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

Date: **12/04/2016**

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

Public Redacted Version of Defence Further Submissions on the ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’

Source: Defence for Mr. Jean-Pierre Bemba Gombo

Document to be notified in accordance with regulation 31 of the *Regulations of the Court***to:****The Office of the Prosecutor**

Fatou Bensouda, Prosecutor
Jean-Jacques Badibanga

Counsel for the Defence

Peter Haynes QC
Kate Gibson
Melinda Taylor

Legal Representatives of the Victims

Marie-Edith Douzima-Lawson

Legal Representatives of the Applicants**Unrepresented Victims****Unrepresented
(Participation/Reparation)****Applicants****The Office of Public Counsel for Victims**

Paolina Massidda

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

Xavier-Jean Keita

States' Representatives**Amicus Curiae****REGISTRY****Registrar**

Herman von Hebel

Defence Support Section**Deputy Registrar****Victims and Witnesses Unit**

Nigel Verrill

Detention Section**Victims Participation and Reparations
Section Other**

A. BACKGROUND

1. On 18 June 2015, the Legal Representative of Victims filed her ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’, with ‘annexes confidentielles EX PARTE réservées au BCPV, à la SPVR et l’UAVT’ (“LRV Request”).¹ The LRV Request asks Trial Chamber III (“the Chamber”) to authorise the continued participation of nine deceased victims, through individuals who she submits are authorised by the families of the deceased.

2. On 6 July 2015, the Defence filed a response to the LRV Request,² in which it objected to the *ex parte* filing of the documents supporting the Request (“Supporting Documents”), noted the practice in other cases before the ICC of the parties to be provided with the Supporting Documents to such requests, and requested that the Trial Chamber order the LRV to provide this material to the parties, and authorise the making of further submissions upon its receipt.

3. On 11 August 2015, the Trial Chamber ordered the LRV to provide the parties with the Supporting Documents “as soon as practicable”, and ordered that any observations be filed within 21 days of notification.³

4. On 24 August 2015, the LRV filed the Supporting Documents in the record of the case. Pursuant to the Trial Chamber’s email of 11 August 2015, the Defence files the following submissions.

B. CONFIDENTIALITY

5. The Defence files the present document confidentially, as it responds to the confidential LRV Request and confidential annexes.

¹ ICC-01/05-01/08-3256-Conf.

² ICC-01/05-01/08-3263-Conf.

³ Email Chamber to the parties and participants, 11 August 2015 at 13.35: FW: Jean-Pierre Bemba Gombo Case : ICC-01/05-01/08-3270-Conf - 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 ».

C. APPLICABLE LAW

6. Article 68(3) of the Rome Statute provides that ‘when the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered’. The Presiding Judge of Trial Chamber III has previously held, while sitting as a Single Judge in the *Katanga & Ngudjolo* case, that:⁴

La juge unique rappelle que la règle 89-3 du Règlement indique qu'une demande de participation peut être introduite par une personne agissant au nom de la victime concernée si elle a donné son consentement, ou au nom de celle-ci lorsqu'il s'agit d'un enfant ou d'une personne invalide. Aucune disposition n'autorise toutefois le dépôt d'une demande de participation au nom d'une personne décédée. La règle 89-3 autorise le dépôt d'une demande de participation au nom d'une personne à condition qu'elle y consente. La juge unique fait observer qu'un tel consentement ne peut être donné par une personne décédée. Elle estime donc que les personnes décédées ne peuvent être considérées comme des personnes physiques au sens de la règle 85-a du Règlement.

7. This approach has been adopted in later decisions, with applications on behalf of deceased persons being rejected, and applications from deceased relatives only being accepted when ‘the person making the application alleges moral harm resulting from the death of his or her relative’.⁵ This is because:⁶

no provision permits the submission of an application for participation on behalf of a deceased person. Rule 89(3) authorises the submission of an application for participation on a person’s behalf provided the person consents. The Single Judge notes that such consent cannot be given by a deceased person. She is therefore of the opinion that deceased persons cannot be considered to be natural persons within the meaning of rule 85(a).

