

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 18 November 2011

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***

Confidential

Ex parte only available to the Registry

With 4 confidential annexes *ex parte* only available to the Registry

**Sixteenth report to Trial Chamber III on applications to participate in the
proceedings**

Source: Registry

18 November 2011

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") on 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;²

NOTING the "Decision on 772 applications by victims to participate in the proceedings" dated 18 November 2010;³

NOTING the "Decision on 653 applications by victims to participate in the proceedings" dated 23 December 2010;⁴

NOTING the "Decision on 401 applications by victims to participate in the proceedings and setting a final deadline for the submission of new victims' applications to the Registry" dated 8 July 2011;⁵

NOTING the "Decision on 270 applications by victims to participate in the proceedings" dated 25 October 2011;⁶

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

¹ ICC-01/05-01/08-699.

² ICC-01/05-01/08-807.

³ ICC-01/05-01/08-1017.

⁴ ICC-01/05-01/08-1091.

⁵ ICC-01/05-01/08-1590.

⁶ ICC-01/05-01/08-1862.

prima facie assessment of the application's compliance with the requirements of rule 85 of the Rules of Procedure and Evidence;⁷

NOTING that on 2 September 2011, the Chamber instructed the Registry to transmit any pending applications in batches of 200 to 350 applications on a continuing basis;⁸

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 a further 350 applications have now been processed and redacted in accordance with the guidelines established by the Chamber;⁹

TRANSMITS to the Chamber the following report on 350 applications for participation in the proceedings.

A. Background and content of this report

1. The present report covers 350 applications to participate in the proceedings.
2. One application covered in this report has been filed previously,¹⁰ and was rejected by the Chamber.¹¹ Following the Chamber's instructions in its 22 February 2010 Decision,¹² the Registry is transmitting this application for reconsideration by the Chamber in light of information received subsequent to the original decision.¹³

⁷ Memorandum dated 16 September 2010 from the Presiding Judge to the Director, Division of Court Services.

⁸ Email from the Assistant Legal Officer, Trial Division, to the Chief, Victims Participation and Reparations Section.

⁹ Paragraph 33 of the 22 February 2010 Decision.

¹⁰ a/2691/10 (ICC-01/05-01/08-1381-Conf-Exp-Anx269 and ICC-01/05-01/08-1381-Conf-Anx269-Red)

¹¹ ICC-01/05-01/08-1590.

¹² ICC-01/05-01/08-699, paragraph 20.

¹³ The Registry draws to the Chamber's attention the fact that a Declaration for participation which was included in the application as supplementary information when it was first filed (pages 24 and 25) has been removed from the application after the Registry realised that this declaration had been submitted as part of this application in error.

3. The 350 applications have been filed with the Chamber on 18 November 2011.
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.
4. 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*.¹⁴
5. In accordance with the 22 February 2010 Decision,¹⁵ the Registry is only filing the applications that appear to be complete, as assessed by reference to the relevant legal texts and jurisprudence.
6. The Registry is aware of the possibility that an applicant may introduce more than one application for participation in the proceedings, and that such instances are normally discovered and dealt with in the usual course of processing by the Registry. The Registry would like to draw to the Chamber's attention the fact that, due to the large number of applications for participation in the proceedings being received from the field and processed within short delays at this time, no automatic check for duplicate applications is currently being performed prior to the filing of applications, so the Registry is not in a position to be certain that there are no applications in this category. Nevertheless, the Registry would like to inform the Chamber that checks for duplicates will be carried out at a later stage and should the Registry discover such applications at any point, it will bring the situation to the Chamber's attention without delay and withdraw registration numbers as appropriate.
7. This report provides an overview of the applications transmitted, while the following documents are provided as annexes:

¹⁴ 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.

¹⁵ ICC-01/05-01/08-699, paragraph 35.

- **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:** Index showing applications filed with this report by geographical area A to D.

8. As described in its previous reports,¹⁶ the Registry has categorized applications according to the geographical locations at which crimes are alleged by the applicants to have been committed.¹⁷ These groupings are explained in Annex 1 and shown on the map in Annex 2. The applications which are the subject of this report fall within all four groups, but in order to facilitate the Chamber's consideration, an Index is provided as Annex 4. This annex divides the applications according to their groups (groups A to D) based on the geographical area of the alleged events.¹⁸ The Registry draws to the Chamber's attention the fact that it is not aware, when processing the applications, whether any applicants would fall within group E (dual status victims)¹⁹. As a consequence, none of the applications has been allocated to this group.

¹⁶ Notably the 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).

¹⁷ 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.

¹⁸ The Registry notes that as regards Group D, Moundoumba and the surrounding area, some applications have been included in this group even though it is not clear whether in fact the alleged incident took place closer to Bangui or to the area of Moundoumba, which is situated to the South of Bangui. This is due to the similarity in the patterns of events alleged by these applicants.

¹⁹ ICC-01/05-01/08-1012-Corr.

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

9. 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.
10. 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. Protection

11. The Registry notes that the 350 applications which are the subject of this report have been transmitted in redacted form to the parties and the respective legal representative in compliance with the Chamber's order. Such order instructs the Registry 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,²⁰ and in accordance with the guidelines on redactions provided in the 22 February 2010 Decision. The notification of redacted applications to the legal representatives of the respective applicants is 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

²⁰ Email of 16 September 2010 from the Legal Advisor, Trial Division, to the Director, Division of Court Services and the Chief, VPRS.

of the applicants of the redacted versions of applications as notified to the parties.²¹

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



Marc Dubuisson, Director DCS
per delegation of Silvana Arbia, Registrar

Dated this 18 November 2011

At The Hague, The Netherlands

²¹ Email of 26 August from the Legal Officer, Trial Chamber III to the Assistant Legal Officer, Division of Court Services.