

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/05-01/08
Date: 15 September 2015

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

Decision on "Demande d'autorisation de répliquer aux «Soumissions supplémentaires de la Défense concernant la 'Requête relative à la reprise des actions introduites devant la Cour par les victimes décédées'» (ICC-01/05-01/08-3293-Conf)"

Decision to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Ms Fatou Bensouda

Mr Jean-Jacques Badibanga

Counsel for the Defence

Mr Peter Haynes

Ms Kate Gibson

Ms Melinda Taylor

Legal Representatives of the Victims

Ms Marie-Edith Douzima Lawson

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

Trial Chamber III ("Chamber") of the International Criminal Court ("Court"), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* ("Bemba case"), issues the following Decision on "Demande d'autorisation de répliquer aux «Soumissions supplémentaires de la Défense concernant la 'Requête relative à la reprise des actions introduites devant la Cour par les victimes décédées'» (ICC-01/05-01/08-3293-Conf)".

1. On 18 June 2015, Maître Marie-Edith Douzima-Lawson, the legal representative of victims ("Legal Representative"), filed her "Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées" ("Request"), together with nine confidential *ex parte* annexes ("Supporting Documents").¹ The Legal Representative requests that the Chamber (i) authorise the continued participation of nine deceased victims in the proceedings in the *Bemba* case, through the persons mandated by the family members of the deceased to continue the actions originally initiated by the deceased victims; and (ii) order protective measures necessary to maintain the confidentiality of all elements of identification of the deceased victims in relation to the public, as well as the identities and places of residence of the family members of the deceased and the places of residence of the mandated persons, in relation to the parties and the public.²

2. On 6 July 2015, the Defence for Mr Jean-Pierre Bemba Gombo ("Defence") filed its "Defence Response to 'Requête relative à la reprise des actions

¹ Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées, 18 June 2015 (notified on 19 June 2015), ICC-01/05-01/08-3256-Conf and Conf-Exp-Anxs1 to 9.

² ICC-01/05-01/08-3256-Conf, page. 13.

introduites devant la Cour par des victimes décédées”³, in which it requests that the Chamber (i) order “the provision of the [Supporting Documents] to the parties, and authorise the making of further submissions upon receipt of this material”; and (ii) order the Legal Representative “to liaise with those victims who did not oppose their identities being disclosed to the Defence, and provide disclosure of unredacted versions of their application forms once confirmation is obtained”.⁴

3. The Office of the Prosecutor did not file any response to the Request.
4. On 20 July 2015, with leave from the Chamber,⁵ the Legal Representative filed her “Réplique de la Représentante légale des victimes à la « Réponse de la Défense concernant la Requête relative à la reprise des actions introduites devant la Cour par les victimes décédées » (ICC-01/05-01/08-3263-Conf)”,⁶ in which she replied to (i) the Defence’s request for provision of Supporting Documents; and (ii) the Defence’s submissions concerning the requirements for the continuation of actions of the deceased victims by their heirs.

³ Defence Response to ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’, 6 July 2015, ICC-01/05-01/08-3263-Conf.

⁴ ICC-01/05-01/08-3263-Conf, para. 28.

⁵ Decision on “Demande d’autorisation de répliquer à la Réponse de la Défense concernant la «Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées»”, 15 July 2015, ICC-01/05-01/08-3268-Conf.

⁶ Réplique de la Représentante légale des victimes à la « Réponse de la Défense concernant la Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées » (ICC-01/05-01/08-3263-Conf)", 20 July 2015, ICC-01/05-01/08-3270-Conf.

5. On 11 August 2015,⁷ the Chamber, *inter alia*, (i) ordered the Legal Representative to file confidential redacted versions of the Supporting Documents; and (ii) ordered that any observations on the confidential redacted versions of the Supporting Documents be filed within 21 days of notification of the relevant documents.
6. On 24 August 2015, the Legal Representative filed redacted versions of the Supporting Documents.⁸
7. On 8 September 2015, the Defence filed its "Defence Further Submissions on the 'Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées'" ("Defence Further Observations"),⁹ in which it, *inter alia*, (i) asks the Chamber to reject the Request;¹⁰ (ii) submits that the Supporting Documents do not support the claim for continued representation;¹¹ and (iii) challenges the redactions applied in the Supporting Documents as not justified and/or excessive and illogical, and as preventing the parties from making any meaningful submissions on their provenance or authenticity.¹²
8. On 11 September 2015, the Legal Representative filed her "Demande d'autorisation de répliquer aux «Soumissions supplémentaires de la

⁷ Email from the Chamber to the parties, Legal Representative, and the Registry, sent on 11 August 2015 at 13.36.

⁸ Confidentielle expurgée Annex 1 to 9 to the Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées, 24 August 2015, ICC-01/05-01/08-3256-Conf-Anx1 to 9-Red.

⁹ Defence Further Submissions on the 'Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées', 8 September 2015, ICC-01/05-01/08-3293-Conf.

¹⁰ ICC-01/05-01/08-3293-Conf, para. 65.

¹¹ ICC-01/05-01/08-3293-Conf, paras 13 to 17.

¹² ICC-01/05-01/08-3293-Conf, paras 18 to 20, 23 to 25, 28 to 30, 34 to 35, 39 to 41, 45 to 47, 50 to 52, 55 to 57, and 59 to 60.

Défense concernant la 'Requête relative à la reprise des actions introduites devant la Cour par les victimes décédées'» (ICC-01/05-01/08-3293-Conf)" ("Request for Leave to Reply"),¹³ in which she seeks leave to reply to the Defence Further Observations on (i) the inappropriate nature of the redactions applied in the Supporting Documents; and (ii) the Defence's allegations that the Supporting Documents do not support the claim for continued representation.¹⁴

9. The Chamber is of the view that it may benefit from the Legal Representative's views on the issues set out in her Request for Leave to Reply. The Chamber reminds the Legal Representative that the reply must be narrowly tailored to only address the new issues raised in the Defence Further Observations.
10. Additionally, in light of the fact that the Request for Leave to Reply is limited to two specific issues, the Chamber considers, pursuant to Regulation 37(1) of the Regulations of the Court ("Regulations"), that it is appropriate that the Legal Representative's reply be limited to no more than 10 pages.

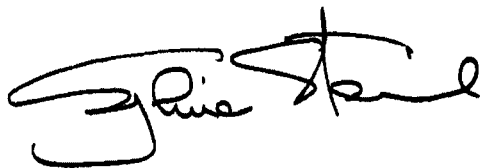
¹³ Demande d'autorisation de répliquer aux «Soumissions supplémentaires de la Défense concernant la 'Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées'» (ICC-01/05-01/08-3293-Conf)", 11 September 2015, ICC-01/05-01/08-3296-Conf.

¹⁴ ICC-01/05-01/08-3296-Conf, para. 5 and page 7.

11. In view of the above, the Chamber hereby:

- a. GRANTS the Request for Leave to Reply, pursuant to Regulation 24(5) of the Regulations;
- b. ORDERS that the Legal Representative's reply be filed no later than 21 September 2015, pursuant to Regulation 34(c) of the Regulations; and
- c. ORDERS that the Legal Representative's reply not exceed 10 pages, pursuant to Regulation 37(1) of the Regulations.

Done in both English and French, the English version being authoritative.



Judge Sylvia Steiner



Judge Joyce Aluoch



Judge Kuniko Ozaki

Dated this 15 September 2015

At The Hague, the Netherlands