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

Date: 6 April 2018

TRIAL CHAMBER III

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Chang-ho Chung
Judge Kimberly Prost

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

**IN THE CASE OF
*THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO***

Public Document

With Confidential *EX PARTE* Annexes 1, 2 and 3 only available to the Registry and the Office of Public Counsel for Victims, and Public redacted version of Annex 3

Public redacted version of "Report on the investigations pursuant to the Chamber's Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 28 November

2011 and registered on 29 November 2011,

ICC-01/05-01/08-1960-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 Ms Paolina Massidda	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 on the "Report of the Registry drawing to the Chamber's attention an issue regarding an application for participation in the proceedings" dated 14 January 2011 ("the Decision of 14 January 2011");¹

NOTING the "Transmission de la liste des demandeurs visés par la Décision de la Chambre de première instance III du 14 janvier 2011 dans le cadre de l'enquête menée par le Greffe eu égard à certaines demandes de participation de victimes" of 18 January 2011 of the Office of Public Counsel for Victims ("the OPCV");²

NOTING the Registry's "Final report on the investigations pursuant to the Chamber's Decision on the "Report of the Registry drawing to the Chamber's attention an issue regarding an application for participation in the proceedings" (the "Final Report of 31 March ") dated 31 March 2011;³

NOTING the Registry's "Status of the applications filled in with the assistance of [Intermediary 1]" dated 6 May 2011⁴

NOTING the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 3 June 2011 ("3 June Registry Report");⁵

NOTING the Registry's "Tenth transmission to the Trial Chamber of applications for participation in the proceedings" dated 22 June 2011;⁶

NOTING the Chamber's "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" dated 21 July 2011;⁷

¹ ICC-01/05-01/08-1125-Conf-Exp.

² ICC-01/05-01/08-1133-Conf-Exp.

³ ICC-01/05-01/08-1369-Conf-Exp.

⁴ ICC-01/05-01/08- 1391-Conf-Exp.

⁵ ICC-01/05-01/08-1478-Conf.

⁶ ICC-01/05-01/08-1559.

⁷ ICC-01/05-01/08-1590.

NOTING the Chamber's Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 11 July 2011 (the "11 July Decision");⁸

NOTING the Registry's "Corrigendum to the Request for an extension of time to report on further investigations relating to intermediaries" dated 20 July 2011,⁹ and the Chamber's "Decision on the Registry's "Corrigendum to the Request for an extension of time to report on further investigations relating to intermediaries" dated 29 July 2011;¹⁰

NOTING the OPCV's "Information to the Chamber following the "Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 16 September 2011;¹¹ and the Chamber's "Decision on the OPCV's application concerning the inquiry into victims' applications completed with the assistance of Intermediary 1"; dated 17 October 2011;¹²

NOTING articles 68(1) and (3) of the Rome Statute, rules 86, 89(1) and 101(1) of the Rules of Procedure and Evidence, Regulations 23 bis (2), 86(2), 86(4), 86(6) and 86(7) of the Regulations of the Court and Regulation 107(3) and 107(4) of the Regulations of the Registry;

CONSIDERING that the Victims Participation and Reparations Section ("the VPRS") conducted interviews in the Central African Republic ("CAR") with 179 applicants who were assisted in making their applications by certain intermediaries, in order to verify the content of their statements;

⁸ ICC-01/05-01/08-1593-Conf.

⁹ ICC-01/05-01/08-1601-Conf-Corr.

¹⁰ ICC-01/05-01/08-1618-Conf.

¹¹ ICC-01/05-01/08-1755-Conf-Exp.

¹² ICC-01/05-01/08-1844-Conf.

CONSIDERING that this report is filed as Confidential, *ex parte* only available to the Registry and the OPCV, as instructed by the Chamber;¹³

TRANSMITS to the Chamber the following report so as to present the results of its investigations pursuant to Chamber's Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation"¹⁴ and Decision on the Registry's "Corrigendum to the Request for an extension of time to report on further investigations relating to intermediaries".¹⁵

¹³ ICC-01/05-01/08-1593-Conf, para 37 e) ii).

