

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/05-01/08
Date: 8 October 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

Ex parte only available to the Registry

With 5 confidential annexes *ex parte* only available to the Registry

Fifth 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:

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Counsel Support Section

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

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” issued by Trial Chamber III (the “Chamber”) 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;

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 of these, 394 applications for participation in the proceedings have already been submitted to the Chamber on 24 September 2010 and 1 October 2010;⁵

CONSIDERING that a further 104 applications have now been processed and redacted in accordance with the guidelines established by the Chamber;

CONSIDERING that the Registry has transmitted these 104 applications to the Chamber;⁶

TRANSMITS to the Chamber the following report on 104 applications for participation in the proceedings.

A. Background and content of this report

1. The present report covers 104 applications to participate in the proceedings. Of these, all are natural persons and none are organisations or institutions.

2. The 104 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*.⁷

⁵ ICC-01/05-01/08-904-Conf-Exp and ICC-01/05-01/08-913 + Conf-Exp-Anxs

⁶ ICC-01/05-01/08-932

⁷ 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

4. In accordance with the 22 February 2010 Decision,⁸ the Registry is filing only applications that appear to be complete, as assessed by reference to the relevant legal texts and jurisprudence.

5. This report provides an overview of the 104 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,⁹ the Registry has categorized applications according to the geographical locations at which crimes are alleged by the applicants to have been committed.¹⁰ These groupings are explained in Annex 1 and shown on the map comprising Annex 2. All 104 of the applications which are the subject of this report fall within Group C, indicating that the crimes described by the applicants are alleged to have occurred in and around Boali, Bossembélé, Bossangoa, Bozoum and the surrounding areas.

accordance with the Chamber's Order of 7 October 2009", ICC-01/05-01/08-593, dated 4 November 2009.

⁸ ICC-01/05-01/08-699, paragraph 35.

⁹ 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).

¹⁰ 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.

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 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.

C. Memoranda from the Office of Public Counsel for Victims

9. 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 memorandum 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

10. The Registry notes that the 104 applications which are the subject of this report have been transmitted in redacted form to the parties in compliance with the Chamber's order,¹¹ 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 Registry should systematically notify the respective legal representatives of victims of the redacted versions of applications as notified to the parties.¹²

¹¹ Email of 16 September 2010 from the Legal Advisor, Trial Division, to the Director, Division of Court Services and the Chief, VPRS.

¹² Email of 26 August from the Legal Officer, Trial Chamber III to the Assistant Legal Officer, Division of Court Services.

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

12. The Registry further wishes to inform the Chamber that it has not filed approximately 100 applications from Group C (covering the geographical area Boali, Bossembélé, Bossangoa, Bozoum and the surrounding area), either because they were not complete or because they did not appear to be linked to the case. This includes a number of incomplete applications for which missing documents or information have been requested and are awaited. 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.

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

E. Upcoming transmission

14. The Registry intends to transmit 82 applications in Group D to the Chamber, to the parties and the Legal Representatives of the applicants at the present date as the sixth transmission of applications. The sixth report to the Chamber on those 82 applications in Group D to participate in the proceedings will be submitted on 11 October 2010. The Registry apologize for this delay



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

Dated this 8 October 2010

At The Hague, The Netherlands