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**International
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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 280 Applications for Victims'
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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Introduction

1. Pursuant to Rule 89(1) of the Rules of Procedure and Evidence (“Rules”) and the oral order (“Order”)¹ issued by Trial Chamber III (“Chamber”) at the status conference held on 24 September 2010, the Office of the Prosecutor (“Prosecution”) submits the following observations on 280 applications for participation in the trial proceedings in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, transmitted to the parties and legal representatives by the Victims Participation and Reparations Section (“VPRS”) on 29 October 2010.²

2. For the reasons detailed below, the Prosecution requests the Chamber to grant authorization to participate as victims in the above-mentioned proceedings, pursuant to Article 68(3) of the Rome Statute (“Statute”), to 216 applicants, as they *prima facie* meet the requirements. The Prosecution submits that Applicants a/2387/10, a/2364/10, a/1730/10, a/2499/10, a/2617/10, a/2637/10, a/2662/10, a/2334/10, a/2335/10, a/2325/10, a/2500/10, a/2501/10, a/2503/10, a/0791/10, a/2467/10, a/2513/10, a/2521/10, a/2545/10, a/2615/10, a/2621/10, a/2610/10, a/1233/10, a/2314/10, a/2319/10, and a/2374/10 can be presumed to meet the requirements, although they omit information in their applications. The Prosecution submits that redactions make it difficult to state whether applications made by Applicants a/2338/10, a/2351/10, a/2352/10, a/2411/10, a/2421/10, a/2443/10, a/2453/10, a/2490/10, a/2598/10, a/2595/10, a/2591/10, a/2588/10, a/2577/10, a/2562/10, a/2569/10, a/2546/10, a/2547/10, a/2549/10, a/2550/10, a/2551/10, a/2552/10, a/2553/10, a/2336/10, a/2651/10 and a/1350/10 meet the requirements. The Prosecution submits that the applications made by Applicants a/2544/10, a/2548/10, a/2660/10, a/2471/10, a/2570/10, a/2475/10, a/2535/10, a/1856/10, a/2243/10, a/2485/10, a/2625/10 and a/2315/10 should be deferred until further documentation and

¹ ICC-01/05-01/08-T-25-CONF-ENG, 24 September 2010, p. 24, lines 4-6. The Chamber requested the parties to present their observations on each set of victims’ applications within 10 days of the notification.

² ICC-01/05-01/08-982 and ICC-01/05-01/08-981-Conf-Anxs-Red: Eighth transmission to the parties and legal representatives of redacted versions of applications for participation in the proceedings, 29 October 2010.

information are obtained. The Prosecution leaves it to the Chamber to determine whether the application submitted by Applicants a/2529/10 and a/2661/10 satisfy the time-frame of the charges.

3. With regard to the legal criteria for victims' participation in the proceedings, the Prosecution reincorporates here the submissions set out in its previous filings.³

Background

4. On 24 September 2010, the Chamber requested the parties to present their observations on each set of victims' applications that would be transmitted within 10 days of their notification.⁴

5. As regards the applications transmitted on 29 October 2010, all the 280 applicants are natural persons. All applicants request to be allowed to participate in the trial proceedings against Jean-Pierre Bemba Gombo ("Accused").

Factual analysis of the applications

A. Applications that *prima facie* meet the requirements for victim participation

6. The Prosecution submits that the following Applicants, all natural persons, meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage: a/2337/10, a/2339/10, a/2355/10, a/2356/10, a/2358/10, a/2359/10, a/2361/10, a/2365/10, a/1829/10, a/2340/10, a/2341/10, a/2342/10, a/2343/10,

³ See ICC-01/05-01/08-858, Prosecution's observations on the 192 applications for victim's participation in the proceedings, 19 August 2010, at paras. 6-9; ICC-01/05-01/08-946-Corr, Corrigendum to Prosecution's Observations on 218 Applications for Victim's Participation in the Proceedings, 14 October 2010, at paras. 5-12; ICC-01/05-01/08-952, Prosecution's Observations on 176 Applications for Victims' Participation in the Proceedings, 14 October 2010, at paras. 5-11,

⁴ ICC-01/05-01/08-T-25-CONF-ENG, 24 September 2010, p. 24, lines 4-6.