¹⁴ ICC-01/05-01/08-1593-Conf.

¹⁵ ICC-01/05-01/08-1618-Conf

I. Background to this Report

1. On 31 March 2011 the Registry reported to the Chamber the conclusions of a mission undertaken in February-March 2011 pursuant to the Chamber's Decision of 14 January 2011.¹⁶ In the course of that mission, 183 applicants assisted by Intermediary 1 were met by the VPRS staff in order to verify the content of their applications. The conclusion drawn from this exercise was that, while some level of discrepancies between statements made by victims on different occasions is to be expected in the normal course of events, the results of this inquiry showed more significant discrepancies than would usually be expected. The Registry concluded that this result was due to the role of Intermediary 1 who appears to have adopted inappropriate, and potentially unethical, working practices.
2. In compliance with rule 89(1) and the instructions of the Chamber,¹⁷ the Registry subsequently transmitted to the parties and participants a redacted consolidated version of each application covered by the inquiry process, which included any supplementary information collected during the interviews.¹⁸
3. On 3 June 2011, in accordance with the Chamber's instruction, the Registry filed its 3 June Registry Report,¹⁹ which included reference to an individual whose role as an intermediary in the CAR was evoked during the course of a hearing by Witness W-73 ("Intermediary 2"). The Registry reported on the conduct of Intermediary 2, and informed the Chamber of a series of actions it was taking regarding the training and monitoring of the intermediaries' work in the CAR.
4. In the 11 July Decision, the VPRS was ordered to
 - contact all applicants assisted by Intermediary 1 and initially contacted by the OPCV in order to verify the accuracy of the information contained in their applications;

¹⁶ ICC-01/05-01/08-1369-Conf-Exp.

¹⁷ Email from the Legal officer of Trial Chamber III to the Associate Legal Officer, DCS, 7 June 2011 at 10.21

¹⁸ ICC-01/05-01/08-1560 .

¹⁹ ICC-01/05-01/08-1478-Conf.

- continue its efforts to contact any applicants assisted by Intermediary 1 and who had not be reached following the Chamber's Decision of 14 January 2011 with a view to re-interviewing them to verify the accuracy of the information contained in their applications;
 - contact the 70 applicants assisted by Intermediary 2 and included in the Ninth Transmission in order to verify the accuracy of the information contained in their application.²⁰
5. The VPRS identified 244 such applicants, including 174 applicants assisted by intermediary 1.
 6. To comply with the 11 July Decision, [REDACTED].²¹
 7. As instructed by the Chamber, the [REDACTED] teams conducted interviews using the same methodology as that developed for the previous inquiry.²² The methodology was tailored to take into account the evolving context on the field.
 8. To date, the VPRS has been able to meet 179²³ of the 244 identified applicants:
 - 127 applicants assisted by Intermediary 1 when they first completed their application forms, and
 - 52 applicants who were assisted by Intermediary 2.
 9. The reasons why the remaining 65 applicants could not be met are summarized in annex 1 of the current report.

²⁰ ICC-01/05-01/08-1593-Conf, paragraph 37.

²¹ Additionally, the Registry deployed one psychologist to assist the team in putting in place its methodology during the first week of its mission.

²² This methodology, which is described in the Final Report of 31 March, was designed to a) obtain a full statement from each applicant on what allegedly happened to him or her, and to assess whether this confirmed or conflicted with the information provided in the person's original application; and b) enable an overall assessment of the probable causes of any inconsistencies between accounts given by applicants and the accounts recorded in their original applications, including by reference to the general experience of victims and intermediaries in CAR.

²³ The VPRS has not been in a position to meet applicant a/0129/11 as he was reportedly too affected. However, the VPRS met the applicant's mother and brother (applicant a/0128/11)_who provided a medical certificate reporting his condition. The declaration taken from a/0128/11 as regards his own application provided the information necessary for the VPRS to consider that application a/0129/11 was verified.

