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

Date: **23 March 2010**

TRIAL CHAMBER III

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge Joyce Aluoch

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

**Public Document
URGENT**

**Application of the Legal Representative to extend the time limit for the
submission of observations with regard to the admissibility proceedings**

Source: The Office of Public Counsel for Victims

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

The Office of the Prosecutor

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Unrepresented Victims

**Unrepresented Applicants for
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Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. PROCEDURAL BACKGROUND

1. On 09 December 2009, Trial Chamber III issued the “Decision on the Observations on legal representation of unrepresented applicants”¹, wherein it held, *inter alia*, that the Office of Public Counsel for Victims (the “Office” or “OPCV”) shall continue to represent a) the victim applicants it currently represents until the Chamber issues a decision on their application to participate, and b) those victim applicants who have not chosen a legal representative until a decision is made on their application to participate.² The Chamber further held that Mrs. Douzima Lawson shall continue to represent the victims she represented during the confirmation of charges phase of the case.³

2. On 22 February 2010, the Trial Chamber issued a decision on continuous participation, wherein it held, *inter alia*, that the 54 individuals who were granted the status of victim at the pre-trial stage shall continue to participate in the proceedings at the trial stage, unless there is an objection for good cause based on new material.⁴

3. On 25 February 2010, the Defence submitted a “Requête en vue de contester la recevabilité de l’Affaire conformément aux articles 17 et 19(2)(a) du Statut de Rome” (the “Defence Request”), of which a public redacted version was filed on 02 March

¹ See the “Decision on the Observations on legal representation of unrepresented applicants”, (Trial Chamber III), No. ICC-01/05-01/08-651, 09 December 2009. Pursuant to Trial Chamber III’s instruction, dated 28 January 2010, this document was reclassified as “Public”.

² *Idem*, p. 10.

³ *Idem*, p. 11. Of the applicants granted the status of victims authorised to participate in the pre-trial stage, victims a/0278/08, a/0279/08, a/0291/08, a/0292/08, a/0293/08, a/0296/08, a/0297/08, a/0298/08, a/0455/08, a/0457/08, a/0458/08, a/0459/08, a/0460/08, a/0461/08, a/0462/08, a/0463/08, a/0464/08, a/0465/08, a/0466/08 & a/0467/08 are represented by the Office as Legal Representative.

⁴ See the “Decision defining the status of 54 victims who participated at the pre-trial stage, and inviting the parties’ observations on applications for participation by 86 applicants”, No. ICC-01/08-01/05-699, 22 February 2010, p. 21.

2010. Pursuant to the Trial Chamber's subsequent instruction, said Submission was reclassified as confidential.⁵

4. At the Status Conference of 08 March 2010, the Trial Chamber ordered that the Legal Representatives in the case be provided with a suitably-redacted copy of the Defence Request, together with the references to all of the relevant documents described therein, unless there are well-founded security reasons for not providing them such material.⁶ The Trial Chamber also ordered, *inter alia*, that the Legal Representatives file their observations on the Defence Request by 29 March, 2010.⁷

5. The Principal Counsel of the OPCV, as Legal Representative of victims a/0278/08, a/0279/08, a/0291/08, a/0292/08, a/0293/08, a/0296/08, a/0297/08, a/0298/08, a/0455/08, a/0457/08, a/0458/08, a/0459/08, a/0460/08, a/0461/08, a/0462/08, a/0463/08, a/0464/08, a/0465/08, a/0466/08 et a/0467/08, already authorized to participate at trial; as well as of applicants a/0280/08; a/0456/08; a/0541/08 to a/0543/08; a/0546/08 to a/0552/08; a/0555/08 to a/0557/08; a/0559/08; a/0560/08; a/0511/08 to a/0517/08; a/0562/08 to a/0573/08; a/0574/08 to a/0579/08; a/0582/08 to a/00606/08; a/0624/08; a/0625/08; a/0001/10 to a/0025/10; a/0129/09 to a/0141/09; a/0427/09; a/0428/09; a/0429/09; a/0430/09; a/0431/09 to a/0433/09; a/0651/09 to a/0653/09; a/0661/09 to a/0668/09; a/0155/10; a/0156/10; a/0160/10; a/0162/10 to a/0215/10; a/0297/10 to a/0332/10; and of 60 individuals having filed a request for participation and not having yet been assigned a VPRS number, hereby respectfully requests the Trial Chamber to extend the time limit for the submission of observations by victims she represents until 1 April 2010 for the following reasons.

⁵ See the "Requête en vue de contester la recevabilité de l'Affaire conformément aux articles 17 et 19(2) (a) du Statut de Rome", No. ICC-01/05-01/08-704-Red2-Conf, 02 March 2010.