8. Nor has the **continued** participation of victims, following their death, been deemed appropriate. In *Ngudjolo*, the Appeals Chamber recently clarified that, given that the requirements of Article 68(3) mandate that victim participation be based on the personal interests that are affected, the resumption of a deceased victim’s participation by an heir/successor was not deemed appropriate.⁷

⁴ ICC-01/04-423-Corr, para. 138.

⁵ ICC-01/04-01/07-579, para. 63.

⁶ ICC-01/04-01/07-579, para. 62.

⁷ ICC-01/04-02/12-140, para. 26.

D. SUBMISSIONS

(a) The participation of family members of deceased victims must be contingent on the suffering of personal harm within the parameters of the confined charges

9. The Supporting Documents confirm that there is no link between the deaths of the nine identified victims, and any acts within the parameters of the confirmed case.

10. The victims in question are alleged to have suffered harm personally. Their families have not suffered harm as a result of incidents falling within the confined charges. In such circumstances, the participation of their relatives falls outside the recognized scope of victims' participation at the ICC. As most recently enunciated in *Ntaganda*:⁸

while it is possible to submit an application on behalf of victims, relatives of a deceased person will not be able to participate in these proceedings unless they show that they have suffered harm personally. The suffered harm is as a result of an incident falling within the parameters of the confirmed charges

11. A person acting on behalf of a deceased person cannot be in a position to convey the views and concerns of the deceased accurately, in the sense of article 68(3) of the Statute.⁹ The views and concerns of these nine victims have, according to the logic of common legal representation, already shaped the submissions of the LRV throughout the course of the trial, and remain on the record.

12. In this context, their continued involvement is of little substantive benefit to the Trial Chamber. If their continued participation is being sought to ensure the involvement of their families in any forthcoming reparations phase, this is inconsistent with the loss in question having been suffered by the deceased victims themselves during the course of their lifetime, and not by their relatives as a result of their deaths, none of which are linked to the charges. On this basis, the Defence submits that the LRV Request should be rejected.

⁸ ICC-01/04-02/06-449, para. 48.

⁹ ICC-01/04-01/07-1491-Red, para. 54.

(b) The Supporting Documents do not support the claim for continued representation

13. Each of the nine victims died between January 2012 and February 2014. The LRVs Request was filed in June 2015. The LRV had an obligation to inform the Trial Chamber as soon as she learnt of the death of a victim.¹⁰ The delay indicates that either the LRV has gone over three years without contact with some of the individuals whose views she claims to present to the Chamber, or she has not complied with her duty to inform the Chamber upon learning of victims' deaths. In either event, the Defence notes that the matter is being raised at an extremely late stage of the proceedings, which would justify a ruling by the Trial Chamber that the relatives in question could and should wait for the next phase of the proceedings to seek participatory rights.

14. Each of the nine death certificates provided is dated March 2015. Each of the "Jugement d'Homologation en matière de succession" is dated 20 March 2015. Each of the requests for a "Jugement" was made on 19 February 2015. Each, but two, of the "procès-verbal du Conseil de famille" states that the deceased person is a victim at the ICC. However, they include no details about the preservation of the deceased's interests, the administration of the deceased's estate, the care of any children or dependents, or anything else related to succession. They relate solely to the deceased's victims status as the ICC.

15. The LRV Request notes that Article 750 of the "Code centrafricain de la famille » provides that:¹¹

Le conseil de famille désigne parmi ses membres un mandataire qui a pour mission : de rechercher les différents successibles ; de procéder ou faire procéder par un notaire à un inventaire des éléments actifs ou passifs de l'indivision successorale avec leur état estimatif ; de faire prendre toutes les mesures conservatoires dans l'intérêt de la succession ; de gérer activement et passivement les biens de la succession avec le pouvoir d'un administrateur de biens ; de veiller à la protection du ou des conjoints survivants ; d'assurer son droit ou leur droit de subsistance ».

