

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 18 September 2009

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

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

**Public Document
with Confidential Annexes**

Decision on Re-classification and Unsealing of Certain Documents and Decisions

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

The Office of the Prosecutor

Fatou Bensouda, Deputy Prosecutor
Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence

Nkwebe Liriss
Aimé Kilolo-Musamba

Legal Representatives of the Victims

Mrs Edith Douzima Lawson
Mrs. Paolina Massida

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Mrs. Silvana Arbia

Defence Support Section

Mr. Anders Backman

Victims and Witnesses Unit

Mr. Simon Vaatainen

Detention Section

**Victims Participation and Reparations
Section**

Mrs. Fiona McKay

Other

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of the Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”)¹, addresses the matters of unsealing and re-classification of documents filed in the records of the situation and of the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (the “Case”).

1. The Single Judge recalls that the Chamber regularly re-classifies documents contained in the records of the situation and of the Case in order to make them available to the public² or to the Defence.³

2. On 3 April 2009 in view of the forthcoming end of the pre-trial proceedings, the Single Judge issued the “Decision Requesting Observations on Re-classification and Unsealing of Documents” (the “Decision of 3 April 2009”).⁴ The Single Judge requested the parties, participants and the Registrar to submit proposals as to the unsealing, re-classification, and where appropriate, redactions to be made in their respective documents filed in the records of the situation and of the Case in order to make them available to the public.

3. On 1 May 2009 the Registrar first filed the “Observations of the Registrar on the ‘Decision Requesting Observations on Re-classification and Unsealing of Documents’”, which were notified to the Single Judge on 4 May 2009 and in which the Registrar submitted some proposals related to the treatment of documents filed

¹Pre-Trial Chamber II, “Decision Designating Single Judges”, ICC-01/05-24 and ICC-01/05-01/08-393

²Pre-Trial Chamber III, “Decision on unsealing and re-classification of certain documents and decisions”, ICC-01/05-01/08-20; Pre-Trial Chamber III, “Decision on the status of documents as referred to in article 54(3)(e) of the Rome Statute”, ICC-01/05-01/08-196-Conf; Pre-Trial Chamber III, “Decision Requesting Observations on the Defence's Application for Interim Release”, ICC-01/05-01/08-238; Pre-Trial Chamber III, “Decision on Re-classification”, ICC-01/05-01/08-246-Conf. The Chamber is aware of the confidential nature of decisions ICC-01/05-01/08-196-Conf and ICC-01/05-01/08-246-Conf. However, the Chamber is of the view that the disclosure of their sole existence and title does not prejudice to their confidential nature.

³Single Judge of Pre-Trial Chamber III, “Decision on Re-classification and Unsealing of Certain Documents”, ICC-01/05-01/08-301.

⁴ICC-01/05-01/08-398.

in the record of the situation.⁵ On 6 May 2009 after having been granted an extension of time by the Single Judge,⁶ the Registrar submitted additional observations and made some proposals related to the treatment of some documents filed in the record of the Case, including, where appropriate, proposals for redactions (the “Additional Observations”).⁷

4. The Prosecutor⁸ and the Office of Public Counsel for Victims (the “OPCV”)⁹ submitted on 4 May 2009 their proposals related to the treatment of their documents filed in the records of the situation and of the Case, including, where appropriate, proposals for redactions.

5. The Single Judge notes that, while the Prosecutor, the Registrar and the OPCV provided observations on the level of confidentiality of their respective documents, the Defence and one of the legal representatives of victims¹⁰ did not submit observations. In addition, having reviewed the observations of the Prosecutor, the Registrar and the OPCV, the Single Judge observes that they have failed to address some documents in their submissions.

6. On 15 June 2009 the Chamber issued the “Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo”, in which it decided to commit Jean-Pierre Bemba Gombo (“Mr Jean-Pierre Bemba”) to a Trial Chamber for trial on the charges confirmed in the said decision.¹¹

⁵ ICC-01/05-27.

⁶ ICC-01/05-01/08-415; Single Judge of Pre-Trial Chamber II, “Decision on the Registry’s Request for Extension of Time for the Submission of Observations on Re-classification and Unsealing of Documents”, ICC-01/05-01/08-416.

