

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 September 2011

TRIAL CHAMBER III

Before: Judge Sylvia Steiner, Presiding Judge
Judge Joyce Aluoch
Judge Kuniko Ozaki

**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
Ms Petra Kneuer, Senior Trial Lawyer

Counsel for the Defence

Mr Nkwebe Liriss
Mr Aimé Kilolo Musamba

Legal Representatives of the Victims

Ms Marie Edith Douzima-Lawson
Mr Assingambi Zarambaud

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

Registrar

Ms Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Trial Chamber III (“Chamber”) of the International Criminal Court in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* issues the following Order on the reclassification of documents.

1. On 24 August 2011, the defence filed its “Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d’accomplir ses devoirs civiques en République Démocratique du Congo” (“Application”).¹ The Application was filed confidentially. As a consequence, the parties and participants’ observations on the Application, as well as a related scheduling order issued by the Chamber, were filed confidentially. Those documents bear the following court record numbers:

- a. ICC-01/05-01/08-1649-Conf;²
- b. ICC-01/05-01/08-1659-Conf;³
- c. ICC-01/05-01/08-1660-Conf;⁴
- d. ICC-01/05-01/08-1661-Conf;⁵
- e. ICC-01/05-01/08-1670-Conf;⁶ and
- f. ICC-01/05-01/08-1671-Conf.⁷

¹ Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d’accomplir ses devoirs civiques en République Démocratique du Congo, 24 August 2011, ICC-01/05-01/08-1639-Conf and four confidential annexes. An English translation was filed on 26 August 2011: Application for the interim release of Mr Jean-Pierre Bemba Gombo to allow him to perform his civic duties in the Democratic Republic of Congo, ICC-01/05-01/08-1639-Conf-tENG.

² Decision requesting observations on, and setting a briefing schedule for, the “Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d’accomplir ses devoirs civiques en République Démocratique du Congo”, 25 August 2011, ICC-01/05-01/08-1649-Conf.

³ Observations on the “Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d’accomplir ses devoirs civiques en République Démocratique du Congo” filed by Mr. Bemba on 24 August 2011, 29 August 2011, ICC-01/05-01/08-1659-Conf.

⁴ Observations de Maître Zarambaud Assingambi, Représentant légal de victimes, sur la demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d’accomplir ses devoirs civiques en République démocratique du Congo, en date du 24 août 2011, 29 August 2011, ICC-01/05-01/08-1660-Conf.

⁵ Prosecution’s Response to the Defence “Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d’accomplir ses devoirs civiques en République Démocratique du Congo”, 29 August 2011, ICC-01/05-01/08-1661-Conf.

⁶ Observations de la Représentante légale de victimes relatives à la demande de mise en liberté provisoire de Jean-Pierre Bemba Gombo afin d’accomplir ses devoirs civiques en République démocratique du Congo, 29 August 2011 (notified on 30 August 2011), ICC-01/05-01/08-1670-Conf.

⁷ Réplique de la Défense aux observations du Procureur et des représentants légaux de victimes sur la demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo en République Démocratique du Congo, 30 August 2011, ICC-01/05-01/08-1671-Conf.

2. On 2 September 2011, the Chamber issued its Decision on the "Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d'accomplir ses devoirs civiques en République Démocratique du Congo" ("Decision").⁸ The Decision was filed confidentially because it contained references to the Appeals Chamber's judgment of 19 August 2011 ("Appeals Judgment"),⁹ which was classified as confidential at the time the Decision was issued.

3. The Chamber ruled in the Decision that the Application did not warrant confidential treatment.¹⁰ The Chamber therefore ordered the parties and participants to (i) file public redacted versions of their filings related to the Request for Provisional Release; or (ii) invite the Chamber to reclassify their filings pursuant to Regulation 23*bis*(3) of the Regulations of the Court ("Regulations") if they believed that no redactions were necessary.¹¹ The Chamber ordered the parties and participants to do so within "five days of the Chamber issuing a public redacted version of th[e] [D]ecision or reclassifying th[e] [D]ecision as public".¹²

4. The Chamber issued a public redacted version of the Decision on 6 September 2011, which was notified on the same day.¹³ This triggered the time limit for complying with the orders set out above in paragraph 3, which expired on 12 September 2011.¹⁴

⁸ Decision on the "Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d'accomplir ses devoirs civiques en République Démocratique du Congo", 2 September 2011, ICC-01/05-01/08-1691-Conf.

⁹ Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 27 June 2011 entitled "Decision on Applications for Provisional Release", 19 August 2011, ICC-01/05-01/08-1626-Conf.

¹⁰ ICC-01/05-01/08-1691-Conf, paragraphs 27-28.