16. The dates and content of the Supporting Documents, however, indicate that these documents were requested and produced for the sole purpose of continued victims'

¹⁰ ICC-01/04-01/07-3018-tENG, para. 8.

¹¹ ICC-01/05-01/08-3256-Conf, fn. 5.

participation in the *Bemba* case. They were not contemporaneously requested or prepared, nor are they comprehensive documents which address the succession of the deceased's estate in any meaningful way. In such circumstances they invite close scrutiny by the Trial Chamber. Particularly given that each of the death certificates is missing the majority of salient details, including the deceased's date of birth, references to supporting documents, and the deceased's profession.

17. Most significantly, however, not one of the supporting documents indicates that the "Conseil de famille" explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.¹² As such, none of the victims' applications support the relief requested by the LRV.

(c) The Individual Requests

Annex 1 - Victim a/1841/10

(i) Inappropriate Nature of the Redactions

18. a/1841/10 did not request that his identity be withheld from the Defence. In such circumstances there can be no justification for the redactions to either his initial application form, or to the Supporting Documents now disclosed. The Defence hereby reiterates its request for disclosure of unredacted versions of these materials.

19. The redactions to Annex 1 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim, although she provided that information to the parties in her original Request. The date of death is an important indicator of the coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

20. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application form. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

¹² ICC-01/04-01/07-3018-tENG, para. 23.

(ii) Failure to substantiate the continued participation

21. The death certificate contains no birthdate, and no reference to a birth certificate. His ICC victims' application form lists [REDACTED] as his birthdate, and appends a birth certificate of the same date. While a/1841/10's profession is listed as an [REDACTED] on his ICC victims' application form, the death certificate is blank. Significantly, nothing in the Supporting Documents show that the "Conseil de famille" explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.¹³

(iii) Credibility of the Victim's Claim

22. In his ICC victims' application form, a/1841/10 claimed that the "Banyamulenge" [REDACTED]. He admitted, however, that [REDACTED] when the Banyamulenge arrived, and gave no indication that he [REDACTED] during the alleged [REDACTED]. He did not provide any factual justification for identifying the perpetrators as the soldiers of Mr. Bemba. He claimed [REDACTED] appended to his victims' application appears to represent an entire [REDACTED], undermining its credibility, particularly given that he did not claim to [REDACTED]. The credibility of the underlying claim further mitigates against continued participation.

Annex 2 - a/1443/10

(i) Inappropriate Nature of the Redactions

23. a/1443/10 did not request that her identity be withheld from the Defence. In such circumstances there can be no justification for the redactions to either her initial application form, or to the Supporting Documents now disclosed. The Defence hereby reiterates its request for disclosure of unredacted versions of these materials.

24. The redactions to Annex 2 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim's death, although she provided that information to the parties in her original Request. The date of death is an important indicator of the

¹³ ICC-01/04-01/07-3018-tENG, para. 23.

coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

25. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

(ii) Failure to substantiate the continued participation

26. The death certificate contains no birthdate, and no reference to a birth certificate. The ICC victims' application form lists [REDACTED] as her birthdate, and appends a birth certificate of the same date. There is no reason that the same date does not appear on the death certificate. While her profession is listed as a [REDACTED] on her ICC victims' application form, the death certificate is, again, blank. Significantly, nothing in the Supporting Documents show that the "Conseil de famille" explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.¹⁴

(iii) Credibility of the Deceased Victim's Claim

27. a/1443/10 claimed in her ICC victim's application form that she was [REDACTED]. Given the date and location of the alleged attack, she could not have been the victim of MLC troops.¹⁵ She cited Bemba, Patassé, and Bozizé as being responsible for her attack, and gave no factual basis for her alleged attackers being "Banyamulenge". The credibility of the underlying claim further mitigates against continued participation.

Annex 3 - Victim a/16402/11

(i) Inappropriate Nature of the Redactions

28. a/16402/11 did not request that his identity be withheld from the Defence. In such circumstances there can be no justification for the redactions to either his initial application

¹⁴ ICC-01/04-01/07-3018-tENG, para. 23.

