



Original: English

No.: ICC-01/05-01/08
Date: 7 December 2017

TRIAL CHAMBER III

Before: Judge Joyce Aluoch, Presiding Judge
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 redacted version of “Ninth report to Trial Chamber III on applications to participate in the proceedings”, 21 April 2011, ICC-01/05-01/08-1383-Conf-Exp

Source: Registry

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

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the “Decision defining the status of 54 victims who participated at the pre-trial stage, and inviting the parties' observations on applications for participation by 86 applicants” issued by Trial Chamber III (the “Chamber”) on 22 February 2010 (“22 February 2010 Decision”);¹

NOTING the “Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings” dated 30 June 2010;²

NOTING the “Decision on 772 applications by victims to participate in the proceedings” dated 18 November 2010;³

NOTING the “Decision on 653 applications by victims to participate in the proceedings” dated 23 December 2010;⁴

NOTING the memorandum of the Presiding Judge dated 16 September 2010 which required the Registry to provide the Chamber with reports which, for each application, summarise the alleged facts and harm suffered as well as providing a *prima facie* assessment of the application’s compliance with the requirements of rule 85 of the Rules of Procedure and Evidence;⁵

NOTING the “Report of the Registry drawing to the Chamber’s attention an issue regarding an application for participation in the proceedings” notified on 15 October 2010,⁶ and the subsequent instruction of the Chamber, conveyed by email

¹ ICC-01/05-01/08-699.

² ICC-01/05-01/08-807.

³ ICC-01/05-01/08-1017.

⁴ ICC-01/05-01/08-1091.

⁵ Memorandum dated 16 September 2010 from the Presiding Judge to the Director, Division of Court Services.

⁶ ICC-01/05-01/08-953-Conf-Exp.

on 20 October, not to transmit applications in which a particular intermediary had assisted the applicant to fill in the application pending further clarification;⁷

NOTING that on 8 April 2011, the Trial Chamber III (the “Chamber”) instructed the Registry to transmit applications received before 1 February 2011, together with as many applications as the Registry is able to process in the time available by 21 April 2011;⁸

NOTING article 68(3) of the Rome Statute, rule 89(1) of the Rules of Procedure and Evidence and regulation 86(5) of the Regulations of the Court;

CONSIDERING that a further 429 applications have now been processed and redacted in accordance with the guidelines established by the Chamber;⁹

TRANSMITS to the Chamber the following report on 401 applications for participation in the proceedings.

A. Background and content of this report

1. The present report covers 401 applications to participate in the proceedings. Of these, 400 are natural persons and one is an institution.
2. 6 applications covered in this report have already been filed,¹⁰ and were rejected by the Chamber in previous decisions on victims’ participation.¹¹

⁷ Email from the Senior Legal Advisor, Trial Chamber III to the Assistant Legal Officer, Division of Court Services.

⁸ Email from the Assistant Legal Officer, Trial Division, to the Assistant Legal Officer, Division of Court Services.

⁹ Paragraph 33 of the 22 February 2010 Decision.

¹⁰ [REDACTED]

¹¹ ICC-01/05-01/08-320-Conf-Anx ([REDACTED]) and ICC-01/05-01/08-1017 ([REDACTED])

Following the Chamber's instructions in its 22 February 2010 Decision,¹² the Registry is transmitting these applications for reconsideration by the Chamber. In the case of applicants [REDACTED], these are being filed again in light of information received subsequent to their rejection. In the case of applicant [REDACTED], no additional information has been received, but it is being filed again in light of the Chamber's decisions on victims' participation.¹³

3. The 401 applications have been filed with the Chamber¹⁴. The present report serves to transmit to the Chamber the reports which are required by regulation 86(5) of the Regulations of the Court as further elaborated by the memorandum of the Presiding Judge dated 16 September 2010.
4. All the applications that are the subject of this report appear to the Registry to be linked to the charges in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.¹⁵
5. In accordance with the 22 February 2010 Decision,¹⁶ the Registry is only filing the applications that appear to be complete, as assessed by reference to the relevant legal texts and jurisprudence.

¹² ICC-01/05-01/08-699, paragraph 20.

¹³ Applicant [REDACTED] alleges that the armed men of Jean Pierre Bemba were responsible for the events described, mentioning that one of his perpetrators was speaking Sango, which could imply that the other perpetrators were not speaking this language. In the 23 December 2010 Decision, the Chamber recognized that "*in the absence of any indication that the crimes were exclusively committed by perpetrators who are not linked to the present case, the mere reference in the applications to other persons or warring groups will not, as such, automatically serve to exclude the applicant*" (paragraph 27). Moreover, a number of applicants (including [REDACTED]) who relate in their applications similar instances of Banyamulengués committing crimes alongside men from the Central African Republic who spoke Sango were accepted to participate in the case.

¹⁴ ICC-01/05-01/08-1381

¹⁵ As determined by reference to Public Redacted Annex B to the "Prosecution's Submission of the Document Containing the Charges as Confirmed by the Pre-Trial Chamber filed in accordance with the Chamber's Order of 7 October 2009", ICC-01/05-01/08-593, dated 4 November 2009.

