

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08
Date: 3 September 2009

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Fatoumata Dembele Diarra, First Vice-President
Judge Hans-Peter Kaul, Second Vice-President

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
*THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO***

Confidential

**Decision on the reclassification of the confidential "Reasons for the decision on the
Application for judicial review of Mr Jean-Pierre Bemba Gombo of 10 and 11
November 2008"**

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

The Office of the Prosecutor

Mr Luis Moreno Ocampo
Ms Fatou Bensouda

Counsel for the Defence

Mr Nkwebe Liriss
Mr Aimé Kilolo Musamba

REGISTRY

Registrar

Ms Silvana Arbia

Detention Centre

Mr Anders Backman

Deputy Registrar

Mr Didier Preira

The Presidency of the International Criminal Court;

In the applications for judicial review of Mr Jean-Pierre Bemba Gombo ("applicant") of 10 and 11 November 2008, entitled: "Defence Application for Review of the Registry's Decision of 10 November 2008 entitled *Decision of the Registrar on the Monitoring of the Non-privileged Communications and Visits of Mr Jean Pierre Bemba Gombo*"¹ and "Supplementary Defence Application for Review of the Registry's Decision of 10 November 2008 entitled *Decision of the Registrar on the Monitoring of the Non-privileged Communications and Visits of Mr Jean Pierre Bemba Gombo*"² ("Applications");

Noting the Presidency's decision on the Applications, entitled "Decision concerning the Applications for judicial review of Mr Jean-Pierre Bemba Gombo of 10 and 11 November 2008" filed with a confidential *ex parte* classification, made only available to the Registrar ("Confidential *ex parte* Decision");³ and noting further the confidential redacted version of the Confidential *ex parte* Decision ("Confidential Decision");⁴

Noting the Presidency's "Reasons for the decision on the Applications for judicial review of Mr Jean-Pierre Bemba Gombo of 10 and 11 November 2008" of 5 December 2008 filed with an under seal classification and made only available to the Registrar ("Under Seal Reasons");⁵ and noting further the confidential redacted version of the Under Seal Reasons ("Confidential Reasons");⁶

Noting the Presidency's "Order concerning the 'Reasons for the decision on the Applications for judicial review of Mr Jean-Pierre Bemba Gombo of 10 and 11 November 2008'" of 31 March 2009 ("Order"),⁷ which determined that nothing in the Confidential Reasons *prima facie* qualified it as confidential and ordered the applicant and the Registrar to explain any factual and legal basis for retaining its confidential classification and whether any information required redaction prior to publication;

¹ ICC-01/05-01/08-233-Conf-tENG.

² ICC-01/05-01/08-236-Conf-tENG.

³ ICC-01/05-01/08-271-Conf-Exp.

⁴ ICC-01/05-01/08-272-Conf.

⁵ ICC-01/05-01/08-309-US-Exp.

⁶ ICC-01/05-01/08-310-Conf.

⁷ ICC-01/05-01/08-396-Conf.

Considering that neither the applicant nor the Registrar have put forward any reasons for retaining the classification of the Confidential Reasons or the need for any redactions prior to its publication; Considering further that there is no reason for maintaining the classification of the Confidential Decision;

Considering that Pre-Trial Chamber III has unsealed documents cited in the Under Seal Reasons and, as such, those reasons no longer require an under seal classification and may be made available to the applicant;⁸

Considering, however, that the Under Seal Reasons contain material⁹ which the Registrar submitted to the Presidency on a confidential *ex parte* basis on the ground that the "information related to the security and good order of the detention centre the knowledge of which by other parties would defeat the purpose of its content";¹⁰ nothing further that the Confidential *ex parte* Decision also makes reference to such material.¹¹

Hereby

Decides to reclassify the Confidential Decision (ICC-01/05-01/08-272-Conf) as public.

Decides to reclassify the Confidential Reasons (ICC-01/05-01/08-310-Conf) as public.

Orders the Registrar to inform the Presidency whether the basis for retaining the classification of the material contained in the Confidential *ex parte* Decision, at page 3, and in the Under Seal Reasons, at paragraphs 49-51, still exist by 4pm on 11 September 2009.

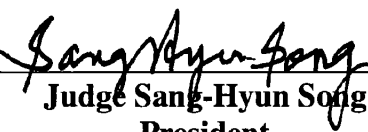
Done in both English and French, the English version being authoritative.

⁸ ICC-01/05-01/08-325-Conf, pages 9-10.

⁹ At paragraphs 49 to 51.

¹⁰ ICC-01/05-01/08-248-Conf, page 4.

¹¹ At page 3.


Judge Sang-Hyun Song
President

Dated this 3 September 2009

At The Hague, The Netherlands