



Original: English

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

Date: 9 March 2012

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 308 Applications for Victims' Participation in the
Proceedings**

Source: Office of the Prosecutor

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

Mr. Aimé Kilolo Musamba

Mr. Peter Haynes

Legal Representatives of the Victims

Ms. Marie-Edith Douzima-Lawson

Mr. Assingambi Zarambaud

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(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

Ms. Silvana Arbia

Counsel Support Section

Deputy Registrar

Mr. Didier Preira

Victims and Witnesses Unit

Ms. Maria-Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Ms. Fiona McKay

Other

I. Introduction

1. Pursuant to Rule 89(1) of the Rules of Procedure and Evidence, the Trial Chamber III's ("Chamber") "Corrigendum to the Decision on 401 applications by victims to participate in the proceedings and setting a final deadline for the submission of new victims' application to the Registry"¹ ("First Decision"), the Chamber's "Decision setting a timeline for the filing of observations on pending victims' application"² ("Second Decision") and the Chamber's orders in the trial hearing of 9 December 2011³ ("Orders"), the Office of the Prosecutor ("Prosecution") submits the following observations on 308 applications for participation in the trial proceedings in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.

2. For the reasons detailed below, the Prosecution supports the Chamber granting authorisation to participate as victims in the above-mentioned proceedings, pursuant to Article 68(3) of the Rome Statute ("Statute"), to applicants listed in section A below.

3. The Prosecution submits that applicants listed in section B below should be requested to provide clarifications or submit further documents or information to establish the causal link between the harm suffered and the crimes charged against the Accused.

4. The Prosecution submits that redactions applied to the applications submitted by applicants listed in section C below make it difficult to determine whether they meet the requirements for participation. The Prosecution does not object to the

¹ ICC-01/05-01/08-1590-Corr, Corrigendum to 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, 21 July 2011.

² ICC-01/05-01/08-1726, Decision setting a timeline for the filing of observations on pending victims' applications, 9 September 2011, at paras. 7 and 8(a).

³ ICC-01/05-01/08-T-200-CONF-ENG ET, p. 59, line 8 to p. 61, line 16, 9 December 2011.

Chamber determining that the applications listed in this section satisfy the requirements or requesting additional information.

5. The Prosecution submits that the applicant listed in section D below does not meet the requirements for victim participation.

6. With regard to the legal criteria for victims' participation in the proceedings, the Prosecution reincorporates here the submissions set out in its previous observations.⁴

II. Background

7. On 24 September 2010, the Chamber ordered transmission of applications to the parties on an ongoing basis and requested the parties to submit their observations on each transmitted set.⁵ On 9 September 2011, the Chamber, having approved the timeline proposed by the Victims Participation and Reparation Section ("VPRS") for the submission of nine sets of 200 to 350 of the expected 2830 further applications, ordered the Prosecution and the Defence to submit their observations within 21 days of notification.⁶

8. On 9 December 2011, the Chamber, granting a Defence request,⁷ ordered extension of the time limit for the filing of observations on the 18th and 19th transmission of the applications for participation in the proceedings.⁸ The Chamber

⁴ 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.

⁵ ICC-01/05-01/08-T-25-CONF-ENG ET, p. 23, line 23 to p. 24, line 3, 24 September 2010.

⁶ ICC-01/05-01/08-1726, at paras. 3, 4, 7 and 8(a).

⁷ ICC-01/05-01/08-1992, Defence Request for an Extension of Time for the Filing of Submissions on the 18th Transmission of 350 victims' applications, 7 December 2011, at paras. 11-12.

⁸ ICC-01/05-01/08-T-200-CONF-ENG ET, p. 59, line 17 to p. 60, line 9, 9 December 2011.

further ruled that for the remaining applications, it will continue to apply the regular 21 days time limit to file the observations in accordance with Regulation 34(b) of the Regulations of the Court.⁹

9. On 17 February 2012, the Registry provided the Prosecution with 308 redacted versions of the 22nd set of applications.¹⁰