¹⁵ ICC-01/05-01/08-3121-Conf, paras. 333-355.

form, or to the Supporting Documents now disclosed. The Defence hereby reiterates its request for disclosure of unredacted versions of these materials.

29. The redactions to Annex 3 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim's death, although she provided that information to the parties in her original Request. The date of death is an important indicator of the coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

30. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

(ii) Failure to substantiate the continued participation

31. The procès-verbal makes no mention of a/16402/11's status as a participating victim at the ICC, or shows that the "Conseil de famille" explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.¹⁶

32. The death certificate contains no birthdate, and no reference to a birth certificate. The ICC victims' application form lists [REDACTED] as his birthdate, and appends a birth certificate of the same date. There is no reason that the same date does not appear on the death certificate. While his profession is listed as a [REDACTED] on his victims' application form, the death certificate is, again, blank.

(iii) Credibility of the Deceased Victim's Claim

33. In his ICC victim's application form, a/16402/11 claimed that [REDACTED] by alleged Banyamulenge. This allegation does not form part of the charges in the present case, and cannot form the basis for any finding of prejudice as a result of the crimes charged. This further mitigates against continued participation.

¹⁶ ICC-01/04-01/07-3018-tENG, para. 23.

Annex 4 - Victim a/1610/11

(i) Inappropriate Nature of the Redactions

34. The redactions to Annex 4 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim's death, although she provided that information to the parties in her original Request. The date of death is an important indicator of the coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

35. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

(ii) Failure to substantiate the continued participation

36. In her ICC victims' participation form, a/1610/11 was asked whether she was seeking reparations for herself, her family, her community, or others.¹⁷ She specified that she is only seeking reparations for herself. This undermines any claim for continued representation, given that it does not accord with the deceased's wishes.

37. The "Jugement d'Homologation en matière de succession" is defective, as it gives two different dates for the death certificate. The death certificate itself contains no birthdate, and no reference to a birth certificate. The ICC victims' application form lists [REDACTED] as her birthdate, and appends a birth certificate of the same date. There is no reason that the same date does not appear on the death certificate. While her profession is listed as a [REDACTED] on her victims' application form, the death certificate is, again, blank. Significantly, nothing in the Supporting Documents show that the "Conseil de famille" explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.¹⁸

(iii) Credibility of the Deceased Victim's Claim

¹⁷ ICC-01/05-01/08-1922-Conf-Anx122-Red, Question 35.

¹⁸ ICC-01/04-01/07-3018-tENG, para. 23.

38. In her ICC victim's application form, a/1610/11 claimed she was [REDACTED]. Given the evidence heard in this case, she could not have been the victim of MLC troops,¹⁹ which mitigates against continued participation.

Annex 5 - a/2695/10

39. a/2695/10 did not request that her identity be withheld from the Defence. In such circumstances there can be no justification for the redactions to either her initial application form, or to the Supporting Documents now disclosed. The Defence hereby reiterates its request for disclosure of unredacted versions of these materials.

40. The redactions to Annex 5 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim's death, although she provided that information to the parties in her original Request. The date of death is an important indicator of the coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

41. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

(ii) Failure to substantiate the continued participation

42. The procès-verbal makes no mention of her status as a participating victim at the ICC, or shows that the "Conseil de famille" explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.²⁰

43. The "Judgement d'Homologation" states that the death certificate is dated March 2015, whereas the certificate itself does not list the year of issuance. The death certificate contains no birthdate, and no reference to a birth certificate. The ICC victims' application form lists [REDACTED] as her birthdate, and appends a birth certificate of the same date.

¹⁹ ICC-01/05-01/08-3121-Conf, paras. 333-355.

²⁰ ICC-01/04-01/07-3018-tENG, para. 23.

There is no reason that the same date does not appear on the death certificate. While her profession is listed as a [REDACTED] on her ICC victims' application form, the death certificate is, again, blank.