⁷ ICC-01/05-01/08-419.

⁸ ICC-01/05-01/08-418.

⁹ ICC-01/05-01/08-417.

¹⁰ Legal representative of victims a/0271/08, a/0272/08, a/0273/08, a/0275/08, a/0277/08, a/0283/08, a/0284/08, a/0285/08, a/0286/08, a/0287/08, a/0288/08, a/0289/08, a/0290/08, a/0294/08, a/0390/08, a/0391/08, a/0393/08, a/0394/08, a/0395/08, a/0396/08, a/0468/08, a/0469/08, a/0470/08, a/0471/08, a/0472/08, a/0473/08, a/0474/08, a/0475/08, a/0476/08, a/0477/08, a/0478/08, a/0479/08, a/0480/08, a/0481/08.

¹¹ ICC-01/05-01/08-424, letters d) and f) of the operative part.

7. On 20 July 2009, the OPCV filed the « *Requête en vue d'obtenir la reclassification comme "public" du Document n° ICC-01/05-01/08-435-Conf* » in order to ask for the re-classification of a document as “public” since the information contained therein became public knowledge (the “OPCV’s Request”).¹²

8. The Single Judge notes articles 43(6), 57(3)(c), 57(3)(e), 64(2), 67(1), 68(1), 87 and 93(8)(a) of the Rome Statute (the “Statute”), rules 15, 17 to 19, 81, 87, 88, 99, 121(10) and 129 of the Rules of Procedure and Evidence (the “Rules”), regulations 8, 23*bis*, 24*bis* of the Regulations of the Court (the “Regulations”), and regulation 14 of the Regulations of the Registry.

9. At the outset, the Single Judge notes the principle of publicity of the proceedings prescribed in article 67(1) of the Statute. The Single Judge further recalls the Chamber’s “Decision on the Evidence Disclosure System and Setting a Timetable for Disclosure between the Parties”, in which it was stated that one of the functions of the Pre-Trial Chamber is to contribute to the proper preparation of the trial.¹³ At this advanced stage of the pre-trial proceedings, this entails the transmission, pursuant to rule 129 of the Rules, of a properly maintained record of the pre-trial proceedings to the Presidency, and further to a constituted Trial Chamber.

10. The Single Judge also recalls the duty of the Pre-Trial Chamber to ensure that the overall procedure is fair, conducted with full respect for the rights of Mr Jean-Pierre Bemba and with due regard to the protection of victims and witnesses in accordance with articles 57(3)(c) and 68(1) of the Statute.

11. With regard to the documents filed by the Prosecutor, the Defence, the participants or the Registrar in the records of the situation and of the Case, currently classified as “confidential”, “under seal” as well as marked “*ex parte*”, the Single

¹² ICC-01/05-01/08-454-Conf.

¹³ ICC-01/05-01/08-55, paras 24 and 25.

Judge first verifies whether, as prescribed under regulation 23*bis*(1) of the Regulations, the factual and legal basis for the chosen classification was stated in these documents. Second, the Single Judge examines (i) whether the content of these documents is already known to the Defence and to the public and if not (ii), whether if it would have an impact, if so revealed to the public: (aa) on the protection and privacy of victims and witnesses in accordance with articles 57(3)(c) and 68(1) of the Statute; (bb) on the effectiveness of a request for cooperation between States Parties and the Court in accordance with articles 57(3)(e), 87 and 93 of the Statute as well as rule 99 of the Rules; (cc) on the privacy of Mr. Jean-Pierre Bemba; and (dd) on the effectiveness of further or ongoing investigations. Finally, in absence of any proposals by the parties, the participants or the Registrar related to the treatment of their respective documents, the Single Judge makes her own analysis of the level of confidentiality and, applying the above criteria, concludes to maintain or amend the initial level of confidentiality of the documents concerned.

12. In light of the above principles, the Single Judge also reviews the current level of confidentiality of the decisions of the Chamber or of the Single Judges and, where appropriate, re-classifies them as public or public with redactions.