III. Factual analysis of the applications

A. Applications that meet the requirements for victim participation

10. The Prosecution submits that the following Applicants meet all of the requirements under Article 68(3) of the Statute for participation in the trial proceedings of this case: a/0076/11, a/0157/11, a/0158/11, a/0159/11, a/0160/11, a/0161/11, a/0162/11, a/0163/11, a/0164/11, a/0165/11, a/0167/11, a/0168/11, a/0170/11, a/0171/11, a/0179/11, a/0201/11, a/0317/11, a/0334/11, a/0394/11, a/0503/11, a/0598/11, a/0638/11, a/0639/11, a/0640/11, a/0641/11, a/0642/11, a/0643/11, a/0644/11, a/0645/11, a/0646/11, a/0647/11, a/0648/11, a/0649/11, a/0650/11, a/0651/11, a/0652/11, a/0653/11, a/0654/11, a/0655/11, a/0656/11, a/0657/11, a/0658/11, a/0659/11, a/0660/11, a/0661/11, a/0662/11, a/0663/11, a/0664/11, a/0665/11, a/0846/11, a/0906/11, a/0922/11, a/0941/11, a/0942/11, a/0946/11, a/0947/11, a/0948/11, a/0952/11, a/0956/11, a/0957/11, a/0958/11, a/0959/11, a/0960/11, a/0961/11, a/0962/11, a/0963/11, a/0964/11, a/0965/11, a/0966/11, a/0967/11, a/0968/11, a/0970/11, a/0972/11, a/0973/11, a/0974/11, a/0976/11, a/0978/11, a/0979/11, a/0980/11, a/0982/11, a/1016/11, a/1017/11, a/1020/11, a/1021/11, a/1022/11, a/1023/11, a/1024/11, a/1025/11, a/1026/11, a/1027/11, a/1029/11, a/1030/11, a/1031/11, a/1032/11, a/1033/11, a/1128/11, a/1129/11, a/1130/11, a/1131/11, a/1132/11, a/1133/11, a/1136/11, a/1137/11, a/1140/11, a/1141/11, a/1142/11, a/1143/11, a/1144/11, a/1147/11,

⁹ *Ibid*, p. 60, lines 9-11.

¹⁰ ICC-01/05-01/08-2131, Twenty-second transmission to the parties and the legal representatives of the applicants of redacted versions of applications for participation in the proceedings, 17 February 2012.

a/1148/11, a/1151/11, a/1152/11, a/1154/11, a/1155/11, a/1291/10, a/1296/10, a/1478/11, a/1479/11, a/1481/11, a/1482/11, a/1489/11, a/1490/11, a/1491/11, a/1492/11, a/1493/11, a/1495/11, a/1496/11, a/1628/11, a/1629/11, a/16314/11, a/16317/11, a/16319/11, a/16321/11, a/16324/11, a/16326/11, a/16328/11, a/16329/11, a/16330/11, a/16331/11, a/16332/11, a/16333/11, a/16351/11, a/16354/11, a/16355/11, a/16357/11, a/16358/11, a/16359/11, a/16360/11, a/16362/11, a/16363/11, a/16364/11, a/16365/11, a/16367/11, a/16369/11, a/16370/11, a/16371/11, a/16375/11, a/16376/11, a/16377/11, a/16378/11, a/16386/11, a/16387/11, a/16388/11, a/16389/11, a/16390/11, a/16391/11, a/16392/11, a/16393/11, a/16394/11, a/16395/11, a/16396/11, a/16397/11, a/16398/11, a/16399/11, a/16400/11, a/16401/11, a/16402/11, a/16403/11, a/16404/11, a/16405/11, a/16406/11, a/16407/11, a/16408/11, a/16409/11, a/16411/11, a/16689/11, a/16690/11, a/16691/11, a/16692/11, a/16693/11, a/16695/11, a/16696/11, a/16697/11, a/16698/11, a/16699/11, a/16700/11, a/16701/11, a/16702/11, a/16703/11, a/16704/11, a/16705/11, a/16706/11, a/16707/11, a/16708/11, a/16709/11, a/16710/11, a/16711/11, a/16712/11, a/16713/11, a/16714/11, a/16715/11, a/16716/11, a/16717/11, a/16718/11, a/16719/11, a/16720/11, a/16721/11, a/16722/11, a/16723/11, a/16724/11, a/16725/11, a/16726/11, a/16727/11, a/16728/11, a/16731/11, a/16733/11, a/16734/11, a/16735/11, a/16736/11, a/16737/11, a/17229/11, a/17232/11, a/1967/10, a/2008/10, a/2360/10, a/2393/10, a/2504/10, a/2597/10, a/2689/10, a/2690/10, a/2709/10, a/2723/10, a/2857/10, a/2859/10, a/3173/10, a/3175/10, a/3177/10, a/3178/10 and a/3182/10.

11. With regard to Applicants a/16351/11, a/16357/11, a/16695/11, a/16704/11 and a/2360/10, the Prosecution submits that, as victims of pillaging, they meet the requirements for participation. However, their applications are not limited to the harm they suffered from the pillaging.

12. Applicant a/16351/11 should be invited to provide information and/or documentation to establish the identity, the murder and proof of kinship with her

deceased brother in order to substantiate her claim on the harm she suffered as a result of his murder.

13. Applicant a/16357/11 should be invited to provide information and/or documentation to establish the identity and proof of kinship with his niece, who was raped by the soldiers of the *Mouvement de Libération du Congo* ("MLC"), in order to substantiate his claim on the harm he suffered as a result of her rape.

