

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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Date: **27 August 2010**

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

**Prosecution's Observations on Application a/0666/09 for Victim's Participation in
the Proceedings**

Source: The Office of the Prosecutor

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

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I. Introduction

1. Pursuant to Rule 89(1) of the Rules of Procedure and Evidence (“Rules”) and the “Order inviting the parties’ observations on 192 victims’ applications” (“Order”)¹ issued by Trial Chamber III (“Chamber”), the Office of the Prosecutor (“Prosecution”) requests the Chamber to grant applicant a/0666/09 authorization to participate in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.²

II. Background

2. On 14 July 2010, the Registrar transmitted to the parties 191 applications to participate in the proceedings in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.³

3. On 16 July 2010, the Chamber requested observations on 192 applications for participation as victims in the case.⁴ On 19 August 2010, the Prosecution filed its “Prosecution’s Observations on the 192 Applications for Victim’s Participation in the Proceedings”.⁵ In that document, the Prosecution noted that it had received only 191 applications.⁶

4. On 23 August 2010, the Registrar transmitted additional application a/0666/09 to the parties for observations.⁷

¹ ICC-01/05-01/08-833, Order inviting the parties’ observations on 192 victims’ applications, 16 July 2010.

² ICC-01/05-01/08-861, Report of an incorrect notification to the parties of 192 applications for victim participation, 23 August 2010 (notified on 24 August 2010).

³ ICC-01/05-01/08-824-Conf-Exp, Transmission to the parties of redacted versions of 192 applications for participation in the proceedings, 14 July 2010 (notified on 15 July 2010).

⁴ ICC-01/05-01/08-833 at para. 3.

⁵ ICC-01/05-01/08-858, Prosecution’s observations on the 192 applications for victim’s participation in the proceedings, 19 August 2010.

⁶ Id. at para. 3 and footnote 3.

⁷ ICC-01/05-01/08-861.

III. Submissions

5. The Prosecution considers that victims' participation before the Court is an essential feature of the Rome Statute ("Statute") system and an important contribution to international justice. Under the Statute, victims are actors in the administration of international justice rather than its passive subjects. Their participation is a statutory right, not a privilege bestowed on a case-by-case basis.

6. Established jurisprudence requires that an applicant meet the following requisites before the Court will authorize an applicant's participation as a victim in the proceedings:

- (i) he/she qualifies as a victim under the definition of this term provided by Rule 85 of the Rules; and
- (ii) his/her personal interests are affected by the proceedings at hand; that is, by the issues, legal or factual, raised therein pursuant to Article 68(3) of the Statute.⁸

7. In relation to the first requisite - qualification of a victim under Rule 85 of the Rules - the following four criteria must be satisfied for victim status to be warranted, regardless of the stage of the proceedings in which the applicants wish to participate:

- (i) the applicant must be a natural person as set forth in Rule 85(a) of the Rules or an organization or institution as set forth in Rule 85(b) of the Rules;
- (ii) the applicant must have suffered personal harm;
- (iii) the crime from which the harm resulted must fall within the jurisdiction of the Court; and

⁸ ICC-01/04-01/06-1432, Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victim's Participation of 18 January 2008, 11 July 2008, at paras. 1-2.

- (iv) there must be a causal link between the crime and the harm the applicant personally suffered,⁹ as well as between the crime and the applicant's personal interests.¹⁰

8. Additionally, applicants must provide information about their identity to prove their status. The Court shall "seek to achieve a balance between the need to establish an applicant's identity with certainty, on the one hand, and the applicant's personal circumstances, on the other"¹¹. From the information in the application, the Prosecution is satisfied that applicant a/0666/09 meets all the requirements for participation at trial as a natural person.¹²

IV. Conclusion

9. For the foregoing reasons, the Prosecution requests the Chamber to grant the applicant a/0666/09 authorization to participate as a victim in the proceedings at the trial stage pursuant to Rule 89(1) of the Rules and Article 68(3) of the Statute.



Luis Moreno-Ocampo, Prosecutor

Dated this 27th Day of August 2010

At The Hague, The Netherlands

⁹ See, e.g., ICC-01/04-01/06-601-tENG, Decision on applications for participation in proceedings a/0004/06 to a/0009/06, a/0016/06, a/0063/06, a/0071/06 to a/0080/06 and a/0105/06 in the case of *The Prosecutor v. Thomas Lubanga Dyilo*, 20 October 2006, p. 9; ICC-01/04-01/06-228-tENG, Decision on the Applications for Participation in the Proceedings of a/0001/06, a/0002/06 and a/0003/06 in the case of *The Prosecutor v. Thomas Lubanga Dyilo* and of the investigation in the Democratic Republic of the Congo, 28 July 2006, page 7.

¹⁰ See ICC-01/04-01/06-1432 OA9 OA10, Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victims' Participation of 18 January 2008, 11 July 2008, para. 2.

¹¹ ICC-01/04-01/06-1119, Decision on victims' participation, 18 January 2008, at para 87.

¹² Due to the extent of the redactions applied to the applications, the Prosecution can only rely on the date of birth of the applicant and the nature of the identification documents provided to conduct a *prima facie* assessment of proof of identity.