¹¹ ICC-01/05-01/08-1691-Conf, paragraph 30.

¹² ICC-01/05-01/08-1691-Conf, paragraph 30.

¹³ Public Redacted Version of the Decision on the "Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d'accomplir ses devoirs civiques en République Démocratique du Congo" of 2 September 2011, 6 September 2011, ICC-01/05-01/08-1691-Red.

¹⁴ Regulation 33(1) of the Regulations.

5. The Office of Public Counsel for Victims ("OPCV") requested the Chamber to reclassify its observations as public.¹⁵ The defence requested the same in relation to the Application.¹⁶
6. The Office of the Prosecutor and Mr Zarambaud filed public redacted versions of their observations.¹⁷
7. Ms Douzima did not file a public redacted version of her observations, nor did she advise the Chamber of her position regarding their reclassification.
8. The defence did not file a public redacted version of its reply,¹⁸ nor did it advise the Chamber of its position regarding reclassification.
9. On 12 September 2011, the Appeals Chamber issued a public redacted version of the Appeals Judgment, in which the passages of the Appeals Judgment cited in the Decision were made public.¹⁹ As a result, there is no longer a basis for the confidential treatment of any part the Decision or the Chamber's 25 August 2011 scheduling order.²⁰ For the same reason, and for those explained in paragraphs 27 and 28 of the Decision, there is no longer a basis for the confidential treatment of the Application, the observations of the OPCV, or the observations of Ms Douzima.

¹⁵ Email sent to the Trial Chamber's Legal Officer on 5 September 2011 at 13:44.

¹⁶ Email sent to the Trial Chamber's Legal Officer on 12 September 2011 at 15:34.

¹⁷ Public Redacted Version of Prosecution's Response to the Defence "Demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d'accomplir ses devoirs civiques en République Démocratique du Congo", 12 September 2011, ICC-01/05-01/08-1661-Conf; Observations de Maître Zarambaud Assingambi, Représentant légal de victimes, sur la demande de mise en liberté provisoire de M. Jean-Pierre Bemba Gombo afin d'accomplir ses devoirs civiques en République démocratique du Congo, en date du 24 août, 6 September 2011, ICC-01/05-01/08-1660-Red.

¹⁸ ICC-01/05-01/08-1671-Conf.

¹⁹ Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 27 June 2011 entitled "Decision on Applications for Provisional Release", 12 September 2011, ICC-01/05-01/08-1626-Red.

²⁰ ICC-01/05-01/08-1649-Conf.

10. The Chamber observes that paragraph 12 of the defence reply contains confidential information. It can therefore not be reclassified as a whole. Instead, the defence shall file a public redacted version of its reply, redacting the confidential information in paragraph 12, as well as any further information the defence believes to be confidential.

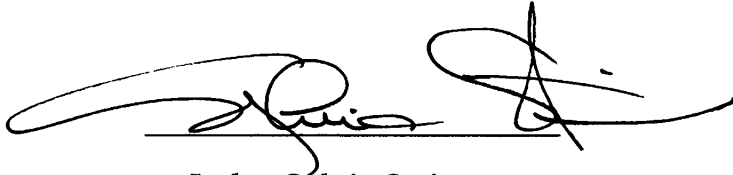
11. To the extent that the time limits and orders set down in the Decision were not complied with – see paragraphs 7 and 8, above – the Chamber reminds the parties and participants that its orders are mandatory and must be complied with in a timely fashion.²¹

12. For the foregoing reasons, and in accordance with the principle of public proceedings enshrined in Articles 64(7) and 67(1) of the Rome Statute, the Chamber ORDERS, pursuant to Regulation 23*bis*(3) of the Regulations, that:
 - a. The Registry shall reclassify the following documents as public:
 - i. ICC-01/05-01/08-1649-Conf;
 - ii. ICC-01/05-01/08-1659-Conf;
 - iii. ICC-01/05-01/08-1670-Conf; and
 - iv. ICC-01/05-01/08-1691-Conf.

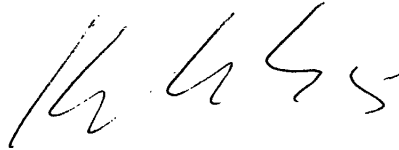
 - b. The defence shall file a public redacted version of its reply (ICC-01/05-01/08-1671-Conf) no later than 16:00 on 16 September 2011.

²¹ See Regulation 29 of the Regulations of the Court.

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



Judge Sylvia Steiner

Judge Joyce Aluoch

Judge Kuniko Ozaki

Dated this 15 September 2011

At The Hague, The Netherlands