

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/05-01/08
Date: **04 November 2008**

PRE-TRIAL CHAMBER III

Before: Judge Hans-Peter Kaul, Single Judge

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

Confidential

Ex parte only available to the Registry

Supplementary Report to the Report to Pre-Trial Chamber III on applications to participate in proceedings in accordance with Rule 89 paragraph 1 of the Rules of Procedure and Evidence and Regulation 86 paragraph 5 of the Regulations of the Court, on Legal Representation

Source: Victims Participation and Reparations Section

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

Registrar

Silvana Arbia

Deputy Registrar

Didier Preira

Victims Participation and Reparations

Section

Fiona McKay

1. Twenty-four applicants to participate in proceedings were filed with PTC III on 3 October 2008 and were the subject of a report under Regulation 86 paragraph 5 filed on 17 October 2008.¹
2. The Single Judge in her Decision of 12 September 2008 requested the Registry, in accordance with Rule 90 paragraph 2 of the Rules of Procedure and Evidence, to provide assistance to the applicants to choose a legal representative, and to appoint the OPCV until such time as another legal representative has been appointed. The present report is aimed at updating the Chamber in relation to the issue of legal representation.
3. Of the 24 applicants, 15 applicants are represented either by Maitre Marie-Edith Douzima or by Maitre Nganatouwa Goungaye Wanifiyo, both of whom are on the list of counsel maintained by the Registry in accordance with Rule 21 paragraph 2 of the Rules of Procedure and Evidence and therefore do have the qualifications required of legal representatives of victims in Rule 90 paragraph 6 of the Rules of Procedure and Evidence.
4. The remaining 9 applicants did not have a legal representative. In accordance with the Single Judge's Decision of 12 September 2008, the Registry appointed the OPCV to represent these applicants. The Registry would draw the Chamber's attention to the fact that 3 applicants indicate in their application forms that they have a legal representative, but that legal representative is not on the list of counsel. In light of this, the Registry has considered that these applicants do not have a legal representative and has appointed the OPCV to represent them for the time being.
5. The Registry would further inform the Chamber that in light of the postponement of the Confirmation of Charges hearing, and in accordance with the Decision of the Single Judge of 12 September 2008, a further 34 applications to participate in the proceedings will be filed by 7 November 2008. Of these, 21 are represented by one of

¹ ICC-01/05-01/08-137-Conf-Exp and ICC-01/05-01/08-168-Conf-Exp

the legal representatives who is already representing other applicants, Maitre Nganatouwa Goungaye Wanifiyo, while 13 applicants do not have a legal representative so their applications have been transmitted to the OPCV in accordance with the Single Judge's Decision of 12 September 2008.

6. Should any of the applicants presently represented by the OPCV be accepted to participate in the confirmation of charges hearing, the Registry will assist them to choose a common legal representative to represent them in the hearing in accordance with Rule 90 paragraph 2 of the Rules of Procedure and Evidence and the Decision of the Single Judge of 12 September 2008. In so doing, the Registry would recommend that the following two options be considered.
 - a. The Registry would investigate firstly whether one of the two legal representatives who are already representing applicants, and potentially victims, in relation to the case could be asked to represent other victims who may be accepted to participate. The Registry would propose to consult with the legal representatives and the victims in order to ascertain which of the two lawyers might more appropriately represent each victim, taking all reasonable steps to ensure that the distinct interests of the victims are represented and any conflict of interest if avoided, as provided in Rule 90 paragraph 4 of the Rules of Procedure and Evidence as well as taking into account the views of the victim and the need to respect local traditions and to assist specific groups of victims, as provided in Regulation 79 sub-regulation 2 of the Regulations of the Court. Only if the above factors could not be satisfied by joining the victims with either of the two existing groups, may the Registry have to recommend that a third group be formed, represented by a different legal representative. In making this recommendation, the Registry is taking into account the requirement in Rule 90 paragraph 2 to take into consideration the purpose of ensuring the effectiveness of the proceedings, as well as the financial implications for the legal aid budget of the Court. The Registry will be happy to provide the Chamber with further information on the financial implications if requested.

- b. The OPCV be appointed to represent the victims during the remainder of the current phase of proceedings, or until such time as the victims choose another legal representative, provided that no conflict of interest arises and that such representation does not prevent the Office from carrying out its functions.² The advantages of this option, given the short time remaining before the confirmation of charges hearing begins, are that the OPCV has already established contact with these applicants. If such an option were to be considered, the Registry would propose to consult with the OPCV in order to ascertain the availability of a qualified counsel within the Office to represent victims for the confirmation of charges phase.



Didier Pereira, Deputy Registrar
on behalf of
Silvana Arbia, Registrar

Dated this 04 November 2008

At The Hague, The Netherlands

² In this regard, the Registry notes the approach taken by the other Chambers, including the concern that the Office should concentrate its limited resources on the core functions given to it which are to provide support and assistance to the legal representatives of victims and to victims who have applied to participate (ICC-01/04-01/06-1211 of 6 March 2008 at paragraph 32).