(iii) Credibility of the Deceased Victim's Claim

44. In her victim's application form, a/2695/10 claimed that she was [REDACTED]. Although the name of the village is redacted (despite the victim not opposing her identity being disclosed to the Defence), [REDACTED].²¹ The victim also made no plausible link between [REDACTED] and the "Banyamulenge", given that she does not understand Lingala, [REDACTED]. The credibility of this claim mitigates against continued participation.

Annex 6 – Victim a/2291/10

(i) Inappropriate Nature of the Redactions

45. a/2291/10 did not request that her identity be withheld from the Defence. In such circumstances there can be no justification for the redactions to either her initial application form, or to the Supporting Documents now disclosed. The Defence hereby reiterates its request for disclosure of unredacted versions of these materials.

46. The redactions to Annex 6 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim's death, although she provided that information to the parties in her original Request. The date of death is an important indicator of the coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

47. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

(ii) Failure to substantiate the continued participation

²¹ ICC-01/05-01/08-3079-Conf, para. 83.

48. The “Jugement d’Homologation en matière de succession” is defective, as it gives two different dates for the appointment of the “Conseil de famille”. The death certificate itself no birthdate, and no reference to a birth certificate. This omission is of particular significance, given that the victims’ application form lists [REDACTED] as her birthdate, but appends only [REDACTED] which puts her birthdate as [REDACTED]. Significantly, nothing in the Supporting Documents show that the “Conseil de famille” explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.²²

(iii) Credibility of the Deceased Victim’s Claim

49. In her victim’s application form, a/2291/10 claimed that she was the victim of crimes which occurred on [REDACTED], which undermines her claims that they were committed by the Banyamulenge.²³ No concrete basis was provided in support of her claim that the crimes were in fact committed by MLC troops. This mitigates against any continued participation.

Annex 7 – Victim a/1829/10

(i) Inappropriate Nature of the Redactions

50. a/1829/10 did not request that his identity be withheld from the Defence. In such circumstances there can be no justification for the redactions to either his initial application form, or to the Supporting Documents now disclosed. The Defence hereby reiterates its request for disclosure of unredacted versions of these materials.

51. The redactions to Annex 7 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim’s death, although she provided that information to the parties in her original Request. The date of death is an important indicator of the coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

²² ICC-01/04-01/07-3018-tENG, para. 23.

²³ ICC-01/05-01/08-3121-Conf, paras. 364-366.

52. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

(ii) Failure to substantiate the continued participation

53. The “Jugement d’Homologation en matière de succession” is defective, as it gives two different dates for the appointment of the “Conseil de famille”. The death certificate itself contains no birthdate, and no reference to a birth certificate. The victims’ application form lists [REDACTED] as his birthdate, and appends a birth certificate of the same date. There is no reason that the same date does not appear on the death certificate. While his profession is listed as a [REDACTED] and [REDACTED] even if it specifies [REDACTED] on his victims’ application form, the death certificate is, again, blank. Significantly, nothing in the Supporting Documents show that the “Conseil de famille” explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.²⁴

(iii) Credibility of the Deceased Victim’s Claim

54. In his victim’s application form, a/1829/10 claimed that he was [REDACTED] on [REDACTED], undermining any claim that the alleged perpetrators were in fact MLC troops.²⁵ He claimed that ‘Ange-Felix Patassé, François Bozizé and Jean-Pierre Bemba’ were responsible for the harm he suffered, giving rise to questions about the credibility of his claim, and also casting significant doubt as to whether or not any alleged prejudice suffered can be linked to the charges in the present case. This mitigates against continued participation.

Annex 8 – Victim a/1710/10

(i) Inappropriate Nature of the Redactions

²⁴ ICC-01/04-01/07-3018-tENG, para. 23.

²⁵ ICC-01/05-01/08-3079-Conf, para. 83; ICC-01/05-01/08-3121-Conf, paras. 346-360.

55. a/1710/10 did not request that his identity be withheld from the Defence. In such circumstances there can be no justification for the redactions to either his initial application form, or to the Supporting Documents now disclosed. The Defence hereby reiterates its request for disclosure of unredacted versions of these materials.

