

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 30 September 2016

TRIAL CHAMBER III

Before: Judge Joyce Aluoch, Presiding
Judge Geoffrey Henderson
Judge Chang-ho Chung

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

IN THE CASE OF

THE PROSECUTOR

v. JEAN-PIERRE BEMBA GOMBO

Public document

Request for an extension of the time limit

Source:

The Trust Fund for Victims

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

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1. Pursuant to regulation 35 (1) of the Regulations of the Court, the Trust Fund for Victims (hereinafter “Trust Fund”) respectfully requests an extension of the time limit for the submission of its observations as set in Trial Chamber III’s “Order requesting submissions relevant to reparations” (hereinafter “Trial Chamber” and “Reparation Submissions”, respectively). The Trust Fund respectfully requests that the deadline for the submission of its observations be extended to 7 November 2016.

I. Background

On 21 March 2016, the Trial Chamber issued a judgment of conviction pursuant to Article 74 of the Rome Statute.¹ On 21 June 2016, the Trial Chamber sentenced Mr Bemba to 18 years for command responsibility over the commission of war crimes and crimes against humanity of murder and rape, and the war crime of pillaging.²

2. On 22 July 2016, invited the Legal Representatives of Victims, the office of Public Counsel for Victims, the Defence, the Office of the Prosecutor, the Registry and the Trust Fund to file submissions on the process to be followed relevant to reparations, setting out five topics in this regard to be addressed.³

3. On 25 August 2016, the Trial Chamber granted an extension for the filing of the requested observations until 17 October 2016.⁴

II. Request for an extension of the time limit

4. The Trust Fund is mindful of the fact that the reparations proceedings in this case are only at the beginning stage. However, even at this early stage, the Trust Fund respectfully submits that certain information, particularly that relevant to the current situation in the Central African Republic and the potential operational implications from this, need to be fully and carefully presented so that the proceedings can be advance on a clear understanding of what possible limitations and challenges may arise in the implementation of any eventual

¹ ICC-01/05-01/08-3343.

² ICC-01/05-01/08-3399.

³ ICC-01/05-01/08-3410.

⁴ Order on the request for extension of time to file submissions relevant to reparations, ICC-01/05-01/08-3429.

order for reparations. In order to properly formulate its observations, the Trust Fund respectfully requests a short extension of the time limit. Below the Trust Fund will address three considerations informing the request for an extension of time: 1) the current work load at the Trust Fund, specifically related to reparations proceedings in various other cases; 2) personnel constraints at the Trust Fund; and 3) the role of the Trust Fund Board of Directors in approving court submissions on its behalf.

- **Current work load at the Trust Fund**

5. The Trust Fund respectfully informs the Trial Chamber of the high work load in regard to different reparations proceedings, particularly in the Katanga and Lubanga cases, that the Trust Fund has been under for several months and which it anticipates will continue through at least mid-October.

6. In regards to the Katanga proceedings, Trial Chamber II issued an order⁵ in which it instructed, *inter alia*, the Trust Fund for Victims to file observations on the monetary value of different types of identified harm by 30 September 2016. This filing has required extensive and time-intensive interactions with various sources and key stakeholders in the DRC.

7. In regards to the Lubanga proceedings, the Trust Fund on 16 September 2016 submitted a comprehensive filing on symbolic collective reparations, which again required extensive field-based consultations based on the further concurrent development of the parameters of symbolic reparations awards. Moreover, the Trust Fund is preparing a submission, due on 3 October, relevant to the victim identification and harm assessment procedure that has been the subject of extensive litigation in the Lubanga case.