a/2344/10, a/2345/10, a/2346/10, a/2347/10, a/2348/10, a/2349/10, a/2350/10, a/0809/10, a/1630/10, a/1664/10, a/2259/10, a/2317/10, a/2318/10, a/2320/10, a/2321/10, a/2322/10, a/2323/10, a/2324/10, a/2326/10, a/2327/10, a/2328/10, a/2329/10, a/2330/10, a/2331/10, a/2332/10, a/2333/10, a/2366/10, a/2367/10, a/2368/10, a/2369/10, a/2370/10, a/2371/10, a/2372/10, a/2375/10, a/2376/10, a/2377/10, a/2378/10, a/2379/10, a/2380/10, a/2381/10, a/2382/10, a/2383/10, a/2384/10, a/2385/10, a/2386/10, a/2388/10, a/2390/10, a/2392/10, a/2396/10, a/2397/10, a/2398/10, a/2399/10, a/2400/10, a/2403/10, a/2405/10, a/2406/10, a/2407/10, a/2408/10, a/2409/10, a/2415/10, a/2416/10, a/2417/10, a/2427/10, a/2431/10, a/2434/10, a/2439/10, a/2441/10, a/2445/10, a/2446/10, a/2448/10, a/2449/10, a/2450/10, a/2454/10, a/2455/10, a/2459/10, a/2463/10, a/2464/10, a/2468/10, a/2470/10, a/2472/10, a/2474/10, a/2480/10, a/2481/10, a/2483/10, a/2486/10, a/2494/10, a/2511/10, a/2512/10, a/2514/10, a/2515/10, a/2516/10, a/2517/10, a/2518/10, a/2520/10, a/2522/10, a/2525/10, a/2526/10, a/2530/10, a/2531/10, a/2536/10, a/2537/10, a/2538/10, a/2539/10, a/2541/10, a/2473/10, a/2491/10, a/2493/10, a/2495/10, a/2496/10, a/2497/10, a/2498/10, a/2505/10, a/2506/10, a/2532/10, a/2533/10, a/2534/10, a/2479/10, a/2508/10, a/2524/10, a/2527/10, a/2528/10, a/2519/10, a/2589/10, a/2596/10, a/2593/10, a/2590/10, a/2587/10, a/2586/10, a/2585/10, a/2584/10, a/2583/10, a/2582/10, a/2581/10, a/2580/10, a/2579/10, a/2578/10, a/2572/10, a/2543/10, a/2542/10, a/2540/10, a/2592/10, a/2576/10, a/2575/10, a/2574/10, a/2573/10, a/2571/10, a/2568/10, a/2567/10, a/2565/10, a/2566/10, a/2564/10, a/2563/10, a/2561/10, a/2560/10, a/2559/10, a/2558/10, a/2557/10, a/2556/10, a/2555/10, a/2554/10, a/2599/10, a/2600/10, a/2601/10, a/2602/10, a/2603/10, a/2604/10, a/2606/10, a/2607/10, a/2608/10, a/2609/10, a/2611/10, a/2614/10, a/2620/10, a/2623/10, a/2624/10, a/2626/10, a/2628/10, a/2629/10, a/2630/10, a/2631/10, a/2634/10, a/2635/10, a/2638/10, a/2639/10, a/2640/10, a/2641/10, a/2642/10, a/2643/10, a/2644/10, a/2645/10, a/2646/10, a/2647/10, a/2648/10, a/2649/10, a/2650/10, a/2653/10, a/2654/10, a/2657/10, a/2658/10, a/2659/10, a/2663/10, a/2665/10 and a/2627/10.

7. The applications submitted by Applicants a/2387/10, a/2364/10, a/1730/10, a/2499/10, a/2617/10, a/2637/10, a/2662/10, a/2334/10, a/2335/10, a/2325/10, a/2500/10, a/2501/10, a/2503/10, a/0791/10, a/2467/10, a/2513/10, a/2521/10, a/2545/10, a/2615/10, a/2621/10, a/2610/10, a/1233/10, a/2314/10, a/2319/10, and a/2374/10 provide identity

documents that are not on the list of documents previously cited as acceptable by the Pre-Trial Chamber (“PTC”)⁵ and endorsed by the Chamber.⁶ These applicants submitted electoral cards, certificate from *chef de quartier*, student card, residence certificate, membership card of associations, baptism card, *attestation provisoire* (provisional document awaiting final document), and an official document from the *prefecture* of M’poko, vaccination card and hand-written certificate of loss as proof of identity.⁷ The Chamber has recognized that the list of documents developed as proof of identity is not exhaustive; it is merely a sample of the types of documents that have been used by Chambers of this Court in determining proof of identity.⁸ If the Chamber concludes that any or all of these identity documents are insufficient, the Prosecution submits that the applicants should be requested to provide additional proof of identity.