13. Having reviewed all decisions and documents contained in the record of the situation and of the Case, the Single Judge concludes that, in instances where the basis for the initial classification no longer exists, the decisions and documents concerned shall be re-classified accordingly.

14. The Single Judge further considers that her rulings on the level of confidentiality of the decisions and documents treated in the present decision concern both their English and French versions, where applicable as far as documents as concerned.

15. With regard to the documents emanating from the Prosecutor, the Registrar and the OPCV, and for which they proposed a different level of confidentiality or a

redacted version, the Single Judge examines whether the proposals take into account the criteria set above. While the Single Judge agrees with some of the suggested classifications or redactions, she is of the view that, for certain documents, the proposed level of confidentiality or the extent of the proposed redactions does not fully comply with the duty to ensure the principle of publicity of the proceedings, the protection of victims and witnesses or the right to privacy of Mr. Jean-Pierre Bemba. In such instances, the Single Judge applies the criteria set out above and re-classifies such documents accordingly. Along the same lines, the Single Judge, where appropriate, concludes to redact confidential information in certain documents emanating from the Prosecutor, the Registrar or the OPCV following the proposed redactions as stated in Annex 1 classified as confidential *ex parte* Prosecutor only, in Annex 3 classified as confidential *ex parte* OPCV and VPRS only, as well as in Annex 4 classified as confidential *ex parte* Registrar only.

16. Furthermore, the Single Judge reminds the parties, participants and the Registrar the importance to re-file each redacted version of their respective documents by making reference to the original document number. As an example, a document bearing the document number ICC-01/05-01/08-26-US-Exp and which should be re-filed "public" with redactions, will *not* be re-filed as an annex to a cover filing, but instead will be re-filed as a new document with the following title "Public Redacted Version of ICC-01/05-01/08-26-US-Exp" in addition to the original title. It will then bear a document number as attributed by the Registry.

17. The Single Judge also notes the Additional Observations, in which the Registrar submits that certain documents should be kept at a minimum "confidential" because of their content. This concerns documents falling within the following categories: (1) information related to freezing and seizure of assets, (2) "all communications with States", (3) information related to the identity of ICC staff members and/or representatives of States Parties, (4) information related to the monitoring reports

and the related transcripts of non-privileged communications of Mr Jean-Pierre Bemba.

18. The Single Judge also notes that the Registrar justifies her chosen classification as follows: the information falling within the categories (1) and (2) should be kept confidential as a “matter of practice”, the information related to point (3) shall remain at a minimum confidential “for security and protection reasons and in order to secure the success of future judicial cooperation” and the information related to point (4) shall be kept confidential as it concerns detention matters.

19. With regard to documents containing information related to freezing and seizure of assets as specified under point (1) and communications between the Court and States Parties under point (2), the Single Judge finds questionable the justification “as a matter of practice” given by the Registrar for maintaining the level of confidentiality of such documents. Rather, the Single Judge, mindful of the need to secure the success of future judicial cooperation between the Court and States Parties, recalls articles 87(3) and 93(8)(a) of the Statute, which provide that confidentiality shall govern, to the extent possible, the execution of requests for cooperation.

20. In addition, with regard to specific requests for cooperation pertaining to the identification, tracing and freezing or seizure of proceeds, as set out in articles 57(3)(e) and 93(1)(k) of the Statute, documents containing such information should be kept at a minimum confidential, pursuant to article 93(8)(a) of the Statute and rule 99 of the Rules. This rule explicitly states that the Court is responsible for determining, in the particular circumstances of the case, whether or not notification *inter alia* to the defendant of a request for cooperation under article 57(3)(e) of the Statute could jeopardize the effectiveness of such a request. Therefore, the Single Judge reviewed the level of confidentiality of requests for cooperation and related documents exchanged between the Court and States Parties, bearing in mind the

impact on the effectiveness of such requests if revealed to the public or to the Defence. Based on her determination, the Single Judge decides to treat the said documents as “confidential”, “under seal” and/or “*ex parte*”, as appropriate. Along the same lines, the Single Judge is of the view that the identity of representatives of States Parties should not be revealed to the public or to the Defence.

