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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 72 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 72 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 further clarifications or documents 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. 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

6. 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

7. 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

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.

⁹ *Ibid*, p. 60, lines 9-11.

8. 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

9. On 5 April 2012, the Registry provided the Prosecution with 72 redacted versions of the 24th set of applications.¹¹

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/0040/11, a/0047/11, a/0049/11, a/0058/11, a/0195/10, a/0200/11, a/05039/12, a/05040/12, a/05041/12, a/05042/12, a/05043/12, a/0510/11, a/0726/10, a/0726/11, a/0727/11, a/0728/11, a/0730/11, a/0731/11, a/0734/11, a/0735/11, a/0736/11, a/0738/11, a/0739/11, a/0740/11, a/0741/11, a/0742/11, a/0745/11, a/0747/11, a/0750/11, a/0751/11, a/1323/11, a/1388/11, a/16256/11, a/1633/10, a/16908/11, a/17012/11, a/16910/11, a/16911/11, a/16912/11, a/16913/11, a/16914/11, a/16915/11, a/16916/11, a/16917/11, a/16920/11, a/16922/11, a/16924/11, a/16925/11, a/16926/11, a/16928/11, a/16929/11, a/16933/11, a/16934/11, a/17006/11, a/17008/11, a/17009/11, a/17014/11, a/17016/11, a/17018/11, a/17019/11, a/17020/11, a/2249/10 and a/2704/10.

11. With regard to Applicants a/0040/11, a/0049/11, a/05040/12, a/05043/12, a/0726/11, a/0735/11, a/0738/11, a/0751/11, a/1323/11, a/16256/11, a/16912/11,

¹⁰ Email of the Chamber sent to all parties on 1 March 2012 at 14:04.

¹¹ ICC-01/05-01/08-2186, Twenty-fourth transmission to the parties and the legal representatives of the applicants of redacted versions of applications for participation in the proceedings, 5 April 2012.

a/16920/11, a/16926/11, a/16928/11, a/16929/11, a/17006/11, a/17008/11, a/17009/11, a/17014/11, a/17018/11 and a/2704/10, the Prosecution submits that they all meet the requirements for participation as victims of pillaging. However, their applications are not limited to the harm they suffered from the pillaging.

12. Applicants a/0738/11, a/1323/11, a/16920/11, a/16929/11, a/17009/11 and a/17014/11 should be invited to provide information and/or documentation to establish the identity and proof of kinship with their respective spouses, in order to substantiate their claims on the harm suffered as a result of their rapes.

13. Applicant a/0040/11 should be invited to provide information and/or documentation to establish the murder, the identity and proof of kinship with her deceased parents and three brothers, in order to substantiate her claim on the harm she suffered as a result of their murder.

14. Applicant a/0049/11 should be invited to provide information and/or documentation to establish the murder, the identity and proof of kinship with her deceased son, in order to substantiate her claim on the harm she suffered as a result of his murder.

15. Applicant a/05040/12 should be invited to provide information and/or documentation to establish the identity and proof of kinship with her sister, in order to substantiate her claim on the harm she suffered as a result of her rape.

16. Applicant a/05043/12 should be invited to provide information and/or documentation to establish the murder, the identity and proof of kinship with her deceased stepfather, in order to substantiate her claim on the harm she suffered as a result of his murder.

17. Applicant a/0726/11 also meets the requirements for participation as a victim for her husband's murder. However, she should be invited to provide information and/or documentation to establish the identity and proof of kinship with her raped daughter, in order to substantiate her claim on the harm she suffered as a result of her rape.

18. Applicants a/0735/11 and a/16928/11 should be invited to provide information and/or documentation to establish the identity and proof of kinship with their respective daughters, in order to substantiate their claims on the harm they suffered as a result of their daughters' rapes.

19. Applicants a/0751/11 and a/16926/11 should be invited to provide information and/or documentation to establish the murder, the identity and proof of kinship with their respective deceased brothers, in order to substantiate their claims on the harm they suffered as a result of their murders.

20. Applicant a/16256/11 should be invited to provide information and/or documentation to establish the murder, the identity and proof of kinship with his deceased nephew, in order to substantiate his claim on the harm he suffered as a result of his murder.

21. Applicant a/16912/11 should be invited to provide information and/or documentation to establish the murder, the identity and proof of kinship with his deceased father, in order to substantiate his claim on the harm he suffered as a result of his murder.

22. Applicants a/17006/11, a/17008/11, a/17018/11 and a/2704/10 also meet the requirements for participation as victims of rape. However, each of these applicants should be invited to provide information and/or documentation to establish the

identity and proof of kinship with their respective relatives, in order to substantiate their individual claims on the harm they suffered as a result of their relatives' rapes.¹²

23. With regard to Applicant a/05041/12, the Prosecution submits that he meets the requirements to participate as a victim in relation to his son's murder. The Prosecution notes that the applicant claims to be also acting on behalf of his "two mothers", who were murdered. The Prosecution, however, submits that the applicant should be invited to provide further information and/or documentation to clarify his relationship with the two alleged victims and establish the identity and proof of kinship with them, in order to substantiate his claim on the harm he suffered as a result of their murder.

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

24. As to Applicants a/0554/08, a/16932/11, a/17013/11, a/2248/11 and a/3160/10, the Prosecution notes discrepancies regarding their dates of birth and age. The Prosecution therefore submits that the Chamber defer its decision and give the applicants the opportunity to provide additional documents and/or information to establish their respective identity and with regard to Applicant a/17013/11 only, the identity of her deceased mother.

25. Furthermore, the Prosecution submits that Applicants a/0554/08 and a/16932/11 should be invited to provide information and/or documentation to establish the identity and proof of kinship respectively with her raped sister and her

¹² Applicant a/17006/11 should be invited to provide information and/or documentation with regard to her stepdaughter; Applicant a/17008/11 with regard to her niece; Applicant a/17018/11 with regard to her mother and sister; and Applicant a/2704/10 with regard to her stepdaughter and niece.

raped granddaughter, in order to substantiate their claims on the harm they suffered as a result of the rapes.

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

26. As to Applicants a/05037/12, a/05038/12 and a/0737/11, 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 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.

27. With regard to Applicant a/17015/11, the Prosecution notes that she appears to meet the requirements to participate as a victim of rape and pillage. However, due to redaction applied to her birth certificate, the Prosecution finds it difficult to assess whether her identity is established and leaves it to the Chamber to determine whether or not additional documents and/or information should be requested. Moreover, the Prosecution submits that she should be invited to provide information and/or documentation to establish the identity and proof of kinship with her raped daughter, in order to substantiate her claim on the harm she suffered as a result of her rape.

IV. Conclusion

28. 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.

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

30. 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.



Luis Moreno-Ocampo, Prosecutor

Dated this 27th Day of April 2012

At The Hague, The Netherlands