B. Applications that omit relevant information but may be presumed to meet the requirements for victim participation

8. Applicant a/2529/10 indicates the date of victimization as 16 March 2003. The time-frame alleged by the Prosecution and upheld in the Confirmation Decision is “on or about 26 October 2002 to 15 March 2003,”⁹ which the Chamber accepts.¹⁰ The

⁵ ICC-01/05-01/08-320, Fourth Decision on Victims' Participation, 12 December 2008, at paras. 36.

⁶ ICC-01/05-01/08-699, 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, 22 February 2010, at para.36.

⁷ Applicants a/2387/10, a/2364/10, a/1730/10, a/2499/10, a/2569/10, a/2568/10, a/2567/10, a/2565/10, a/2566/10, a/2564/10, a/2563/10, a/2561/10, a/2560/10, a/2559/10, a/2557/10, a/2556/10, a/2555/10, a/2554/10, a/2617/10, a/2637/10, a/2662/10, a/2334/10, a/2335/10, /2325/10, a/2500/10 and a/2501/10 submitted electoral cards; Applicants a/2503/10 and a/0791/10 submitted certificates from *chef de quartier*. Applicants a/2467/10, a/2513/10 and a/2512/10 submitted student cards. Applicant a/2545/10 submitted a residence certificate. Applicants a/2615/10 and a/2621/10 submitted membership cards of an association. Applicant a/2610/10 submitted an *attestation provisoire*. Applicant a/2314/10 submitted a decision from the *prefecture* of M’poko. Applicant a/2319/10 submitted a vaccination card. Applicant a/2374/10 submitted a redacted a redacted hand certificate of loss and a recognition of birth certificate (“*attestation de déclaration de perte et de reconnaissance d’acte de naissance*”). Applicant a/2610/10 submitted a baptism card.

⁸ ICC-01/05-01/08-699, at para.36.

⁹ ICC-01/05-01/08-424, Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute on the charges of the Prosecutor against Jean-Pierre Bemba Gombo, 15 June 2009, at para. 254.

¹⁰ ICC-01/05-01/08-836, Decision on the defence application for corrections to the Document Containing the Charges and for the prosecution to file a Second Amended Document Containing the Charges, 20 July 2010, at para. 51.

Prosecution suggests that the applicant be requested to provide additional information of the crime suffered.

9. Applicant a/2661/10 indicates November 2003 as the year of alleged victimization. This period is outside the time-frame, which the Chamber accepts. The Prosecution requests that the Chamber seeks confirmation of the accuracy of the information.

C. Applications bearing redactions that may be sufficient to meet the requirements for victim participation

10. The applications submitted by Applicants a/2338/10, a/2351/10, a/2352/10, a/2411/10, a/2421/10, a/2443/10, a/2453/10, a/2490/10, a/2598/10, a/2595/10, a/2591/10, a/2588/10, a/2577/10, a/2562/10, a/2569/10, a/2546/10, a/2547/10, a/2549/10, a/2550/10, a/2551/10, a/2552/10, a/2553/10, a/2336/10, a/2651/10 and a/1350/10 contain redactions which make it difficult to determine the locations of the victimization allegedly suffered by these applicants. Similarly, redactions applied to applications submitted by Applicants a/2651/10 and a/1350/10 make it difficult to assess the alleged victimization.

11. The non-redacted portions of these applications appear to largely meet the requirements for participation in the trial proceedings against the Accused. However because of the redactions the Prosecution cannot determine whether the crimes confirmed against the applicants were committed within the locations of the charges confirmed against the Accused. For two applicants in this category, Applicants a/2651/10 and a/1350/10, redactions applied to portions dealing with the alleged victimization make it difficult to assess whether the crimes suffered by the applicants fall within the scope of the charges confirmed against the Accused. The Prosecution leaves it to the Chamber to make a determination as to whether there is sufficient link

between the crimes alleged and the charges, or alternatively to request additional information.