21. Furthermore, the Single Judge wishes to clarify that the level of confidentiality of communications between States Parties and the Court which are not pertaining to requests for cooperation under part IX of the Statute will be reviewed following the same approach as the one taken for any other documents, in light of the principle of publicity of proceedings. Such documents relate for instance to the referral of the CAR situation to the Court by the Central African Republic.

22. With regard to the identity of ICC Staff members specified under point (3) of the Additional Observations by the Registrar, the Single Judge is of the view that protecting such identity for reasons of security lacks any legal basis in the Statute and related legal documents. Therefore, in reviewing the level of confidentiality of documents containing the identity of ICC Staff members and deciding to re-classify such documents as “public” or “public redacted”, the Single Judge balanced the possible threat posed to the ICC Staff members and the principle of publicity of proceedings. The Single Judge considers that in principle names of ICC Staff members should not be redacted *per se*, unless the revelation of such names would jeopardize the security of the persons concerned or the effective functioning of the Court.

23. With regard to the monitoring reports and the related transcripts of non-privileged communications of Mr. Jean-Pierre Bemba specified in point (4) above, the Single Judge observes that the Registrar legally justifies her proposals of treatment.¹⁴ The Single Judge notes that these monitoring reports and transcripts

¹⁴ ICC-01/05-01/08-419, p. 5 last paragraph and p. 6, three first paragraphs.

were initially classified “under seal” and further re-classified by the Chamber as “confidential”, thus allowing the Chamber to mention their existence and title.¹⁵ The Single Judge concurs with the Registrar’s proposal according to which these monitoring reports and transcripts should remain classified as “confidential” since these documents contain information concerning detention matters falling within the detention record and thus should be protected pursuant to regulation 92(1) of the Regulations of the Court and regulation 189 of the Regulations of the Registry. Furthermore, even if this information does not fall within the detention record, it could not be revealed to the public because of its sensitive nature or because it pertains to the “private life” of Mr. Jean-Pierre Bemba.

24. With regard to the documents emanating from the Defence and one of the legal representatives of victims, the Single Judge recalls that no proposal related to the treatment of their respective documents has been made. Having reviewed the level of confidentiality and the content of the documents emanating from them, the Single Judge decides to re-classify certain documents as “public” and where appropriate, to redact confidential information in certain documents emanating from the Defence as stated in Annex 2, classified as confidential.

25. In addition, reviewing the records of the situation and of the Case, the Single Judge notes that certain documents initially classified “*ex parte* Registrar only” should be notified to the Defence and the Prosecutor and will therefore be reclassified as “confidential” accessible to the Defence and the Prosecutor, both in English and French, where applicable.

26. The Single Judge also notes that following the implementation of the present decision, some documents initially classified under seal and further rendered confidential by decision of re-classification of the Chamber may appear in the public version of those documents. The Single Judge wishes to clarify that the sole reference

¹⁵ “Decision on Re-classification of Monitoring Reports”, ICC-01/05-01/08-325-Conf.

to these now confidential documents without any information as to their confidential content does not jeopardize the confidential nature of those documents.

FOR THESE REASONS, THE SINGLE JUDGE

1 - Documents in the record of the situation

a) decides to re-classify as public and **order** the Registrar to re-file accordingly the documents below both in English and French, where applicable:

- ICC-01/05-5-Conf-Anx2
- ICC-01/05-5-Conf-Anx3
- ICC-01/05-5-Conf-Anx4
- ICC-01/05-8-Conf
- ICC-01/05-8-Conf-Anx

b) decides to re-classify as public in a redacted form and **order** the Registrar to re-file accordingly the documents below both in English and French, where applicable, following the proposals for redactions as set out in Annex 4 classified confidential *ex parte* Registrar only:

- ICC-01/05-5-Conf
- ICC-01/05-5-Conf-Anx1

2 – Decisions and Documents in the record of the Case

a) decides to re-classify as public both in English and French the following decisions of the Chamber:

