

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 24 September 2010

TRIAL CHAMBER III

Before: Judge Silvia 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***

**Confidential - URGENT
Ex parte only available to the Registry**

Third report to Trial Chamber III on applications to participate in the proceedings

Source: Registry

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

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

**Victims Participation and Reparations
Section**

Ms Fiona McKay

The Registrar of the International Criminal Court (the "Court");

NOTING 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" dated 22 February 2010 ("22 February 2010 Decision");¹

NOTING the "Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings" dated 30 June 2010 ("30 June 2010 Decision");²

NOTING the "Decision setting a time-limit for the submission of new victims' applications for participation" ("7 September 2010 Decision");³

NOTING the memorandum of the Presiding Judge dated 16 September 2010 which required the Registry to provide the chamber with reports which, for each application, summarise the alleged facts and harm suffered as well as providing a prima facie assessment of the application's compliance with the requirements of rule 85;⁴

NOTING article 68(3) of the Rome Statute, rule 89(1) of the Rules of Procedure and Evidence and regulation 86(5) of the Regulations of the Court;

CONSIDERING that approximately 1000 applications are being processed by the Registry 10% of which will have to be completed at a later stage;

CONSIDERING therefore that an approximate number of 850 to 900 applications will be submitted in the coming weeks for participation in the proceedings;

¹ ICC-01/05-01/08-699, paragraph 38.

² ICC-01/05-01/08-807.

³ ICC-01/05-01/08-875.

⁴ Memorandum dated 16 September 2010 from the Presiding Judge to the Director, Division of Court Services.

CONSIDERING that 218 of those applications have now been processed and redacted in accordance with the guidelines established by the Chamber;

CONSIDERING that the Registry has transmitted these 218 applications to the Chamber;⁵

TRANSMITS to the Chamber the following report on 218 applications for participation in the proceedings.

A. Background and content of this report

1. The present report covers 218 applications to participate in the proceedings. Of these, all are natural persons and none are organisations or institutions.
2. The 218 applications have been filed with the Chamber. The present report serves to transmit to the Chamber the reports which are required by regulation 86(5) of the Regulations of the Court as further elaborated by the memorandum of the Presiding Judge dated 16 September 2010.
3. All the applications that are the subject of this report appear to the Registry to be linked to the charges in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.⁶
4. In accordance with the 22 February 2010 Decision,⁷ the Registry is filing only applications that appear to be complete, as assessed by reference to the relevant legal texts and jurisprudence.

⁵ ICC-01/05-01/08-900

⁶ As determined by reference to Public Redacted Annex B to the "Prosecution's Submission of the Document Containing the Charges as Confirmed by the Pre-Trial Chamber filed in accordance with the Chamber's Order of 7 October 2009", ICC-01/05-01/08-593, dated 4 November 2009.

⁷ *Ibid.*, paragraph 35.

5. This report provides an overview of the 218 applications transmitted, while the following documents are provided as annexes:
- **Annex 1:** An explanation of the contents of the individual assessment reports which constitute Annex 3.
 - **Annex 2:** Map showing the geographical areas used to group applications.
 - **Annex 3:** Reports under regulation 86(5), providing the Registry's assessment of each application (as explained in Annex 1).
 - **Annex 4:** Memoranda sent by the Office of Public Counsel for Victims (OPCV) to the VPRS in relation to individual applications;
 - **Annex 5:** A memorandum sent by the OPCV to the VPRS regarding attempted murder in the framework of the present case
6. As described in its previous reports,⁸ the Registry has categorized applications according to the geographical locations at which crimes are alleged by the applicants to have been committed.⁹ These groupings are explained in Annex 1 and shown on the map comprising Annex 2. All 218 of the applications which are the subject of this report fall within Group A, indicating that the crimes described by the applicants are alleged to have occurred in and around Bangui and the surrounding areas.

B. *Prima facie* assessments in relation to rule 85

7. As requested by the Chamber, the Registry has, for each application covered by this report, undertaken a *prima facie* assessment of compliance with the requirements of rule 85. The reports which constitute Annex 3 show the individual results of these assessments, and the reasons for them (including

⁸ Registry's Report on applications to participate in the proceedings, ICC-01/05-01/08-653-Conf-Exp, paragraph 8; Second report to Trial Chamber III on applications to participate in the proceedings, ICC-01/05-01/08-796-Conf-Exp, paragraphs 6 to 8, and annex 2 to that report (ICC-01/05-01/08-796-Conf-Exp-Anx2)

⁹ As set out in Public Redacted Annex B to the "Prosecution's Submission of the Document Containing the Charges as Confirmed by the Pre-Trial Chamber filed in accordance with the Chamber's Order of 7 October 2009", ICC-01/05-01/08-593, dated 4 November 2009.

whether the requirements of rule 85 are demonstrated and any legal issues which are apparent), as well as summaries of the applications.