8. Further, the Trust Fund is preparing for the unprecedented public hearings scheduled for 11, 13, and 14 October 2016 in the Lubanga case, in the context of an invitation by Trial Chamber II, pursuant to a rule 103 procedure, to *inter alia* organisations with past or current experience implementing projects for the benefit of former child soldiers to submit written observations, due no 30 September 2016, providing details regarding those projects. The Trust Fund understands that it is invited and should be prepared to address these written submissions at the public hearings, as well as to engage in a further discussion regarding how

⁵ Order instructing the parties and the Trust Fund for Victims to file observations on the monetary value of the alleged harm, ICC-01/04-01/07-3702-tENG (hereinafter “Order of 15 July 2016”).

these submissions may be relevant to the service-based aspects of the programmatic framework set out in its Draft Implementation Plan in regards to collective reparations to victims of the Lubanga case. The Trust Fund anticipates that it will need to spend significant staff resources preparing for these hearings, which are the first such hearings at the Court.

9. The Trust Fund notes with satisfaction that several cases before the Court have now progressed to various stages of reparations proceedings. At present, this applies to four cases: Lubanga, Katanga, Bemba and al Mahdi. This is a strong indication that finally the innovative reparative justice dimension of the Rome Statute is coming to fruition. The Trust Fund is fully committed to continue to put its knowledge and expertise at the disposal of the different Trial Chambers seized of the aforementioned cases, in consideration of its important roles and responsibilities as designated by the Assembly of States Parties. Yet, the above indicated work load for the Trust Fund constitutes a serious strain on the modest operational capacity of the Trust Fund's Secretariat and Board of Directors, as described below.

10. Moreover, the Trust Fund wishes the Trial Chamber to consider that several insights gained from other reparations proceedings, in particular the public hearings in the Lubanga case in mid-October, while not particular to the specific characteristics of the Bemba case, may well be of informative value to the overall approach to be adopted in the facts-based design and implementation of reparations awards that are pertinent, appropriate and viable in response to the harm suffered by victims in the Bemba case. For this reason, a relatively short extension allowing for these insights to be considered and incorporated by the Trust Fund, as well as by other parties and participants, would be of value.

- ***Personnel limitation in the Trust Fund***

11. The Trust Fund should like to point out for the Trial Chambers appreciation that there are only 10 staff working in the Secretariat of the Trust Fund both in the field and in headquarters, not all of whom work on legal matters. This is indicative of the modest size of Trust Fund's Secretariat managing the development of legal submissions including research, writing, and the requisite field work to inform its filings for the Court. In addition to Court filings, the Trust Fund must ensure business continuity in regard of its victim assistance programmes in the Democratic Republic of the Congo and Uganda, where more than 300,000 victims benefit from physical and psychological rehabilitation and material support assistance

programmes, as well as in regard of the development of new Trust Fund assistance programmes in other situations before the ICC

- ***Decisions of the Board of Directors***

12. The Trust Fund recalls that all submissions made before the Court by the Secretariat staff are submitted on behalf of its Board of Directors. This means that the preparation of any submission includes an internal review and approval process by the Board of Directors before the Trust Fund Secretariat may file any document before the Court. The Trust Fund would like to inform the Trial Chamber that, from the receipt of a draft submission prepared by the Secretariat staff, the review and approval process takes at a minimum five working days under the most expedient of circumstances.

13. Accordingly, the Trust Fund respectfully requests that it be granted an extension of the time limit of three weeks, until 7 November 2016, to submit its observations. The Trust Fund submits that good cause exists for the requested extension in light of high work tempo of the Trust Fund, personnel limitations, and finally the Trust Fund's internal due diligence procedure of review and approval by the Board of Directors of filings submitted on its behalf. The extension, if granted, shall enable the Trust Fund to meaningfully consider and observe on the reparation issues in the Bemba case, as indicated by the Trial Chamber and many of which require familiarisation with a new context and the specificity of the convicted crimes and the associated harms suffered by a large group of victims.

FOR THE FOREGOING REASONS

The Board of Directors respectfully submits this request for a variation of the time limit set in the Trial Chamber's "Order on the request for extension of time to file submissions relevant to reparations".

A handwritten signature in black ink, consisting of a stylized 'P' and 'W' followed by a long horizontal stroke.

Pieter W.I. de Baan

Executive Director of the Secretariat of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 30 September 2016

At The Hague, The Netherlands