- ICC-01/05-01/08-17-Conf
- ICC-01/05-01/08-23-US

- ICC-01/05-01/08-57-Conf
- ICC-01/05-01/08-73-Conf
- ICC-01/05-01/08-79-Conf
- ICC-01/05-01/08-85-Conf
- ICC-01/05-01/08-94-Conf
- ICC-01/05-01/08-97-Conf
- ICC-01/05-01/08-99-Conf
- ICC-01/05-01/08-102-Conf
- ICC-01/05-01/08-102-Conf-Corr
- ICC-01/05-01/08-108-Conf
- ICC-01/05-01/08-111-Conf
- ICC-01/05-01/08-118-Conf
- ICC-01/05-01/08-121-Conf
- ICC-01/05-01/08-134-Conf
- ICC-01/05-01/08-141-Conf
- ICC-01/05-01/08-196-Conf
- ICC-01/05-01/08-202-US-Exp
- ICC-01/05-01/08-246-Conf
- ICC-01/05-01/08-325-Conf
- ICC-01/05-01/08-327-Conf
- ICC-01/05-01/08-356-Conf

b) decides to re-classify as public in a redacted form both in English and French the following decisions of the Chamber:

- ICC-01/05-01/08-48-US-Exp
- ICC-01/05-01/08-135-Conf
- ICC-01/05-01/08-167-Conf-Exp
- ICC-01/05-01/08-183-Conf
- ICC-01/05-01/08-215-Conf
- ICC-01/05-01/08-295-Conf
- ICC-01/05-01/08-339-Conf
- ICC-01/05-01/08-437-Conf

c) **decides** to re-classify as public both in English and French, where applicable, the following documents of the parties, participants as well as the Registrar and thus **grants** OPCV's Request referred to in paragraph 7:

- **ICC-01/05-01/08-12-Conf**
- **ICC-01/05-01/08-18-Conf**
- **ICC-01/05-01/08-22-Conf**
- **ICC-01/05-01/08-31-Conf**
- **ICC-01/05-01/08-39-Conf**
- **ICC-01/05-01/08-41-Conf**
- **ICC-01/05-01/08-44-Conf-Anx**
- **ICC-01/05-01/08-58-US-Exp-Anx**
- **ICC-01/05-01/08-59-Conf**
- **ICC-01/05-01/08-65-Conf-Anx**
- **ICC-01/05-01/08-72-Conf-Anx1**
- **ICC-01/05-01/08-72-Conf-Anx2**
- **ICC-01/05-01/08-82-Conf**
- **ICC-01/05-01/08-82-Conf-Anx4**
- **ICC-01/05-01/08-82-Conf-Anx5**
- **ICC-01/05-01/08-82-Conf-Anx6**
- **ICC-01/05-01/08-82-Conf-Anx7**
- **ICC-01/05-01/08-82-Conf-Anx8**
- **ICC-01/05-01/08-82-Conf-Anx9**
- **ICC-01/05-01/08-82-Conf-Anx10**
- **ICC-01/05-01/08-82-Conf-Anx11**
- **ICC-01/05-01/08-82-Conf-Anx12**
- **ICC-01/05-01/08-82-Conf-Anx13**
- **ICC-01/05-01/08-82-Conf-Anx14**
- **ICC-01/05-01/08-82-Conf-Anx15**
- **ICC-01/05-01/08-82-Conf-Anx16**
- **ICC-01/05-01/08-82-Conf-Anx17**
- **ICC-01/05-01/08-82-Conf-Anx18**