D. Applications in respect of which, decisions should be deferred until additional information is provided

12. Applicant a/2544/10 claims to be acting on behalf of his father but does not provide any proof of kinship. Similarly, Applicant a/2660/10 claims to be acting on behalf of his deceased brother, but does not provide a death certificate or an explanation of the circumstances of his brother's death. The Prosecution cannot comment on whether there is a sufficient link between the crimes alleged by these applicants and the charges in the instant case. The Prosecution suggests that these applications be deferred until the outstanding information is obtained.

13. The application submitted by Applicant a/2471/10 indicates 2002 as the year of alleged victimization, but fails to provide any specific information on the date or month. The Prosecution therefore cannot comment on whether there is a sufficient link between the crimes alleged by these applicants and the charges in the instant case. The Prosecution suggests that this application be deferred until additional information is obtained.

14. The applications submitted by Applicants a/2570/10 and a/2315/10 do not indicate the year, date or month of alleged victimization. As such, no meaningful assessment can be made on these applications. The Prosecution suggests that these applications be deferred until additional information is obtained. The same consideration applies to the application submitted by Applicant a/2548/10. Applicant a/2548/10 provides documents that indicate that she is HIV positive but fails to show any link between her HIV status and the crimes confirmed against the Accused. The

Prosecution suggests that the Chamber obtain further information to enable meaningful assessment of the application.

15. Applicants a/2475/10, a/2535/10, a/1856/10 and a/2243/10 claim that they suffered physical harm as a result of being shot by the *Banyamulenges*. The crimes alleged by these applicants do not directly fall within the scope of the charges confirmed against the Accused. These crimes however arose in light of the *Banyamulenges'* conduct. The Prosecution leaves it to the Chamber to determine whether these applicants meet the requirements for participation.

16. Applicant a/2485/10 claims that the *Banyamulenges* burnt down his house, which is not part of the crimes, with which the Accused is charged. The information does not enable the Prosecution to make a meaningful assessment. The Prosecution therefore requests that additional information be obtained from this applicant.

17. Applicant a/2625/10 claims that her mother died as a result of heavy gunshots fired by the *Banyamulenges* in Begoua. She states that her mother was hospitalized and when discharged from hospital, was unable to continue her work as a trader. The applicant's mother died in 2005. The applicant claims psychological harm as a result of her mother's death. The Applicant's mother died in 2005, three years after the alleged sporadic gunshots by the *Banyamulenges*. The Prosecution requests that the Chamber obtain additional information to enable a meaningful assessment to be conducted on the application.

Conclusion

18. The Prosecution submits that the following Applicants, all natural persons, meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage: a/2337/10, a/2339/10, a/2355/10, a/2356/10, a/2358/10, a/2359/10, a/2361/10, a/2365/10, a/1829/10, a/2340/10, a/2341/10, a/2342/10, a/2343/10, a/2344/10, a/2345/10, a/2346/10, a/2347/10, a/2348/10, a/2349/10, a/2350/10, a/0809/10, a/1630/10, a/1664/10, a/2259/10, a/2317/10, a/2318/10, a/2320/10, a/2321/10, a/2322/10, a/2323/10, a/2324/10, a/2326/10, a/2327/10, a/2328/10, a/2329/10, a/2330/10, a/2331/10, a/2332/10, a/2333/10, a/2366/10, a/2367/10, a/2368/10, a/2369/10, a/2370/10, a/2371/10, a/2372/10, a/2375/10, a/2376/10, a/2377/10, a/2378/10, a/2379/10, a/2380/10, a/2381/10, a/2382/10, a/2383/10, a/2384/10, a/2385/10, a/2386/10, a/2388/10, a/2390/10, a/2392/10, a/2396/10, a/2397/10, a/2398/10, a/2399/10, a/2400/10, a/2403/10, a/2405/10, a/2406/10, a/2407/10, a/2408/10, a/2409/10, a/2415/10, a/2416/10, a/2417/10, a/2427/10, a/2431/10, a/2434/10, a/2439/10, a/2441/10, a/2445/10, a/2446/10, a/2448/10, a/2449/10, a/2450/10, a/2454/10, a/2455/10, a/2459/10, a/2463/10, a/2464/10, a/2468/10, a/2470/10, a/2472/10, a/2474/10, a/2480/10, a/2481/10, a/2483/10, a/2486/10, a/2494/10, a/2511/10, a/2512/10, a/2514/10, a/2515/10, a/2516/10, a/2517/10, a/2518/10, a/2520/10, a/2522/10, a/2525/10, a/2526/10, a/2530/10, a/2531/10, a/2536/10, a/2537/10, a/2538/10, a/2539/10, a/2541/10, a/2473/10, a/2491/10, a/2493/10, a/2495/10, a/2496/10, a/2497/10, a/2498/10, a/2505/10, a/2506/10, a/2532/10, a/2533/10, a/2534/10, a/2479/10, a/2508/10, a/2524/10, a/2527/10, a/2528/10, a/2519/10, a/2589/10, a/2596/10, a/2593/10, a/2590/10, a/2587/10, a/2586/10, a/2585/10, a/2584/10, a/2583/10, a/2582/10, a/2581/10, a/2580/10, a/2579/10, a/2578/10, a/2572/10, a/2543/10, a/2542/10, a/2540/10, a/2592/10, a/2576/10, a/2575/10, a/2574/10, a/2573/10, a/2571/10, a/2568/10, a/2567/10, a/2565/10, a/2566/10, a/2564/10, a/2563/10, a/2561/10, a/2560/10, a/2559/10, a/2558/10, a/2557/10, a/2556/10, a/2555/10, a/2554/10, a/2599/10, a/2600/10, a/2601/10, a/2602/10, a/2603/10, a/2604/10, a/2606/10, a/2607/10, a/2608/10, a/2609/10, a/2611/10, a/2614/10, a/2620/10, a/2623/10, a/2624/10, a/2626/10, a/2628/10, a/2629/10, a/2630/10, a/2631/10, a/2634/10, a/2635/10, a/2638/10, a/2639/10, a/2640/10, a/2641/10, a/2642/10, a/2643/10, a/2644/10, a/2645/10, a/2646/10, a/2647/10,