II. Methodology

10. As in the previous mission, the exercise aimed at collecting relevant information while mitigating the risks of negative impacts on the victims interviewed and ensuring the equal treatment of all applicants. As explained in the Final Report of 31 March,²⁴ the methodology had to take into account the risks of secondary victimisation for the applicants interviewed, as well as the challenges involved in receiving, assessing and presenting information collected throughout the interview process.²⁵ In this regard, the Registry recalls that, in the context of human rights violations, trust is an essential component of eliciting an accurate account of abuse.²⁶ The general context in which an interview takes place greatly affects the quality of the information collected and has an impact on the content of the statements taken.

A. Context of the inquiry

11. In addition to the factors noted by the Consultant who assisted the VPRS staff in designing and implementing the methodology for the first mission in [REDACTED] 2011,²⁷ the VPRS draws to the Chamber's attention additional developments on the field that it believes could have influenced the applicants met and, consequently, could have an impact on the conduct and results of the inquiry. Such developments include:

²⁴ ICC-01/05-01/08-1369-Conf-Exp, paragraph 11 and 13, and Annex 1.

²⁵ ICC-01/05-01/08-1369-Conf-Exp, paragraph 13.

²⁶ "If the person is afraid or does not trust the interviewer sufficiently, he or she may consciously or unconsciously omit some details, or contradict themselves, for fear of the potential consequences. Conversely, when the person does not remember something, he or she may attempt to fill the gap with unconfirmed information, in the belief that silence or not responding may give the impression that he or she is not credible." ICC-01/05-01/08-1369-Conf-Exp, footnote 37, and Annex 1.

²⁷ A number of factors that may affect the victims met by the VPRS during the inquiry were further explained in Annex 1 of the Final Report of 31 March, and notably in Annex 1, p.6, question 10.

a. Time elapsed since the applicants submitted their applications

12. The applicants that were the subject of the inquiry had, for the most part, submitted their applications earlier than many victims who have been authorized to participate in the proceedings. The fact that no decision had been taken on their applications resulted in confusion and a feeling, expressed by some of the victims, that they had been singled out without reasons being given.

13. According to some victims, the passage of time since they completed their applications- some of them have submitted their forms in 2009- made, the recollection of the painful past events difficult. Furthermore, the time elapsing between the completion of the form and the interview increases the risk that they would recollect the events differently.²⁸

b. Existence of a pre-existing relationships between the applicants and the intermediaries and between the applicants and their legal representatives

14. As during the first inquiry, some of the victims met during the mission had developed a relationship of trust with an intermediary, which led them to confide to him their stories and could make them uneasy about revisiting the content of the application form with Court staff.²⁹ The VPRS also interviewed around 120 applicants who have already been contacted by the OPCV, either by phone or in person. In some cases, applicants had already provided additional information to the OPCV in the form of supplementary statements,

²⁸ “The longer the delay between the interviews, the more the details changed for those with high levels of P[ost] T[raumatic] S[yndrom] D[isorder]. Those suffering most distress following traumatic experiences are therefore systematically most likely to be inconsistent -and thus be judged as fabricating- if there are long delays before interviews or court appearances” in Wilson, J., Drozdek B., (2004), *Broken Spirits, The treatment of Traumatized Asylum Seekers, Refugees, War and Torture Victims*, Brunner-Routledge, New York – Hove, page 648.

