

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **28 March 2017**

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, document ICC-01/05-01/08-3496-Conf

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

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section **Other**

Submissions

1. On 20 March 2017, the Appeals Chamber ordered the Parties and the participants to publicise various underlying filings relating to the litigation on additional evidence on appeal.¹ Accordingly, the Prosecution was directed to file a public redacted version of its response to Bemba's motion to strike its reply to the Legal Representative of Victims' observations relating to the proposed additional evidence (ICC-01/05-01/08-3496-Conf)² or, to seek its reclassification as a public document.³

2. The Prosecution requests that the document is reclassified as public. It was initially marked confidential because it referred to the content of Bemba's reply and the LRV's Observations—both of which were filed confidentially.⁴ Since then, Bemba has sought to reclassify, as public, his reply.⁵ At the time of this filing, the Prosecution has no information on whether the LRV has sought to reclassify her filing. Notwithstanding, considering Bemba's request to reclassify and the particular content of the Prosecution's response, maintaining the latter as confidential is thus no longer justified.⁶ Nor does it have any confidential content that requires redaction. This submission is similarly filed as public.

¹ See ICC-01/05-01/08-3508 A ("Publicity Order"), p. 3.

² ICC-01/05-01/08-3496-Conf A ("Prosecution's Response").

³ See Publicity Order, p. 3.

⁴ See Prosecution's Response, para. 5. See also Prosecution's Response, referring to ICC-01/05-01/08-3482-Conf A ("Reply" or "Bemba's Reply") and ICC-01/05-01/08-3484-Conf A ("LRV's Observations").

⁵ See ICC-01/05-01/08-3509 A ("Bemba's Request to Reclassify").

⁶ 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-01/05-01/08-3496-Conf, and direct the Registry to implement accordingly.



Fatou Bensouda, Prosecutor

Dated this 28th day of March 2017⁷

At The Hague, The Netherlands

⁷ This submission complies with regulation 36, as amended on 6 December 2016: ICC-01/11-01/11-565 OA6 (“*Al Senussi AD*”), para. 32.