56. The redactions to Annex 8 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim's death, although she provided that information to the parties in her original Request. The date of death is an important indicator of the coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

57. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

(ii) Failure to substantiate the continued participation

The death certificate itself contains no birthdate, and no reference to a birth certificate. The victims' application form lists [REDACTED]. There is no reason that the same date does not appear on the death certificate. While his profession is listed as a [REDACTED] on his victims' application form, the death certificate is, again, blank. Significantly, nothing in the Supporting Documents show that the "Conseil de famille" explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.²⁶

(iii) Credibility of the Deceased Victim's Claim

58. In his ICC victim's application form, a/1710/10 claimed compensation [REDACTED] to the value [REDACTED]. He alleged that [REDACTED]. Even if it were possible for over [REDACTED], the date provided undermines any attempt to identify the perpetrators as the "Banyamulenge".²⁷ Nor is any factual basis provided for a link back to either the MLC or Mr. Bemba. This mitigates against any continued participation.

²⁶ ICC-01/04-01/07-3018-tENG, para. 23.

²⁷ ICC-01/05-01/08-3121-Conf, paras. 364-366.

Annex 9 – Victim a/0497/11

(i) Inappropriate Nature of the Redactions

59. The redactions to Annex 9 are excessive and illogical. The LRV has redacted, for example, the date of death of the victim's death, although she provided that information to the parties in her original Request. The date of death is an important indicator of the coherence between the three documents, particularly in light of the extensive redactions which make it impossible for the parties to even know if they relate to the same person.

60. The redaction of the names of all people in all the Supporting Materials precludes even a basic comparison with the original application. The redaction of the stamps and signatures means the parties can make no meaningful submissions on the provenance or authenticity of the Supporting Documents.

(ii) Failure to substantiate the continued participation

61. In her victims' participation form, the victim was asked whether she is seeking reparations for herself, her family, her community, or others.²⁸ She specified that she is only seeking reparations for herself. This undermines any claim for continued representation, given that it does not accord with the deceased's wishes.

62. The death certificate itself no birthdate, and no reference to a birth certificate. The victims' application form lists [REDACTED] as her birthdate, and appends a birth certificate of the same date. There is no reason that the same date does not appear on the death certificate. While her profession is listed as a [REDACTED] on her victims' application form, the death certificate is, again, blank. Significantly, nothing in the Supporting Documents show that the "Conseil de famille" explicitly mandated an appointed successor to resume the action initiated before the Court, a pre-requisite for continued representation.²⁹

(iii) Credibility of the Deceased Victim's Claim

²⁸ ICC-01/05-01/08-1723-Conf-Anx48-Red, Question 35.

²⁹ ICC-01/04-01/07-3018-tENG, para. 23.

63. In her ICC victim's application form, a/0497/11 claims to have been [REDACTED] by the Banyamulegne on [REDACTED]. Given the date and location of the alleged attack, she could not have been the victim of MLC troops.³⁰ This mitigates against any continued participation.

(d) Further Applications for Continued Participation

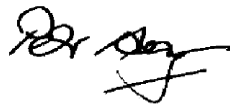
64. Finally, the Defence notes that the LRV has indicated that requests for the continued participation of an unspecified number of other deceased victims will be forthcoming.³¹ As such, and in addition to its prayer to reject the LRV Request, the Defence respectfully requests that the Trial Chamber set a deadline for receipt of any further requests, given the extremely late stage of the proceedings, and the priority which much now be ascribed to the delivery of a judgement.

E. RELIEF REQUESTED

65. In light of the above, the Defence respectfully requests that the Trial Chamber:

REJECT the Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées; and

ORDER that any outstanding requests for the continued participation of deceased victims be filed, and accompanied by full supporting documentation, by 30 September 2015.



Peter Haynes

Lead Counsel of Mr. Jean-Pierre Bemba

Done at The Hague, the Netherlands

12 April 2016

³⁰ ICC-01/05-01/08-3121-Conf, paras. 333-355.

³¹ ICC-01/05-01/08-3256-Conf, para. 20.