²⁹ [REDACTED].

sometimes as much as 2 years before the mission.³⁰ In some instances, the VPRS had to first overcome the applicants' feelings of incomprehension and anxiety regarding the purpose of the interview before being able to discuss the content of their applications.

c. Confusion regarding reparations

15. The mission took place in an atmosphere of high expectations regarding potential reparations for victims of the case.³¹ Messages and rumours associated with the start of the activities of the Trust Fund for Victims in CAR,³² which had spread throughout the summer, led a number of victims contacted for interview to wrongfully believe that they were being contacted for the purpose of reparations, and therefore to be deeply concerned by the actual content and purpose of the meeting. Hence, a number of applicants had feelings of incomprehension and/or frustration towards the ICC and/or the concept of the participation in proceedings when they were met, and additional time and effort was required to explain the purpose of the meeting.

B. Collection and assessment of the applicants' statements

16. The Registry refers to its Final report of 31 March in which it explained the methodology that was used by the VPRS to collect and assess the applicant's statements.³³

³⁰ The difficulty of meeting with these applicants in this context was drawn to the Chamber's attention in the request of extension of time limit ICC-01/05-01/08-1601-Conf, paragraph 4, and by the OPCV, ICC-01/05-01/08-1755-Conf-Exp.

³¹ Expectations towards the prospect of reparations were already highlighted by the Consultant as an important element that influences how the victims perceive the participation process (Final Report of 31 March, Annex 1 paragraph 10). Although key messages are regularly conveyed by the ICC Field Office to inform the population on the stages of the procedures and explain the difference between "participation" and "reparations", the general context of poverty and the expectations held about the work of the ICC have led a great number of victims to be misguided about the concept of participation, and to equate it to reparations.

³² On 6 May 2011 The Trust Fund For Victims launched an expression of interest supporting victim survivors of sexual and gender based violence in the Central African Republic

³³ ICC-01/05-01/08-1369-Conf-Exp, paragraphs 16 to 42.

17. In view of the prevailing context in the CAR during the mission as described above, the VPRS provides below further information relevant to the collection and assessment of information.

1. Collection of the applicants' statements

a. Remarks on the measures put in place by the VPRS to safeguard the well being of victims during the interview process

18. As during the previous mission, when conducting interviews the VPRS staff had to strike a balance between information verification, available time, and careful handling of the process in order to avoid secondary victimization of the affected population.³⁴

19. As previously explained, each applicant was met by the VPRS staff during more or less one hour, during which time a general explanation on the purpose of the interview was presented to the applicant, and a number of elements regarding the content of his or her application were verified. In view of the context described above, it was difficult to establish during a single interaction with a victim an atmosphere of trust necessary to collect a complete and entirely accurate account of the events suffered.

20. Additionally, the available resources did not allow each applicant to be given the option of choosing the gender of the interpreter and of the interviewer.³⁵ Especially for victims of sexual violence, this setting created the risk of causing discomfort, distress and/or triggering of avoidance behaviours.

21. Therefore, in view of the Court's obligation under article 68(1) of the Rome Statute to "take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses", in

³⁴ ICC-01/05-01/08-1369-Conf-Exp, Annex 1, question 9. The Registry also recalls the *Istanbul Protocol or Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, recalls that trust is an essential component of eliciting an accurate account ("the Istanbul Protocol"), which sets the basic rule that "Individuals should not be forced to talk about any form of torture if they feel uncomfortable about it." § 135.

³⁵ As recognized by the *Istanbul Protocol*, "Ideally, an investigation team should contain specialists of both genders, permitting the person who says that they have been tortured to choose the gender of the investigator and, where necessary, the interpreter", §154.

certain circumstances (notably regarding allegations of crimes of sexual violence³⁶) the VPRS staff applied restraint when the applicant expressed or showed signs of distress, vulnerability and/or was visibly indisposed to share some parts of his/her story. In these cases, the VPRS staff endeavored to collect and report the events as described by the applicant, paying particular attention to the form of expression used to characterize what happened to him or her, as well as the overall background of the victim, including his or her current situation.

b. Remarks regarding additional challenges posed by the exercise of interpretation in the field

