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

Date: **16 April 2010**

TRIAL CHAMBER III

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito
Judge Joyce Aluoch

**SITUATION OF THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
*v. JEAN-PIERRE BEMBA GOMBO***

Public Document

Corrigendum to the "Response by the Legal Representative of Victims to the Defence's Challenge on Admissibility of the Case pursuant to articles 17 et 19 (2) (a) of the Rome Statute with 102 Annexes Confidential ex parte OPCV only and same Annexes Public Redacted"

Source: Office of Public Counsel for Victims

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

The Office of the Prosecutor

Mr Louis Moreno Ocampo
Ms Petra Kneuer

Counsel for the Defence

Mr Nkwebe Liriss
Mr Aime Kilolo Musamba

Legal Representatives of Victims

Ms Marie-Edith Douzima-Lawson
Ms Paolina Massidda

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda
Ms Maria Victoria Yazji

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

States Representatives

Central African Republic
Democratic Republic of the Congo

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Ms Silvana Arbia & Mr Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 25 February 2010, the Defence submitted a “*Requête en vue de contester la recevabilité de l’Affaire conformément aux articles 17 et 19(2)(a) du Statut de Rome*” (the “Admissibility Motion” or “Motion”), of which a public redacted version was filed on 02 March 2010. Pursuant to the Trial Chamber’s subsequent instruction, said Motion was reclassified as confidential, and subsequently a public redacted version was filed by the Defence.¹

2. On 1 April 2010, the Principal Counsel for the Office of Public Counsel for Victims, as Legal Representative in the Case,² (the “Legal Representative”), submitted its “Response by the Legal Representative of Victims to the Defence’s Challenge on Admissibility of the Case pursuant to articles 17 et 19 (2) (a) of the Rome Statute with 102 Annexes Confidential ex parte OPCV only and same Annexes Public Redacted” (the “Response”).³

3. The Legal Representative has become aware of the fact that the Response contains some minor clerical errors that necessitate the following corrections:

¹ See the “*Requête en vue de contester la recevabilité de l’Affaire conformément aux articles 17 et 19(2) (a) du Statut de Rome*”, No. ICC-01/05-01/08-704-Red2-Conf, 02 March 2010 ; See the “*Requête en vue de contester la recevabilité de l’Affaire conformément aux articles 17 et 19(2) (a) du Statut de Rome*”, No. ICC-01/05-01/08-704-Red3, 09 April 2010.

² The Office filed its Response on behalf of a/0278/08, a/0279/08, a/0291/08, a/0292/08, a/0293/08, a/0296/08, a/0297/08, a/0298/08, a/0455/08, a/0457/08, a/0458/08, a/0459/08, a/0460/08, a/0461/08, a/0462/08, a/0463/08, a/0464/08, a/0465/08, a/0466/08 et a/0467/08, already authorised to participate at trial, and of applicants a/0280/08; a/0456/08; a/0541/08 to a/0543/08; a/0546/08 to a/0552/08; a/0555/08 to a/0557/08; a/0559/08; a/0560/08; a/0511/08 to a/0517/08; a/0562/08 to a/0573/08; a/0574/08 to a/0579/08; a/0582/08 to a/00606/08; a/0624/08; a/0625/08; a/0001/10 to a/0025/10; a/0129/09 to a/0141/09; a/0427/09; a/0428/09; a/0429/09; a/0430/09; a/0431/09 to a/0433/09; a/0651/09 to a/0653/09; a/0661/09 to a/0668/09; a/0155/10; a/0156/10; a/0160/10; a/0162/10 to a/0215/10; a/0297/10 to a/0332/10; as well as on behalf of 178 individuals having filed a request for participation and not having yet been assigned a VPRS number, and on behalf of those victims who have communicated with the Court, pursuant to rule 59(3) of the Rules of Procedure and Evidence.

³ See the “Response by the Legal Representative of Victims to the Defence’s Challenge on Admissibility of the Case pursuant to articles 17 et 19 (2) (a) of the Rome Statute with 102 Annexes Confidential ex parte OPCV only and same Annexes Public Redacted”, No. ICC-01/05-01/08-742, 01 April 2010. Due to a major Outlook breakdown on 1 April 2010, this document was notified by Court Management – Court Records on the next working day of 6 April 2010.

a) Paragraph 61 should read:

According to the Defence, the Case before the Court is inadmissible pursuant to article 17(1)(b) of the Rome Statute because there was a previous investigation by the Bangui, CAR authorities into the same conduct comprising the current charges against the Accused before the Court, the national authorities decided not to prosecute the Accused, and there was no real incapacity or unwillingness to prosecute him, but only a willingness that was circumscribed in time so as not to harm the delicate nature of the then-existing diplomatic relations between the CAR and the DRC.

b) Footnote 85 should read:

See *supra* note 37, par. 82.

c) Footnote 102 should read:

See the SCSL, Prosecutor v. Alex Tamba Brima, Brima Bazzy Kamara, Santigie Borbor Kanu, Written Reasons for the Trial Chamber's Oral Decision on the Defence Motion on Abuse of Process due to the Infringement of Principles of Nullum Crimen Sine Lege and Non-Retroactivity as to Several Counts, (Trial Chamber), Case No. SCSL-04-16-PT, 31 March 2004 The Chamber held that "the rights of the accused must reach a certain threshold level to constitute an abuse of process. A finding of impropriety on the part of one party may, however, contribute to the ultimate finding that a violation of the rights of an accused has reached a threshold as to undermine the integrity of the proceedings." par. 26. See also the ICTY, Prosecutor v. Juvenal Kajelijeli, (Appeals Chamber), Appeals Judgment, Case No. ICTR-98-44A-A, 23 May 2005. The Appeals Chamber held that "the Appellant's rights were in fact violated during his initial arrest and detention prior to his initial appearance. However, even if it were to reconsider the issue of its personal jurisdiction, the Appeals Chamber does not find that these newly and more detailed submitted breaches rise to the requisite level of egregiousness amounting to the Tribunal's loss of personal jurisdiction." Par. 206, p. 71.

d) Footnote 113 should read:

See *supra* note 107, par. 30.

4. The corrected version is attached to the present Corrigendum as Annex A.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 16th of April 2010

At The Hague, The Netherlands