a/2648/10, a/2649/10, a/2650/10, a/2653/10, a/2654/10, a/2657/10, a/2658/10, a/2659/10, a/2663/10, a/2665/10 and a/2627/10.

19. Although Applicants a/2387/10, a/2364/10, a/1730/10, a/2499/10, a/2617/10, a/2637/10, a/2662/10, a/2334/10, a/2335/10, a/2325/10, a/2500/10, a/2501/10, a/2503/10, a/0791/10, a/2467/10, a/2513/10, a/2521/10, a/2545/10, a/2615/10, a/2621/10, a/2610/10, a/1233/10, a/2314/10, a/2319/10 and a/2374/10 omit information in their applications, the Prosecution submits that they can be presumed to meet the requirements; alternatively, the Chamber may request additional information.

20. Redactions to applications by Applicants a/2338/10, a/2351/10, a/2352/10, a/2411/10, a/2421/10, a/2443/10, a/2453/10, a/2490/10, a/2598/10, a/2595/10, a/2591/10, a/2588/10, a/2577/10, a/2562/10, a/2569/10, a/2546/10, a/2547/10, a/2549/10, a/2550/10, a/2551/10, a/2552/10, a/2553/10, a/2336/10, a/2651/10 and a/1350/10 make it difficult to state with certainty that the applicants meet the requirements. The Chamber may determine that the non-redacted applications meet the requirements. Alternatively, the Chamber may request additional information.

21. The Prosecution leaves it to the Chamber to determine whether the application submitted by Applicant a/2529/10 satisfies the time-frame of the charges. The Prosecution considers that the charged time-frame permits applicant to claim victim status if he alleges that he was a victim of acts that occurred close to the specified date and within a general margin of appreciation.¹¹ The application submitted by Applicant a/2661/10 indicates November 2003 as the date of alleged victimization. Given the possibility that the indication of the year 2003 may be a clerical error, the Prosecution suggests that the Chamber obtain further information on that application.

¹¹ That Applicant indicated the date of alleged victimization as 16 March 2003, a day after the cut-off date for the charges confirmed against the accused, which is, 15 March 2010.

22. The Prosecution submits that applications made by Applicants a/2544/10, a/2548/10, a/2660/10, a/2471/10, a/2570/10, a/2475/10, a/2535/10, a/1856/10, a/2243/10 and a/2625/10, a/2485/10 and a/2315/10 should be deferred until further information and documentation are obtained.



Luis Moreno-Ocampo, Prosecutor

Dated this 11th Day of November 2010

At The Hague, The Netherlands