22. Particular challenges posed to interpreters in the course of this mission are described [REDACTED] in annex 2. They make reference to the fact that victims that are met in the context of the inquiry come into the interview without prior familiarization with the process (which would, for instance, provide a framework for the victim who could then better organize his or her thoughts) or psychological support. Without any fault on the part of the interpreter, the interpretation process inherently entails an inevitable risk of a loss of information, which may or may not have been relevant.³⁷

23. In the course of its mission the VPRS staff met with a number of applicants of [REDACTED]. Hence, when interviewing members of this particular community, the interviewing team faced an additional linguistic barrier that,

³⁶The *Istanbul Protocol* highlights that, depending on cultures and individual predispositions, questions regarding certain crimes cannot be posed without running the risk of hurting the person who is submitted to the interview: "Despite all precautions, physical and psychological examinations by their very nature may re-traumatize the patient by provoking or exacerbating symptoms of post-traumatic stress by reviving painful effects and memories (...) Questions about psychological distress and, especially, about sexual matters are considered taboo in most traditional societies, and the asking of such questions is regarded as irreverent or insulting. If sexual torture was part of the violations incurred, the claimant may feel irredeemably stigmatized and tainted in his or her moral, religious, social or psychological integrity." § 149.

³⁷ The *Istanbul Protocol*, § 151.

at times, limited the quality of the interactions with the applicants and created additional difficulties to confirm the content of their application forms.³⁸

24. Lastly, the Chambers' attention is drawn to the fact that phrases, terms or concepts used by an applicant are to be understood in light of his or her cultural background, level of education and proficiency in French or Sango. For example, applicants commonly use generic terms to refer to more specific terms. For instance applicants can call a shop or a farm what is actually a very flimsy structure; and an expression such as "faire du mal" (doing harm) is often used to describe rape. It was also reported by the interpreters that members of [REDACTED] could use, out of prudishness, the impersonal form ("il", "elle", "lui") to describe something that happened to him or her. For this reason, it is believed that some discrepancies can naturally be expected to arise between the content of the application form and what was understood by the interviewer when he or she met the applicant.

2. Assessments made by the VPRS

25. The VPRS refers the Chamber to the Final report of 31 March and the explanation of the grid of objective criteria used to assess the outcome of the interviews.³⁹

26. In assessing the outcome of each interview, the VPRS staff took into account the abovementioned context of the inquiry. They were also mindful of other factors that are inherent to the exercise and which may lead the interviewer to draw inaccurate conclusions, such as :

- (a) relevant cultural differences which mean different modes of expression and communication;
- (b) traumatic experiences which may generate memory problems or fragmented accounts, or attitudes like fear or mental block;
- (c) a psychological impact which includes a tendency to forget stigmatising or negative facts which adversely affect identity;
- (d) problems related to retrospective memory, especially with regard to precise dates or numbers;
- (e) modification of the testimony, introducing minor differences under different circumstances or with

³⁸ Please refer to Annex 2.

³⁹ ICC-01/05-01/08-1369-Conf-Exp, paragraphs 26 and following.

different interviewers, which could lead to biased assessments or misapprehensions by those assessing the facts.⁴⁰

27. As in the Final Report of 31 March, following the interview and upon an evaluation of the overall content of their applications, the applicants were assessed as falling under one of the following three categories:

- Category I: The interview confirmed the information originally provided by the applicant, and meets the criteria established by the Chamber to be accepted as a victim participating in proceedings relating to the case (around 63% of the applicants met who were assisted by Intermediary 1, and around 18% of the applicants met who were assisted by Intermediary 2);
- Category II: The interview revealed differences with the information recorded in the original application, but meets the criteria established by the Chamber to be accepted as a victim participating in proceedings relating to the case (around 36 % of the applicants met assisted by Intermediary 1, and around 80% of the applicants met assisted by Intermediary 2);
- Category III: The interview revealed details or facts that are inconsistent with the criteria established by the Chamber to be accepted as a victim participating in proceedings relating to the case (This the case of applicant [REDACTED] assisted by Intermediary I and [REDACTED] assisted by Intermediary 2).⁴¹

28. When inconsistencies within a statement or discrepancies between different statements were assessed as minor, and not raising a fundamental doubt regarding the reliability of the statement, the statement was assessed as belonging to the first or second category. The Registry took into consideration

⁴⁰ ICC-01/05-01/08-1369-Conf-Exp, Annex 1, question 6, and footnote 28.