14. Applicant a/16695/11 should be invited to provide information and/or documentation to establish the identity and proof of kinship with his daughter, who was raped by the MLC soldiers, in order to substantiate his claim on the harm he suffered as a result of her rape.

15. Applicant a/16704/11 also alleges harm suffered for the rape of his manager. However, due to the lack of any information establishing that manager as a member of the applicant's immediate family, the Prosecution submits that clarification and/ or information in this respect should be requested from the applicant.

16. Applicant a/2360/10 should be invited to identify the perpetrators of his parents' murder. Furthermore, information and/or documentation to establish their death, identity and proof of kinship should be requested in order to substantiate the claim on the harm the applicant suffered as a result of their murder.

17. Applicant a/16709/11 meets all the requirements as a victim of pillaging and rape. However, she should be invited to provide information and/or documentation to establish the identity and proof of kinship with her uncle, in order to substantiate her claim on the harm she suffered as a result of the pillaging of his uncle's goods.

18. Applicant a/1967/10 meets all the requirements as a victim of pillaging and rape. However he should be invited to provide information and/or documentation to establish the identity and proof of kinship with his wives in order to substantiate his claim on the harm he suffered as a result of their rape.

19. Applicant a/2597/10 meets all the requirements as a victim of pillaging and rape. However, she should be invited to provide information and/or documentation to establish the identity and proof of kinship with her daughter in order to substantiate her claim on the harm she suffered as a result of her daughter's rape.

B. Applications in respect of which decision should be deferred until additional information/documentation is provided

20. Applicants a/17083/11 and a/17173/11 do not provide sufficient information as to where the crimes against them were committed by the MLC troops. Therefore, the Prosecution submits that the Chamber defer its decision on their respective applications and give the applicants the opportunity to clarify or provide further information on the location of their victimization.

21. Additionally, the Prosecution requests that Applicant a/17173/11 be invited to provide information and/or documentation to establish the identity, death and proof of kinship with his deceased child in order to substantiate his claim on the harm he suffered as a result of his murder.

22. Applicants a/16313/11, a/16315/11, a/16316/11, a/16318/11, a/16320/11, a/16322/11, a/16323/11, a/16325/11, a/16327/11, a/16329/11, a/16350/11, a/16353/11, a/16356/11, a/17081/11, a/17082/11, a/17380/11, a/2193/10, a/2218/10 and a/2633/10 do not provide sufficient information as to when the crimes against them were committed by the MLC troops. Therefore the Prosecution submits that the Chamber

defer its decision on their respective applications and give the applicants the opportunity to clarify or provide further information on the time of their victimization.

23. In addition, Applicant a/16353/11 should be invited to provide information and/or documentation to establish the identity, death and proof of kinship with his deceased wife in order to substantiate his claim on the harm he suffered as a result of her murder.

24. With regard to Applicant a/17081/11, the Prosecution submits that he should also be invited to provide information and/or documentation to establish the identity and proof of kinship with his wife and young sister, in order to substantiate his claim on the harm he suffered as a result of their rape.

25. With regard to Applicant a/17380/11, a victim of pillaging, the Prosecution observes that he should be invited to clarify or provide further information and/or documentation to establish the identity of the perpetrators.¹¹

26. With regard to Applicants a/0166/11, a/0618/11, a/1015/11, a/1042/10, a/1480/11, a/16312/11, a/16576/11, a/16730/11, a/16732/11 and a/17466/11, the Prosecution submits that, due to the lack of information regarding their identity, it is not possible to establish whether the identity documents attached to the applications relate to the persons who suffered victimization and filled in the application forms. The Prosecution therefore submits that these applicants should be requested to clarify or provide further information and/or documentation.

¹¹ Applicant a/17380/11 refers to items pillaged by the “rebels” in his annexed list of pillaged items; whilst describing the events, he mentions Bozize’s troops as “rebels”.

27. In addition, Applicant a/1042/10 should be invited to provide information and/or documentation to establish the identity of her deceased husband in order to substantiate her claim on the harm she suffered as a result of his murder.

28. Furthermore, the Prosecution notes that the location where the crimes occurred is fully redacted in the application form of Applicant a/17466/11. The Prosecution is therefore unable to assess whether there is a causal link between the harm suffered by the applicant and the crimes charged against the Accused and leaves it to the Chamber to determine whether sufficient information or documentation was provided or additional documents and/or information should be requested.

29. As to Applicant a/1497/11, the Prosecution submits that she should be invited to provide further information on the identity of the perpetrators of the crimes from which she alleges harm.

30. The Prosecution notes that Applicant a/16410/11 filed the application on behalf of another individual. She should be invited to provide further information and documents on the identity and relationship with that individual and on whether the applicant was granted consent.