8. In relation to each application, the Registry indicates either that:
 - (a) The application appears *prima facie* to comply with the requirements of rule 85; or
 - (b) Unclear: the Registry is not in a position to make a *prima facie* assessment without further guidance from the Chamber on specific matters that are indicated.
9. As regards the second category of “unclear”, the Registry would in particular draw the Chamber’s attention to two matters set out in Annex 1 that arise in relation to applications that are the subject of this filing. First, the question of whether applicants who allege that they have suffered harm as a result of sexual violence, but do not provide further details regarding the precise nature of the acts allegedly committed against them, could be considered as having suffered rape and therefore falling within the charges in the case. The second question is the circumstances in which internal inconsistencies will render an application incomplete.

C. Memoranda from the Office of Public Counsel for Victims

10. The Registry has received the following memoranda from the OPCV which may be of relevance to the Chamber in determining the applications for victims status which are covered by this report and/or which will be covered by subsequent reports of the Registry:
 - (a) A series of memoranda sent by the OPCV to the VPRS which raise specific issues in relation to particular applicants represented by the OPCV. The Registry wishes to draw to the Chamber’s attention that it has reviewed and taken into consideration the points raised by the OPCV in these

memoranda when reviewing the applications concerned. However the Registry has conducted its own analysis and made its own assessments of the applications. The Registry's *prima facie* assessments as reflected in the reports comprising Annex 3 therefore take into account, but are not determined by, the views of the OPCV as set out in the reports constituting Annex 3 to the present report.

- (b) A legal memoranda sent by the OPCV to the VPRS on 15 September 2010 concerning the question of attempted murder in the context of the present case. The OPCV has requested that this memorandum be presented to the Chamber. The Registry notes that the memorandum argues that attempted murder can be considered as included among the charges confirmed against the accused, and therefore that persons who have suffered harm as a result of an attempted murder within the geographical and temporal scope of the case should qualify for victim status in the case. The Registry wishes to indicate it does not oppose neither advocate for the OPCV's approach, hence it only transmits such position to the Chamber.

D. Protection

11. The Registry notes that the 218 applications which are the subject of this report have been transmitted in redacted form to the parties in compliance with the Chamber's order,¹⁰ that applications for participation in the proceedings received by the Registry be transmitted to the parties in redacted form on an ongoing basis as and when they are prepared, and in accordance with the guidelines on redactions provided in the 22 February 2010 Decision. The redacted applications have also been notified to the legal representatives of the respective applicants in compliance with the Chamber's order conveyed by email on 26 August 2010 that in relation to all future applications the

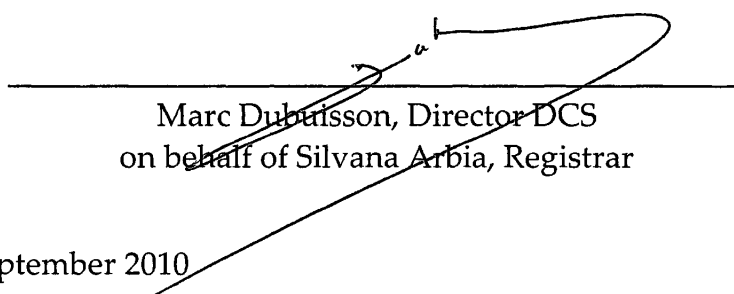
¹⁰ Email of 16 September 2010 from the Legal Advisor, Trial Division, to the Director, Division of Court Services and the Chief, VPRS.

Registry should systematically notify the respective legal representatives of victims of the redacted versions of applications as notified to the parties.¹¹

12. At this time no further measures of protection appear to be necessary.

13. The Registry further wishes to inform the Chamber that it has also received further applications which are currently being processed and will be filed at a later date. This includes a number of incomplete applications for which missing documents or information have been requested and are awaited. In respect of the latter, the Registry will provide the Chamber with a report indicating the reasons why the applications were not filed with the Chamber, in accordance with the 22 February 2010 Decision, at paragraph 37.

14. With a view to implement the instructions conveyed by the Chamber in the email of 16 September, the Registry will transmit applications processed on a weekly basis.



Marc Dubuisson, Director DCS
on behalf of Silvana Arbia, Registrar

Dated this 24 September 2010

At The Hague, The Netherlands

¹¹ Email of 26 August from the Legal Officer, Trial Chamber III to the Assistant Legal Officer, Division of Court Services.