICC-01/05-01/08-3438-Conf to reflect the following: (i) the present decision rather than decision ICC-01/05-01/08-3445-Conf as being the basis for reclassification; and (ii) the date that the filing was actually made public.

REASONS

1. On 17 October 2016, the Appeals Chamber rendered decisions requiring Mr Jean-Pierre Bemba Gombo (“Mr Bemba”), the Prosecutor and participating victims to file public redacted versions or seek reclassification of the following filings: ICC-01/05-01/08-3435-Conf; ICC-01/05-01/08-3438-Conf; ICC-01/05-01/08-3440-Conf; ICC-01/05-01/08-3441-Conf; and ICC-01/05-01/08-3443-Conf.¹

¹ “Decision on the Request of Legal Representative of Victims for Access to Documents”, ICC-01/05-01/08-3445-Conf (A); “Decision on Procedure for Mr Bemba’s Additional Evidence Request of 19 September 2016”, ICC-01/05-01/08-3446-Conf (A).

2. On 2 November 2016, Mr Bemba filed a public redacted version of filing ICC-01/05-01/08-3435-Conf.² Mr Bemba did not file a request for reclassification of filing ICC-01/05-01/08-3440-Conf, but, on 9 November 2016, e-mailed the Appeals Chamber with a request for reclassification of the document.³

3. On 9 November 2016, the Prosecutor requested that filings ICC-01/05-01/08-3441-Conf and ICC-01/05-01/08-3443-Conf be reclassified as public.⁴

4. On 9 November 2016, filing ICC-01/05-01/08-3438-Conf was reclassified as public without a request from the legal representative of victims to, or an order from, the Appeals Chamber.

5. Regulation 23 *bis* (3) of the Regulations of the Court provides:

Where the basis for the classification no longer exists, whosoever instigated the classification, be it the Registrar or a participant, shall apply to the Chamber to re-classify the document. A Chamber may also re-classify a document upon request by any other participant or on its own motion. [...]

6. The Appeals Chamber reminds the parties and participants that filings may not be reclassified by the parties or participants on their own motion. The ‘reclassification’ of filing ICC-01/05-01/08-3438-Conf was therefore procedurally irregular in the circumstances described above. The Appeals Chamber nevertheless finds that no reasons exist for that filing to remain confidential and therefore directs that it be reclassified as public. At the same time, however, the Registrar shall re-stamp filing ICC-01/05-01/08-3438-Conf to reflect the following: (i) the present decision rather than decision ICC-01/05-01/08-3445-Conf as being the basis for reclassification; and (ii) the date that the filing was actually made public.

7. The Appeals Chamber further finds that no reasons exist for ICC-01/05-01/08-3439-Conf; ICC-01/05-01/08-3440-Conf; ICC-01/05-01/08-3441-Conf; ICC-01/05-01/08-3443-Conf; ICC-01/05-01/08-3445-Conf; and ICC-01/05-01/08-3446-Conf to remain confidential and directs that these documents be reclassified as public.

² “Public Redacted Version of Defence application to present additional evidence in the appeal against the *Judgment pursuant to Article 74 of the Statute*, ICC-01/05-01/08-3343”, ICC-01/05-01/08-3435-Red (A).

³ The e-mail is attached as Annex 1 to this Order (with the names of the individuals to whom the e-mail was addressed or copied redacted from the public version of Annex 1).

⁴ “Prosecution’s request to reclassify, as public, two documents”, ICC-01/05-01/08-3466 (A).

8. The Appeals Chamber notes that the request for reclassification of filing ICC-01/05-01/08-3440-Conf was made by e-mail. For the purposes of the present appeal, the Appeals Chamber requests that, in future, the parties and participants make requests for reclassification by way of a formal filing to the Chamber, as opposed to by e-mail.

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



Judge Christine Van den Wyngaert
Presiding Judge

Dated this 8th day of December 2016

At The Hague, The Netherlands