⁶ See the Transcript of the Status Conference of 08 March 2010 (Trial Chamber III), No. ICC-01/05-01/08-T-20-Red-ENG WT, p. 4, lines 9-15, and p. 6, lines 4-14.

⁷ *Idem*, p. 7, lines 5-14.

II. REASONS FOR THE REQUEST FOR EXTENTION OF TIME LIMIT

6. Pursuant to regulation 35(1) of the Regulations of the Court, “[a]pplications to extend or reduce any time limit [...] ordered by the Chamber shall be made in writing or orally to the Chamber seized of the matter setting out the grounds on which the variation is sought.” Sub-paragraph (2) of the said regulation further states that “[t]he Chamber may extend or reduce a time limit if good cause is shown [...].”

7. Accordingly, the Legal Representative respectfully submits the following observations, which she contends meet the criteria of regulation 35(1) of the Regulations of the Court.

8. Following the notification of the Defence Request, the Legal Representative has contacted some individuals in the Central African Republic in order to assess their availability to help her in collecting the views of victims she is representing for the purposes of article 19 proceedings. Such individuals have expressed their willingness to help her but underlined some concerns related to the fact that, despite their best efforts, and considering the security situation in the country, as well as the logistical difficulties to reach the majority of the places where victims reside, they will not be able to enter into contact with a meaningful part of the victims in such short period of time.

9. Making matters more complicated, many of the victims represented by the Legal Representative live in areas of the Central African Republic that are difficult to access, and since they speak the local languages, they therefore cannot be simply telephoned by staff members of the Office without advance coordination of interpretation services, if they are able to be contacted by phone at all. Moreover, the

majority of them work far away from their usual place of residence and are reachable only during the weekends or late in the evening.

10. Despite these difficulties, to date, the Legal Representative has already been able to provide the majority of her clients (around 250 individuals), directly or through third persons as explained above, with a summary of the Defence Request explaining to them the grounds on which the admissibility of the case has been challenged, as well as a questionnaire to be filled by victims if they so wish in order to collect their views and concerns in the most effective and fast way.

11. Moreover, an OPCV mission is currently ongoing in Central African Republic and members of the Office will be able to start collecting the views and concerns of victims by today 23 March 2010. However, due to logistical difficulties in the field, it is unlikely that the Legal Representative receives before the end of this week all information needed to include the views and concerns of her clients in her submission to the Trial Chamber. Indeed, documents containing the views and concerns by victims collected in the field will need to be scanned using the only scanner available at the field office and sent to The Hague where the Legal Representative is preparing the draft of the submission. This operation is not only time-consuming, since the means available *in loco* allows for the scanning of one page a time, but also difficult to execute, considering the difficulties in connecting to the internet in Bangui (CAR). The OPCV mission is planned to last until 29 March 2010 and the OPCV staff will be arriving in The Hague in the afternoon of that day, together with all the material collected from the victims.

12. Thereafter, the Legal Representative will need to assess the views and concerns of victims collected in order to include them in her submission to the Trial Chamber. Moreover, should the Legal Representative decide to annex the views and

concerns of victims received in written form to her submission, such documents will probably need to be redacted in some parts before being filed and notified to the Prosecution and the Defence, in order to expunge all details which may lead to the identification of the persons concerned, in accordance with the practice of the Trial Chamber⁸.

13. As a result of the above-mentioned challenges, the Legal Representative does not believe that she will be able to receive the views and concerns of the victims she represents and to submit to the Chamber their representations on the issue of the admissibility challenge raised by Mr. Bemba's Defence by 29 March 2010. However, the Legal Representative considers that she will be able to submit her observations on behalf of the victims she is representing by 1 April 2010, at the latest.

14. Considering that the legal issue *sub-judice* is of such paramount importance to the victims, particularly because the said issue could potentially suspend all proceedings before the Court in this case, the Legal Representative submits that she should be given further time to a) satisfactorily contact the victims she represents and b) submit their representations to the Chamber after being given the opportunity to consult with the majority of them about the possible legal ramifications implicated by the challenge of the admissibility of the case raised by Mr. Bemba's Defence.

15. Accordingly, the Legal Representative respectfully argues that the deadline established by the Trial Chamber does not suffice for enabling victims to submit their observations on the important issue of the admissibility of the case pursuant to article 19(3) of the Rome Statute and that good cause has been shown for the extension of the time-limit.

⁸ See *supra* footnote 4, par. 33.

FOR THE FOREGOING REASONS, the Legal Representative respectfully requests that Trial Chamber III extend the time limit for submitting observations on the admissibility of the case until 1 April 2010, since good cause has been shown.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 23rd March 2010

At The Hague, The Netherlands