

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Prosecution's request to reclassify, as public, two documents

Source: Office of the Prosecutor

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

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REGISTRY

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Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section **Other**

Submissions

1. On 19 September 2016, Bemba sought to admit additional evidence on appeal.¹ On 17 October 2016, the Appeals Chamber ordered the Parties and the participants to publicise—by 9 November 2016—various underlying filings relating to the Defence Application.² Accordingly, the Prosecution was directed to file public redacted versions of

(i) its response to the Legal Representatives of Victims' request for access to the documents tendered as additional evidence (ICC-01/05-01/08-3441-Conf) and,

(ii) its notice of its intended response to the Defence Application (ICC-01/05-01/08-3443-Conf),

or, to seek their reclassification as public documents.³

2. The Prosecution seeks the reclassification, as public, of both documents. They were initially marked confidential because they related to the Defence Application also filed confidentially.⁴ Since then, the Defence has filed a public redacted version of its Application. Maintaining the two documents as confidential is thus no longer justified.⁵ Nor do they have any confidential content that require redaction. This submission is similarly filed as public.

¹ ICC-01/05-01/08-3435-Conf A and ICC-01/05-01/08-3435-Red A (Defence Application or Application).

² See ICC-01/05-01/08-3445-Conf A (Decision on LRV access), p. 3; ICC-01/05-01/08-3446-Conf A (Decision on Additional Evidence Procedure), p. 3.

³ Decision on LRV Access, p. 3; Decision on Additional Evidence Procedure, p. 3.

⁴ See ICC-01/05-01/08-3441-Conf A (Prosecution Response to LRV's Request), para. 6 (referring to the confidential basis of the LRV's request (ICC-01/05-01/08-3438-Conf A)). The LRV's request was filed confidentially, under regulation 23bis(2) of the Regulations of the Court, in response to the confidential version of the Defence Application. The public version of the LRV's request is also due today. See also ICC-01/05-01/13-2000 (where Trial Chamber VII publicly noted *inter alia* the LRV's request).

⁵ Regulation 23bis(3): Where the basis for the classification no longer exists, whosoever instigated the classification[...] 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[...].

Conclusion and Relief

3. For the reasons above, the Prosecution requests the Appeals Chamber to grant its request to reclassify, as public, ICC-01/05-01/08-3441-Conf and ICC-01/05-01/08-3443-Conf, and direct the Registry to implement accordingly.

Word count: 552⁶



Fatou Bensouda, Prosecutor

Dated this 9th day of November 2016

At The Hague, The Netherlands

⁶ The Prosecution hereby makes the required certification: ICC-01/11-01/11-565 OA6, para. 32.