



Original: **English**

No.: **ICC-01/05-01/08**
Date: **11 October 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

**Legal Representative's Observations on the
Prosecution's Submission on Agreed facts**

Source: Office of Public Counsel for Victims, 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, a/0467/08, a/0130/09, a/0131/09, a/0132/09, a/0133/09,
a/0134/09, a/0135/09, a/0136/09, a/0137/09, a/0138/09, a/0139/09, a/0141/09, a/0427/09,
a/0432/09, a/0511/08, a/0512/08, a/0513/08, a/0515/08, a/0516/08, a/0562/08, a/0563/08,
a/0564/08, a/0565/08, a/0566/08, a/0567/08, a/0568/08, a/0569/08, a/0570/08, a/0571/08,
a/0572/08, a/0651/09, a/0652/09 and a/0653/09

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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Ms. Petra Kneuer

Counsel for the Defence

Mr. Nkwebe Liriss
Mr. Aime Kilolo-Musamba

Legal Representatives of Victims

Ms. Marie Edith Douzima-Lawson
Ms. Paolina Massidda

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms. Paolina Massidda

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

States Representatives

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Mrs. Silvana Arbia & Mr. Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Procedural Background

1. On 2 June 2010, Trial Chamber III (the “Chamber”) issued an order instructing the participants to file their submissions on issues relevant to preparation for the commencement of the trial.¹ In particular, the Chamber ordered the Prosecution and the Defence to file submissions on any agreements as to facts pursuant to rule 69 of the Rules of the Procedure and Evidence (the “Rules”).²

2. On 6 September 2010, the Chamber ordered the Prosecution and the Defence to file by 4 October 2010 a list containing the agreed facts, the partially-agreed facts, and the matters of disagreement.³ The Chamber also ordered the Legal Representatives to file their observations by 11 October 2010.⁴

3. During the Status Conference of 24 September 2010, the Presiding Judge inquired about the progress made on the agreement on facts between the parties, to which the Prosecution responded that it would later on provide the Chamber with more details.⁵

4. On 4 October 2010, the Prosecution filed the “Prosecution’s Submission on Agreed Facts”⁶, with Confidential Annex A, which was initially made available only to the Prosecution and the Defence. However, pursuant to Trial Chamber III’s instruction dated 5 October 2010, access to said Annex was granted to the Legal Representatives of victims on 6 October 2010.⁷

¹ See the “Order for the filing of submissions in preparation the commencement of the trial”, No. ICC-01/05-01/08-785, 2 June 2010.

² *Idem*, par. 4.

³ See the “Order setting deadlines for agreements as to facts and evidence and for the filing of expert reports”, No. ICC-01/05-01/08-872, 6 September 2010, par. 19.

⁴ *Idem*, par. 20.

⁵ See the transcripts of the Status Conference held by Trial Chamber III on 24 September 2010, No. ICC-01/05-01/08-T-25-CONF-ENG CT, p. 6 line – p. 7 line 14.

⁶ See the “Prosecution’s Submission on Agreed Facts”, No. ICC-01/05-01/08-922, 4 October 2010.

⁷ See the “ICC-01/05-01/08-922-Conf-AnxA - Annex A: Prosecution’s Submission on Agreed Facts” and the email dated Wednesday, 6 October 2010 sent by the Court Management Section.

5. Following the instruction of the Chamber and in accordance with regulation 24(2) of the Regulations of the Court, the Principal Counsel of the OPCV, acting 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, a/0467/08, a/0130/09, a/0131/09, a/0132/09, a/0133/09, a/0134/09, a/0135/09, a/0136/09, a/0137/09, a/0138/09, a/0139/09, a/0141/09, a/0427/09, a/0432/09, a/0511/08, a/0512/08, a/0513/08, a/0515/08, a/0516/08, a/0562/08, a/0563/08, a/0564/08, a/0565/08, a/0566/08, a/0567/08, a/0568/08, a/0569/08, a/0570/08, a/0571/08, a/0572/08, a/0651/09, a/0652/09 and a/0653/09 (the “Legal Representative”)⁸, respectfully submits her observations on the Prosecution’s Submission on Agreed Facts.

II. Observations on the content of the agreed facts

6. The Legal Representative notes that the Prosecution’s Submission on Agreed Facts include: (i) *“that President Patassé was the elected president of the Central African Republic (‘CAR’); that he faced a rebellion and on 25 October 2002 asked the Accused for assistance”*; (ii) that *“the Accused sent troops into the CAR under the command of one of his Generals”*; (iii) and that *“a coordination cell existed to coordinate the operations of the Mouvement de Libération du Congo troops and the Forces Armées Centrafricaines troops of the CAR authorities.”*⁹ The Annex A contains a chart listing specifically the agreed facts.¹⁰

7. The Legal Representative further observes that, whilst the agreed facts remain few in number, they appear to be capable of serving the purpose of rule 69 of the

⁸ 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; see also the “Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings”, No. ICC-01/05-01/08-807 and No. ICC-01/05-01/08-807-Conf-Exp-AnxA, 30 June 2010.

⁹ See *supra* footnote 6, par. 2.

¹⁰ See *supra* footnote 7, pp. 2-5.

Rules which is, as recognized by Trial Chamber III, to facilitate the expeditious conduct of the trial proceedings.¹¹

8. Therefore, the Legal Representative expresses no objections to the content of the agreed facts as stipulated by the Prosecution's Submission on Agreed Facts.

FOR THE ABOVE-MENTIONED REASONS, the 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, a/0467/08, a/0130/09, a/0131/09, a/0132/09, a/0133/09, a/0134/09, a/0135/09, a/0136/09, a/0137/09, a/0138/09, a/0139/09, a/0141/09, a/0427/09, a/0432/09, a/0511/08, a/0512/08, a/0513/08, a/0515/08, a/0516/08, a/0562/08, a/0563/08, a/0564/08, a/0565/08, a/0566/08, a/0567/08, a/0568/08, a/0569/08, a/0570/08, a/0571/08, a/0572/08, a/0651/09, a/0652/09 and a/0653/09 respectfully requests the Chamber to consider the alleged facts as contained in the Prosecution's Submission on Agreed Facts as being proven.



Paolina Massidda
Principal Counsel

Dated this 11 October 2010

At The Hague, The Netherlands

¹¹ See *supra* footnote 3, par. 17.