- ICC-01/05-01/08-82-Conf-Anx19
- ICC-01/05-01/08-82-Conf-Anx20
- ICC-01/05-01/08-82-Conf-Anx21
- ICC-01/05-01/08-82-Conf-Anx22
- ICC-01/05-01/08-82-Conf-Anx23
- ICC-01/05-01/08-82-Conf-Anx25
- ICC-01/05-01/08-90-Conf
- ICC-01/05-01/08-92-Conf
- ICC-01/05-01/08-96-Conf
- ICC-01/05-01/08-107-Conf
- ICC-01/05-01/08-113-Conf
- ICC-01/05-01/08-114-Conf-Anx
- ICC-01/05-01/08-115-Conf
- ICC-01/05-01/08-119-US-Exp
- ICC-01/05-01/08-124-US-Exp
- ICC-01/05-01/08-126-US-Exp-Anx
- ICC-01/05-01/08-127-Conf
- ICC-01/05-01/08-128-Conf
- ICC-01/05-01/08-137-Conf-Exp
- ICC-01/05-01/08-139-Conf
- ICC-01/05-01/08-140-Conf
- ICC-01/05-01/08-143-Conf-Exp
- ICC-01/05-01/08-144-Conf-Exp
- ICC-01/05-01/08-145-Conf-Exp
- ICC-01/05-01/08-147-US-Exp
- ICC-01/05-01/08-150-Conf-Exp
- ICC-01/05-01/08-151-Conf-Exp
- ICC-01/05-01/08-153-Conf-Exp
- ICC-01/05-01/08-157-Conf
- ICC-01/05-01/08-165-Conf
- ICC-01/05-01/08-168-Conf-Exp
- ICC-01/05-01/08-175-Conf
- ICC-01/05-01/08-188-Conf

- ICC-01/05-01/08-194-Conf
- ICC-01/05-01/08-205-Conf
- ICC-01/05-01/08-208-Conf-Exp
- ICC-01/05-01/08-211-Conf
- ICC-01/05-01/08-211-Conf-Anx
- ICC-01/05-01/08-212-Conf
- ICC-01/05-01/08-214-Conf
- ICC-01/05-01/08-223-Conf
- ICC-01/05-01/08-224-Conf-Exp
- ICC-01/05-01/08-226-Conf-Exp
- ICC-01/05-01/08-227-Conf
- ICC-01/05-01/08-228-Conf-Exp
- ICC-01/05-01/08-231-Conf-Corr
- ICC-01/05-01/08-237-Conf
- ICC-01/05-01/08-239-Conf
- ICC-01/05-01/08-256-Conf
- ICC-01/05-01/08-279-Conf
- ICC-01/05-01/08-284-Conf
- ICC-01/05-01/08-300-Conf
- ICC-01/05-01/08-313-Conf
- ICC-01/05-01/08-315-Conf-Exp
- ICC-01/05-01/08-328-Conf
- ICC-01/05-01/08-332-Conf
- ICC-01/05-01/08-338-Conf
- ICC-01/05-01/08-338-Conf-Anx1
- ICC-01/05-01/08-338-Conf-Corr
- ICC-01/05-01/08-338-Conf-Anx1-Corr
- ICC-01/05-01/08-342-Conf
- ICC-01/05-01/08-346-Conf
- ICC-01/05-01/08-368-Conf-AnxA
- ICC-01/05-01/08-373-Conf
- ICC-01/05-01/08-374-Conf
- ICC-01/05-01/08-374-Conf-Anx1

- ICC-01/05-01/08-375-Conf
- ICC-01/05-01/08-380-Conf
- ICC-01/05-01/08-434-Conf
- ICC-01/05-01/08-435-Conf
- ICC-01/05-01/08-454-Conf
- ICC-01/05-01/08-463-Conf

d) **decides** to re-classify as public in a redacted form and **order** the Prosecutor to re-file accordingly the documents below both in English and French, where applicable, following the proposals in Annex 1 classified as confidential *ex parte* only available to the Prosecutor:

- ICC-01/05-01/08-26-US-Exp
- ICC-01/05-01/08-29-US-Exp
- ICC-01/05-01/08-32-US-Exp
- ICC-01/05-01/08-44-US-Exp
- ICC-01/05-01/08-58-US-Exp
- ICC-01/05-01/08-65-Conf
- ICC-01/05-01/08-82-Conf-Anx
- ICC-01/05-01/08-91-US-Exp
- ICC-01/05-01/08-114-US-Exp
- ICC-01/05-01/08-122-US-Exp
- ICC-01/05-01/08-126-US-Exp
- ICC-01/05-01/08-131-US-Exp
- ICC-01/05-01/08-139-Conf-Corr
- ICC-01/05-01/08-164-US-Exp
- ICC-01/05-01/08-190-US-Exp
- ICC-01/05-01/08-206-Conf
- ICC-01/05-01/08-209-US-Exp
- ICC-01/05-01/08-286-Conf
- ICC-01/05-01/08-354-Conf

e) **decides** to re-classify as public in a redacted form and **order** the Defence to re-file accordingly the documents below both in English and French, where applicable, following the proposals in Annex 2 classified as confidential:

