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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 69 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:

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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 69 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 all 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 - 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. The Prosecution takes note of the application's withdrawal by the applicant listed in section E below.

7. 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

8. 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

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).

9. 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 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

10. On 1 March 2012, the Chamber informed the parties about two additional transmissions of victims' applications that would be filed on 6 March 2012 and on 5 April 2012. The Chamber ordered that observations on the two transmissions shall be submitted within the regular 21 days time limit in accordance with Regulation 34(b) of the Regulations of the Court.¹⁰

11. On 6 March 2012, the Registry provided the Prosecution with 69 redacted versions of the twenty-third set of applications.¹¹

III. Factual analysis of the applications

A. Applications that meet the requirements for victim participation

12. 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/0298/11, a/0321/11, a/0385/11, a/0397/11, a/05000/12, a/05001/12, a/05002/12, a/05003/12, a/05004/12, a/05005/12, a/05006/12, a/05007/12,

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.

⁹ *Ibid*, p. 60, lines 9-11.

¹⁰ Email with subject 'additional transmissions of victims' applications' of TCIII sent to all parties on 1 March 2012.

¹¹ ICC-01/05-01/08-2156, Twenty-third transmission to the parties and the legal representatives of the applicants of redacted versions of applications for participation in the proceedings, 6 March 2012.

a/05008/12, a/05009/12, a/05010/12, a/05011/12, a/05012/12, a/05015/12, a/05016/12, a/05017/12, a/05018/12, a/05019/12, a/05020/12, a/05021/12, a/05022/12, a/05023/12, a/05024/12, a/05025/12, a/05026/12, a/05027/12, a/05028/12, a/05029/12, a/05030/12, a/05031/12, a/05032/12, a/05033/12 , a/05034/12, a/1194/11, a/1363/10, a/1368/10, a/16421/11, a/16643/11, a/1670/11, a/16729/11, a/1872/11, a/1875/10, a/1906/11, a/1919/11, a/2149/10, a/2195/10, a/2225/10, a/2373/10, a/2394/10, a/2613/10, a/2616/10, a/2618/10, a/2659/10.

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

13. As to Applicant a/0487/11, the Prosecution submits that the Chamber defer its decision and give the applicant the opportunity to provide proof of his identity.

14. Applicant a/0667/11 provides no information as to when he suffered pillaging. The Prosecution observes that it is not possible to determine whether a causal link exists between the harm suffered and the charges against the Accused and submits that the Chamber should defer its decision until the applicant provides further information on the time of the events.

15. With regard to Applicants a/16576/11 and a/2354/10, the Prosecution notes discrepancies regarding their dates of birth and age. The Prosecution therefore submits that the Chamber should defer its decision and request the applicants to provide additional documents and/or information that would either resolve these discrepancies or otherwise establish identity.

16. As to Applicant a/2153/10, the Prosecution submits that the Chamber defer its decision on this application and invites the applicant to provide further information

and/or documentation, as he failed to replace the illegible identity document that he had attached to his initial application.

17. The Prosecution notes that the church membership card provided by Applicant a/3232/10 does not indicate her date of birth. The Prosecution therefore submits that the attached document is insufficient to establish the applicant's identity and the Chamber should invite her to provide further information and/or documentation to establish her identity.

18. The Prosecution notes that Applicant a/2612/10, while re-submitting his application,¹² provides information on new crimes including pillaging, committed against him by the soldiers of the "*Mouvement de Libération du Congo*" on 28 October 2002. The Prosecution submits that the new account of events by this applicant should be verified. The Chamber should therefore defer its decision on this application and invite the applicant to further explain and justify the new account of crimes contained in the re-submitted application.

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

19. As to Applicant a/2622/10, redactions make it impossible to identify the location where the crimes occurred. The Prosecution is therefore unable to assess whether there is a causal link between the harm suffered by this applicant 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.

¹² Applicant a/2612/10 initially only stated that he was tortured by Bozize's men on 15 – 18 March 2003.

20. With regard to Applicant a/05013/12, due the extent of applied redactions, the Prosecution leaves it to the Chamber to determine whether the identity of the applicant's mother and proof of kinship was established, or additional documents and/or information should be requested.

21. As to Applicant a/2619/10 and Applicant a/3232/10, the Prosecution notes that they failed to provide their dates of birth. The Prosecution therefore leaves it to the Chamber to determine whether the information provided in the non-redacted application forms is sufficient to establish their identities, or additional information and/or documentation should be requested.

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

22. Applicant a/1403/10 resubmitted her application for participation as a victim of pillaging. She states in her supplementary information that the events occurred in May 2001. Given that this date falls outside the time-frame alleged by the Prosecution and upheld by the Chamber, "i.e. on or about 26 October 2002 to 15 March 2003",¹³ the Prosecution submits that the applicant has failed to establish, *prima facie*, a causal link between the harm suffered and the charges against the Accused and does not meet the requirements for victim participation.

E. Withdrawn application

23. With regard to Applicant a/2730/10, the Prosecution notes that the application was submitted on behalf of an association. The president of that association withdrew the prior request to participate in the proceedings, as the association is now dissolved. The Prosecution therefore takes note of this application's withdrawal.

¹³ 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 paragraph 51.

IV. Conclusion

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

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

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

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

28. The Prosecution submits that note should be taken of the application's withdrawal by the applicant listed in section E above.



Luis Moreno-Ocampo, Prosecutor

Dated this 23rd Day of March 2012

At The Hague, The Netherlands