⁴¹ This category includes statements where victims allege to have suffered from crimes not related to the case.

the important distinction between discrepancies that affect the status of the victim - in other words, where an inaccuracy renders the application unqualified - and those that do not, in that the victim still qualifies as a victim based on the new information provided.

29. A high proportion of applicants met could not recall the exact date of crime. In this instance, the VPRS staff took note of the challenges related to retrospective memory⁴² and endeavoured, when feasible, to situate the event within a broader temporal context by posing additional questions to the applicant. The VPRS staff was also attentive to the fact that some applicants appeared to reiterate the date as it is written on their forms in an effort to provide “the right answer”.
30. When an applicant expressed or showed signs that he or she did not wish to discuss thoroughly all or certain parts of what he or she experienced, special care was taken by the interviewer to assess the presence of the main elements necessary to conclude that the application appeared to meet the criteria established by the Chamber to be accepted as a victim participating in proceedings relating to the case. In the case of crimes of sexual violence, the VPRS staff considered elements such as the terminology used by the applicant to describe the events, other information relating to his or her health (for example, any particular medical condition or inability to conceive) or marital status (if his or her spouse abandoned the household) in the aftermath of the events, the content of the form and the personal circumstances of the applicant, and other relevant information. However, at times, the VPRS staff was unable to confirm that the crime was suffered by the applicant.
31. Lastly, the VPRS took into account possible difficulties mentioned above posed by the terminology and use of expressions that were highlighted as particularly problematic by the interpreters, as well as the possibility that

⁴² ICC-01/05-01/08-1369-Conf-Exp, Annex 1, question 6 and footnote 28.

cultural inferences⁴³ could have been missed by the interpreters and/or interviewers in order to mitigate the risks of drawing inaccurate conclusion based on the statements given by these applicants.

32. For these reasons, it is only in instances where the VPRS staff had fundamental doubts regarding the reliability of the applicant's statement or when the applicant met confirmed that the crimes he or she suffered were outside the scope of the charges held against the accused that the applicant has been assessed as belonging to the third category.

33. The results and an overview of the 3 categories are summarised in Annex 3.

III. Remarks on the results of the assessments

34. The VPRS notes the difference in the results between applications completed with Intermediary 1 and Intermediary 2. For applications completed with the assistance of Intermediary 2, there are significantly more applications assessed as belonging to the second category, in comparison to the first category.

35. VPRS recalls expert advice regarding the taking of statements on human rights violations, already provided in this and other reports, which indicates that discrepancies may arise between statements given at different times or through different interlocutors, without necessarily involving any *mala fides* on the part of the victim and/or the interlocutor.⁴⁴

36. In particular, the results show that the majority of discrepancies relate to victims not recalling the exact date of the crime. On this specific issue, the

⁴³ This may include any non-verbal response which bears a specific cultural meaning whose knowledge could be assumed by someone who share the same culture, but not by others. Indeed, "There are multiple channels of information being transmitted: a) words, b) affect, c) memories, d) thoughts, e) body posture, f) voice odulations g) expressions of their personality, etc. [...] the transmissions of data are different types of information flows emanating from the patient through encoded channels" Wilson, J., "Empathy, Trauma Transmission, and Countertransference in Posttraumatic Psychotherapy" in Wilson, J., Drozdek B. (2004), *Broken Spirits, The treatment of Traumatized Asylum Seekers, Refugees, War and Torture Victims*, Brunner-Routledge, New York – Hove, p. 287.

⁴⁴ See notably the "Memorandum on the credibility of the intermediaries ", Annex 1 question 2, and ICC-01/05-01/08-1478-Conf, paragraph 14. See also footnote 28.