- ICC-01/05-01/08-70-Conf
- ICC-01/05-01/08-81-Conf
- ICC-01/05-01/08-104-Conf
- ICC-01/05-01/08-193-Conf
- ICC-01/05-01/08-205-Conf
- ICC-01/05-01/08-329-Conf
- ICC-01/05-01/08-329-Conf-Corr
- ICC-01/05-01/08-333-Conf
- ICC-01/05-01/08-333-Conf-Corr
- ICC-01/05-01/08-337-Conf
- ICC-01/05-01/08-341-Conf
- ICC-01/05-01/08-430-Conf
- ICC-01/05-01/08-505-Conf

f) **decides** to re-classify as public in a redacted form and **order** the OPCV to re-file accordingly the documents below both in English and French, where applicable, following the proposals in Annex 3 classified as confidential *ex parte* only available to the OPCV and VPRS:

- ICC-01/05-01/08-146-Conf-Exp
- ICC-01/05-01/08-152-Conf-Exp
- ICC-01/05-01/08-234-Conf-Exp
- ICC-01/05-01/08-240-Conf-Exp
- ICC-01/05-01/08-255-Conf-Exp
- ICC-01/05-01/08-265-Conf-Exp

g) **decides** to re-classify as public in a redacted form and **order** the Registrar to re-file accordingly the documents below both in English and French, where applicable,

following the proposals in Annex 4 classified as confidential *ex parte* only available to the Registrar:

- ICC-01/05-01/08-6-Conf
- ICC-01/05-01/08-38-Conf
- ICC-01/05-01/08-72-Conf
- ICC-01/05-01/08-95-Conf
- ICC-01/05-01/08-176-Conf
- ICC-01/05-01/08-177-Conf
- ICC-01/05-01/08-185-Conf
- ICC-01/05-01/08-231-Conf
- ICC-01/05-01/08-436-Conf
- ICC-01/05-01/08-439-Conf
- ICC-01/05-01/08-440-Conf

h) decides to re-classify as confidential and **order** the Registrar to re-file accordingly the documents below both in English and French, where applicable:

- ICC-01/05-01/08-355-Conf-Exp
- ICC-01/05-01/08-355-Conf-Exp-Anx1
- ICC-01/05-01/08-355-Conf-Exp-Anx2
- ICC-01/05-01/08-410
- ICC-01/05-01/08-410-Anx
- ICC-01/05-01/08-436-Conf-Exp-Anx1
- ICC-01/05-01/08-439-Conf-Exp-Anx1
- ICC-01/05-01/08-439-Conf-Exp-Anx2
- ICC-01/05-01/08-439-Conf-Exp-Anx3
- ICC-01/05-01/08-439-Conf-Exp-Anx4
- ICC-01/05-01/08-440-Conf-Exp-Anx
- ICC-01/05-01/08-445-Conf-Exp

3 - Transcripts

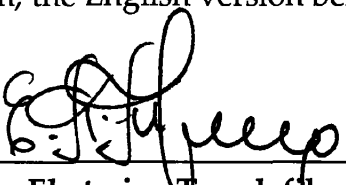
a) **decides** to re-classify as public the transcripts below:

- ICC-01/05-T-1-CONF-EXP-ENG ET 23-05-2008
- ICC-01/05-T-1-CONF-EXP-FRA ET 23-05-2008
- ICC-01/05-01/08-T-1-CONF-ENG ET 26-05-2008
- ICC-01/05-01/08-T-7-CONF-EXP-ENG ET 08-10-2008

b) **decides** to re-classify as public redacted the transcripts below both in French and in English and following the proposed redactions as set out in Annex 4 :

- ICC-01/05-01/08-T-6-CONF-EXP-ENG ET 08-10-2008
- ICC-01/05-01/08-T-8-CONF-ENG CT 22-10-2008

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Friday, 18 September 2009

At The Hague, The Netherlands.