31. With regard to Applicant a/2374/10, a victim of pillaging, the Prosecution notes that after the applicant's death,¹² her sister resubmitted the application. However, the latter should be requested to provide appropriate documentation to establish the applicant's death. In addition, the applicant's sister requests pillaging victim's status for herself. She should be invited to file a separate application to substantiate her claim.

¹² Applicant a/2374/10 died in 2010.

32. With regard to Applicant a/2436/10, the Prosecution notes that the applicant's sister, who now requests to represent her in the proceedings, fails to provide any proof of the applicant's consent. She should therefore be invited to submit information on the reasons why the applicant can no longer represent herself as well as the consent expressed by her sister.

33. As to the application submitted by Applicant a/2687/10 on behalf of her deceased husband, the Prosecution submits that she should be invited to provide her husband's death certificate as well as proof of kinship. The applicant should also be invited to file a separate application, to clarify her account of events and provide adequate documents in order to substantiate her claims on the personal harm she suffered as a result of pillaging as well as her husband's murder.

34. The Prosecution submits that Applicant a/3239/10 should be invited to provide further information on the date of victimization of his sister as well as documents to establish her death. Furthermore, due to the redactions applied, the Prosecution leaves it to the Chamber to determine whether sufficient documentation was provided as to the kinship of the applicant with the deceased sister, or additional documents and/or information should be requested.

C. Applications in respect of which the Prosecution leaves it to the Chamber to determine whether the requirements for participation are met or additional documents or information should be sought

35. As regards Applicants a/1494/11, a/16361/11, a/16366/11, a/16694/11, a/17435/11, a/17474/11 and a/17475/11, redactions make it impossible to identify the locations where the crimes occurred. The Prosecution is therefore unable to assess whether there is a causal link between the harm suffered by these applicants and the crimes charged against the Accused and leaves it to the Chamber to determine

whether sufficient documentation was provided or additional documents and/or information should be requested.

36. Moreover, whilst Applicant a/16694/11 would appear to meet the requirements for participation as a victim of pillaging, he should be requested to provide further information and/or documents to establish his sister's identity and proof of kinship to her, in order to substantiate his claim on the harm suffered as a result of her rape.

37. As to Applicants a/16368/11, a/16372/11, a/16373/11, a/16374/11, a/16385/11 and a/17233/11, redactions make it impossible to establish whether the identity documents attached to the applications relate to the persons who suffered victimization and filled in the application forms. The Prosecution, therefore, leaves it to the Chamber to determine whether sufficient information and/or documentation were provided or additional documents and/or information should be requested.

38. Applicant a/17233/11 is acting on behalf of an organization.¹³ The Prosecution notes that redactions to the identity document and to the attestation form make it impossible to establish the applicant's identity and to assess whether he has *locus standi*. The Prosecution therefore leaves it to the Chamber to determine whether sufficient documentation was provided or additional documents and/or information should be requested.

39. The Prosecution notes that after the death of Applicant a/2308/10 last year, her relative requests to participate in the proceedings on her behalf. However, due to the redactions applied, the Prosecution leaves it to the Chamber to determine whether sufficient information and/or documentation was provided to establish the identity

¹³ Applicant a/17233/11 claims that the statute and other official documents of the organization were lost during the events.

and kinship of the applicant's relative, or additional documents and/or information should be requested.

40. Applicant a/2437/10 is acting on behalf of his deceased brother, who was shot by the MLC soldiers and subsequently died, and had his house pillaged. Due to redactions applied, the Prosecution leaves it to the Chamber to determine whether sufficient documentation was provided to establish the applicant's identity, the identity and death of his brother and kinship, or additional documents and/or information should be requested.

D. Applications that do not to meet the requirements for victim participation

41. Applicant a/2502/10 reiterates his request for reparation with regard to the pillaging of his goods. However, he cannot identify the perpetrators. The Prosecution submits that the applicant was not able to establish, *prima facie*, a causal link between the harm allegedly suffered and the charges against the Accused, and does not therefore meet the requirements for victim participation.

IV. Conclusion

42. The Prosecution submits that applicants listed in section A above meet the requirements under Article 68(3) of the Statute to participate as victims in the trial proceedings.

43. The Prosecution submits that applications made by applicants listed in section B above should be deferred until further clarifications and/or information are provided.

44. The Prosecution leaves it to the Chamber to determine whether applicants listed in section C above provided adequate documentation or additional documents and/or information should be requested.

45. The Prosecution submits that the applicant listed in section D above does not meet the requirements for participation.

A handwritten signature in blue ink, appearing to read 'Luis Moreno-Ocampo', is positioned above a horizontal line.

Luis Moreno-Ocampo, Prosecutor

Dated this 9th Day of March 2012

At The Hague, The Netherlands