VPRS notes what appears to be a general pattern, as this occurs similarly for applicants assisted by Intermediary 1 and those assisted by Intermediary 2.

37. The VPRS further notes that the content of the application forms completed with the assistance of Intermediary 1 is usually short and straightforward, whereas the content of applications forms filled in with the assistance of Intermediary 2 is more detailed, which increases the likelihood of finding discrepancies.
38. The VPRS also notes that there are statistically more applicants assisted by Intermediary 2 who alleged crimes different to those mentioned in the applications, than it is the case for applicants assisted by Intermediary 1, in particular regarding cases of allegations of sexual violence. Although the VPRS takes this information very seriously, it also understands that Intermediary 2 assisted [REDACTED]. For reasons explained above, it is believed that discrepancies can be attributable to challenges in communicating on this issue with victims from this community. These challenges are believed to have been faced by both the intermediary at the time of completing the forms and the VPRS staff when it met with the applicants to verify the content of their application.
39. Finally, the VPRS notes that only one application completed with the assistance of Intermediary 2 has been assessed as belonging to the third category, i.e. as not meeting the Chamber's requirements for the approval of an application.
40. Taking into account the nature and particular context of the inquiry conducted by the VPRS, the Registry concludes that, contrary to its conclusion in the Final Report of 31 March concerning Intermediary 1, it has not found sufficient information that would cast a fundamental doubt on the ethics and/or working methods of Intermediary 2.

41. The Registry believes that the steps that have been taken in order to reinforce the working methods of intermediaries in CAR⁴⁵ in 2011 are addressing potential problems highlighted by the results of the inquiry.

IV. Recommendations

42. The Registry notes that it has not yet succeeded in meeting 47 of the applicants assisted by Intermediary 1 and 18 applicants assisted by Intermediary 2 who were covered by the 11 July Decision.

43. With regards to those applicants who have not yet been interviewed, the Registry recommends the following:

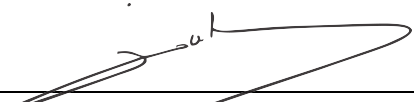
- a. For the applications completed with the assistance of Intermediary 1, the Registry recommends that the Chamber continues to defer its decision on their status, until further information is provided;
- b. For the applications completed with the assistance of Intermediary 2, taking into account the conclusion in paragraph 40, the Chamber may decide to take a decision on those applications, as well as future applications completed with the assistance of this intermediary⁴⁶ on the basis of the information provided so far.

44. As ordered by the Chamber, all applications for which the information was verified through the inquiry process are filed with the Chamber as well as the individual assessments aforementioned, together with the usual individual reports on applications prepared by the VPRS in accordance with Regulation 86(5) of the Regulations of the Court, and any supplementary documents or other information collected by the VPRS during its meetings with the applicants.

⁴⁵ ICC-01/05-01/08-1478-Conf, paragraph 33.

⁴⁶ The Registry reported to the Chamber that in the course of the summer it received approximately 50 additional applications completed with the assistance of Intermediary 2. Email from the Chief, VPRS, to the Assistant Legal Officer, Trial Division, 17 August 2011 at 15.12.

45. In the case of the applications already filed with the Chamber, the Registry re-files the Regulation 86(5) reports together with the new individual assessments and any other new documents collected during the meetings with the applicants.
46. A redacted version of the supplementary information collected during the interview process will be transmitted to the parties.
47. Because many of these applications were submitted in 2009 and 2010, the Registry respectfully observes that if a decision could be taken on the status of these applications as a priority over the applications submitted in 2011 that are currently being filed by the VPRS, this may help to alleviate some of the concerns raised by the applicants in the course of the interviews.



Marc Dubuisson, Director, Division of Judicial Services
per delegation of Herman von Hebel, Registrar

Dated this 6 April 2018

At The Hague, The Netherlands