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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 203 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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I. Introduction

1. Pursuant to Rule 89(1) of the Rules of Procedure and Evidence (“Rules”), the Office of the Prosecutor (“Prosecution”) submits the following observations on 203 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 22 June 2011.¹

2. For the reasons detailed below, the Prosecution supports Trial Chamber III (“Chamber”) granting authorization to participate as victims in the above-mentioned proceedings, pursuant to Article 68(3) of the Rome Statute (“Statute”), to 188 applicants. The Prosecution does not object to the Chamber determining that Applicants a/1268/10 and a/1772/10 meet the requirements, although the applicants do not clearly indicate a date of their victimization that falls within the time-frame of the charges.

3. The Prosecution submits that applications made by Applicants a/0841/10, a/0843/10, a/1037/10, a/1374/10, a/1762/10, a/1770/10 and a/1788/10 should be deferred until further information or documentation is obtained.

4. The Prosecution leaves it to the Chamber to determine whether additional information should be requested from Applicants a/1799/10, a/1937/10, a/1951/10 and a/2001/10 to verify the time of their victimization.

5. Pursuant to the Prosecution’s assessment, Applicants a/1039/10 and a/2837/10 do not meet the requirements for victim participation.

¹ ICC-01/05-01/08-1560, Tenth transmission to the parties and legal representatives of the applicants of redacted versions of applications for participation in the proceedings, 22 June 2011.

6. With regard to the legal criteria for victims' participation in the proceedings, the Prosecution reincorporates here the submissions set out in its previous filings.²

II. Factual analysis of the applications

A. Applications that meet the requirements for victim participation

7. The Prosecution submits that the following 188 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/0817/10, a/0840/10, a/0842/10, a/0845/10, a/0847/10, a/0849/10, a/0851/10, a/0855/10, a/0858/10, a/0859/10, a/0860/10, a/0861/10, a/0901/10, a/0905/10, a/1038/10, a/1266/10, a/1267/10, a/1269/10, a/1270/10, a/1271/10, a/1272/10, a/1275/10, a/1276/10, a/1277/10, a/1278/10, a/1279/10, a/1281/10, a/1283/10, a/1284/10, a/1285/10, a/1289/10, a/1369/10, a/1370/10, a/1375/10, a/1376/10, a/1377/10, a/1379/10, a/1459/10, a/1462/10, a/1469/10, a/1471/10, a/1472/10, a/1478/10, a/1490/10, a/1495/10, a/1499/10, a/1517/10, a/1521/10, a/1522/10, a/1530/10, a/1533/10, a/1542/10, a/1543/10, a/1544/10, a/1545/10, a/1550/10, a/1555/10, a/1556/10, a/1575/10, a/1585/10, a/1595/10, a/1597/10, a/1598/10, a/1762/10, a/1764/10, a/1766/10, a/1767/10, a/1768/10, a/1769/10, a/1770/10, a/1772/10, a/1774/10, a/1775/10, a/1776/10, a/1779/10, a/1780/10, a/1782/10, a/1783/10, a/1784/10, a/1785/10, a/1787/10, a/1788/10, a/1790/10, a/1791/10, a/1792/10, a/1794/10, a/1795/10, a/1796/10, a/1797/10, a/1798/10, a/1799/10, a/1800/10, a/1803/10, a/1804/10, a/1805/10, a/1806/10, a/1808/10, a/1810/10, a/1921/10, a/1922/10, a/1926/10, a/1927/10, a/1929/10, a/1930/10, a/1937/10, a/1940/00, a/1944/10, a/1945/10, a/1947/10, a/1949/10, a/1951/10, a/1952/10, a/1953/10, a/1954/10, a/1955/10, a/1956/10, a/1959/10, a/1963/10, a/1964/10, a/1965/10, a/1966/10, a/1968/10, a/1971/10, a/1972/10, a/1974/10, a/1976/10, a/1977/10, a/1978/10, a/1979/10, a/1981/10, a/1982/10, a/1983/10,

² See ICC-01/05-01/08-858, Prosecution's Observations on the 192 Applications for Victims' 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 Victims' 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.

a/1984/10, a/1985/10, a/1987/10, a/1988/10, a/1989/10, a/1990/10, a/1993/10, a/1994/10, a/1996/10, a/1998/10, a/1999/10, a/2002/10, a/2003/10, a/2004/10, a/2005/10, a/2006/10, a/2007/10, a/2010/10, a/2013/10, a/2014/10, a/2015/10, a/2016/10, a/2017/10, a/2018/10, a/2019/10, a/2021/10, a/2023/10, a/2025/10, a/2026/10, a/2027/10, a/2028/10, a/2270/10, a/2271/10, a/2272/10, a/2273/10, a/2419/10, a/2423/10, a/2424/10, a/2425/10, a/2429/10, a/2432/10, a/2433/10, a/2434/10, a/2440/10, a/2442/10, a/2447/10, a/2448/10, a/2451/10, a/2456/10, a/2461/10, a/2469/10, a/2489/10, a/2830/10, a/2834/10, a/2835/10, a/2836/10.