¹⁶ ICC-01/05-01/08-699, paragraph 35.

6. This report provides an overview of the applications transmitted, while the following documents are provided as annexes:
- **Annex 1:** An explanation of the contents of the individual assessment reports which constitute Annex 3;
 - **Annex 2:** Map showing the geographical areas used to group applications;
 - **Annex 3:** Reports under regulation 86(5), providing the Registry's assessment of each application (as explained in Annex 1);
 - **Annex 4:** Memorandum sent by the Office of Public Counsel for Victims (OPCV) to the VPRS in relation to individual applications;
 - **Annex 5:** Index showing applications filed with this report per geographical area A to D.
7. As described in its previous reports,¹⁷ the Registry has categorized applications according to the geographical locations at which crimes are alleged by the applicants to have been committed.¹⁸ These groupings are explained in Annex 1 and shown on the map comprising Annex 2. The applications which are the subject of this report fall within all four groups, but in order to facilitate the Chamber's consideration, an Index is provided as Annex 5 which divides the applications according to their groups (groups A to D) based on the geographical area of the alleged events, as in previous reports.¹⁹

¹⁷ Notably the Registry's Report on applications to participate in the proceedings, ICC-01/05-01/08-653-Conf-Exp, paragraph 8 ; Second report to Trial Chamber III on applications to participate in the proceedings, ICC-01/05-01/08-796-Conf-Exp, paragraphs 6 to 8, and annex 2 to that report (ICC-01/05-01/08-796-Conf-Exp-Anx2).

¹⁸ As set out in Public Redacted Annex B to the "Prosecution's Submission of the Document Containing the Charges as Confirmed by the Pre-Trial Chamber filed in accordance with the Chamber's Order of 7 October 2009", ICC-01/05-01/08-593, dated 4 November 2009.

¹⁹ The Registry notes that as regards Group D, Mounboumba and the surrounding area, it has included in this group some applications which are close to the river to the South of Bangui between Bangui and Mounboumba even if they may be closer to Bangui than to Mounboumba. This is due to the similar patterns of the events alleged by these applicants.

B. *Prima facie* assessments in relation to rule 85

8. As requested by the Chamber, the Registry has, for each application covered by this report, undertaken a *prima facie* assessment of compliance with the requirements of rule 85. The reports which constitute Annex 3 show the individual results of these assessments, and the reasons for them (including whether the requirements of rule 85 are demonstrated and any legal issues which are apparent), as well as summaries of the applications.
9. In relation to each application, the Registry indicates either that:
 - (a) The application appears *prima facie* to comply with the requirements of rule 85; or
 - (b) Unclear: the Registry is not in a position to make a *prima facie* assessment without further guidance from the Chamber on specific matters that are indicated.

C. Memoranda from the Office of Public Counsel for Victims

10. The Registry has received one memorandum from the OPCV which may be of relevance to the Chamber in determining the applications for victims' status which are covered by this report and/or which will be covered by subsequent reports of the Registry. The Registry wishes to draw to the Chamber's attention that it has reviewed and taken into consideration the points raised by the OPCV in this memorandum when reviewing the applications concerned. However the Registry has conducted its own analysis and made its own assessments of the applications. The Registry's *prima facie* assessments as reflected in the reports comprising Annex 3 therefore take into account, but are not determined by, the views of the OPCV as set out in the reports constituting Annex 3 to the present report.

D. Protection

11. The Registry notes that the 401 applications which are the subject of this report have been transmitted in redacted form to the parties and the respective legal representative in compliance with the Chamber's order that applications for participation in the proceedings received by the Registry be transmitted to the parties in redacted form on an ongoing basis as and when they are prepared,²⁰ and in accordance with the guidelines on redactions provided in the 22 February 2010 Decision. The redacted applications have also been notified to the legal representatives of the respective applicants in compliance with the Chamber's order conveyed by email on 26 August 2010 that in relation to all future applications the Registry should systematically notify the respective legal representatives of victims of the redacted versions of applications as notified to the parties.²¹

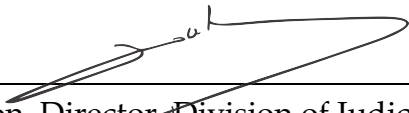
12. At this time no further measures of protection appear to be necessary.

13. The Registry further wishes to inform the Chamber that it has not filed 18 applications, either because they were not complete or because they did not appear to be linked to the case. This includes a number of incomplete applications for which missing documents or information has been requested and is awaited. The Registry will provide the Chamber with a report indicating the reasons why the applications were not filed with the Chamber, in accordance with the 22 February 2010 Decision, at paragraph 37.

²⁰ Email of 16 September 2010 from the Legal Advisor, Trial Division, to the Director, Division of Court Services and the Chief, VPRS.

²¹ Email of 26 August from the Legal Officer, Trial Chamber III to the Assistant Legal Officer, Division of Court Services.

14. In accordance with the Chamber's instructions, 10 applications in which [REDACTED] assisted the applicant to fill in the application have been held back from the filing.



Marc Dubuisson, Director, Division of Judicial Services
per delegation of the Registrar

Dated this 7 December 2017

At The Hague, The Netherlands