B. Applications that may be deemed to meet the requirements for victim participation

8. Applicant a/1268/10 states that she does not remember the exact date of her victimization; however, she recollects that the incident occurred during the Presidency of Mr. Patassé and some months before Mr. Bozizé became president. Applicant a/1772/10 corrects the previously given date of 10 December 2002³ and states that the victimization happened after the New Year celebrations, although she does not specify the year. The time-frame alleged by the Prosecution and upheld in the Confirmation Decision is “on or about 26 October 2002 to 15 March 2003,”⁴ which the Chamber accepted.⁵ The Prosecution considers that the charged time-frame permits applicants to claim victim status if they allege they were victims of acts that occurred within a general margin of appreciation. In respect of both applicants, the Prosecution submits that the crimes against them may be considered as committed within the time-frame charged. However, should the Chamber consider the dates

³ The applicant was first interviewed in June 2010 with the involvement of an intermediary. After doubts were raised regarding the correctness of the information contained in applications filled in by the latter intermediary, the applicant was re-interviewed by staff of the Registry in December 2010. See ICC-01/05-01/08-1478-Conf, Report on issues concerning intermediaries’ involvement in completion of applications for participation, 3 June 2011.

⁴ 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.

⁵ 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.

here insufficient, the Prosecution suggests that the applicants be requested to provide additional information.

C. Applications in respect of which decisions should be deferred until additional documentation is provided

9. The application submitted by Applicant a/1374/10 does not provide any proof of identity. This seems to be an oversight, as the application refers to two identifying documents, namely a birth certificate and an election card, which are not attached.

10. Applicant a/1770/10 intends to pursue the application of his father who died in December 2010. However, he provides neither proof of his identity nor proof of him being the heir of his father.

11. The Prosecution suggests that these applicants be requested to submit adequate documentation.

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

12. Four applicants appear to largely meet the requirements for participation in the trial proceedings against the Accused. However, Applicants a/0841/10⁶, a/0843/10⁷, a/1037/10⁸, a/1762/10⁹ and a/1788/10¹⁰ fail to specify the date of their victimization.

⁶ The Applicant states that it occurred during the time when the Banyamulengue committed crimes in Bangui and other towns in the Central African Republic.

⁷ The Applicant states that it occurred during the time of Patassé.

⁸ The Applicant recollects that it was when the Banyamulengue stayed for a long time in Bangui.

⁹ The Applicant indicates that the victimization occurred during the corn harvest.

¹⁰ The Applicant states the events occurred in 2001 or 2002, until Bozizé took power.

13. The Prosecution therefore suggests that decision on these applications be deferred and the applicants be given the opportunity to provide specific information to clarify the respective dates of their victimization.

E. Applications in respect of which the Prosecution leaves it to the Chamber to determine whether additional information should be sought

14. Applicants a/1799/10¹¹, a/1937/10¹², a/1951/10¹³ and a/2001/10¹⁴ state that the dates previously indicated in their applications were not accurate.¹⁵ The amended time-frame of their victimization apparently indicates that the crimes were committed during the first intervention of the *Mouvement de Libération du Congo* troops in the Central African Republic, and no link exists between the crimes alleged by these applicants and the charges in the instant case. However, the Prosecution submits that it cannot be ruled out that the trauma suffered by these applicants affected their ability to recollect the exact dates.

15. In light of the foregoing, the Prosecution leaves it to the Chamber to decide whether further information should be sought from these applicants.

F. Applications that do not meet the requirements for victim participation

16. Applicant a/1039/10 claims that the Banyamulengue destroyed two sacks of foodstuffs. The Prosecution submits that this incident does not amount to any of the crimes charged. In particular, the elements of pillaging are not fulfilled as the perpetrators did not intend to appropriate the owner's property for private or

¹¹ The applicant thinks it happened in April 2002, in the times of the *coup d'état* of Kolingba.

¹² The applicant refers to the year 2001.

¹³ The applicant states the events happened in 2001-2002, at the first arrival of the Banyamulengue.

¹⁴ The applicants refers to the 10 June, after the *coup d'état* of Kolingba on 28 May 2001.

¹⁵ All four applicants were previously interviewed with the involvement of the same intermediary whose ethical behaviour was put into questions, see footnote 3 above. The four applicants were re-interviewed by staff of the Registry in February and March 2011.

personal use as required by Article 8 (2)(e)(v) of the Statute. This application therefore does not meet the requirements for victim participation.

17. Applicant a/2837/10 claims that he was subject to torture and beating, which are not part of the crimes with which the Accused is charged. The Prosecution submits that there is no causal link between the harm suffered by the applicant and the charges against the Accused. This application therefore does not meet the requirements for victim participation.

III. Conclusion

18. The Prosecution submits that except for the 15 applicants mentioned below, other applicants meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage.

19. Although Applicants a/1268/10 and a/1772/10 do not provide the exact dates of their victimization, it can be inferred that the crimes against them were committed within the charged time-frame. The Prosecution submits that they may be deemed to meet the requirements; alternatively, the Chamber may request additional information.

20. The Prosecution submits that applications made by Applicants a/0841/10, a/0843/10, a/1037/10, a/1374/10, a/1762/10, a/1770/10 and a/1788/10 should be deferred until further information or documentation is obtained.

21. The Prosecution leaves it to the Chamber to determine whether Applicants a/1799/10, a/1937/10, a/1951/10 and a/2001/10 should be given the opportunity to provide additional information.

22. The Prosecution submits that applications made by Applicants a/1039/10 and a/2837/10 do not meet the requirements for victim participation.



Luis Moreno-Ocampo, Prosecutor

Dated this 15th Day of July 2011
At The Hague, The Netherlands