

**Cour  
Pénale  
Internationale**



**International  
Criminal  
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Date: **21 October 2010**

**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 Document**

**Prosecution's Observations on 104 Applications for Victims'  
Participation in the Proceedings**

**Source:** The Office of the Prosecutor

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

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## **REGISTRY**

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**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Section**

Ms Fiona McKay

**Other**

## Introduction

1. Pursuant to Rule 89(1) of the Rules of Procedure and Evidence (“Rules”) and the oral order (“Order”)<sup>1</sup> issued by Trial Chamber III (“Chamber”) at the status conference held on 24 September 2010, the Office of the Prosecutor (“Prosecution”) submits the following observations on the applications for participation in the trial proceedings in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, transmitted to the parties and legal representatives by the Victims Participation and Reparations Section (“VPRS”) on 8 October 2010.<sup>2</sup>

2. For the reasons detailed below, the Prosecution requests the Chamber to grant authorization to participate as victims in the above-mentioned proceeding, pursuant to Article 68(3) of the Rome Statute (“Statute”), to 93 applicants, as they *prima facie* meet the requirements. The Prosecution submits that redactions make it difficult to assess whether applications by Applicants a/2170/10, a/2175/10, a/2202/10, a/2205/10, a/2203/10 and a/0712/10 meet the requirements. The Prosecution leaves it to the Chamber to determine whether the identity of Applicant a/0719/10 has been proved or the applicant should provide additional documentation. The Chamber should defer its decision on the applications of Applicants a/0721/10, a/1252/10, a/1486/10 and a/2180/10, pending further information and documentation.

3. With regard to the legal criteria for victim participation in the proceedings, the Prosecution reincorporates here the submissions set out in its previous filings.<sup>3</sup>

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<sup>1</sup> ICC-01/05-01/08-T-25-CONF-ENG, 24 September 2010, p. 24, lines 4-6. The Chamber requested the parties to present their observations on each set of victims’ applications within 10 days of the notification.

<sup>2</sup> ICC-01/05-01/08-933, Fifth transmission to the parties and legal representatives of redacted versions of applications for participation in the proceedings, 8 October 2010.

<sup>3</sup> See ICC-01/05-01/08-858, Prosecution’s observations on the 192 applications for victim’s participation in the proceedings, 19 August 2010, at paras. 6-9; ICC-01/05-01/08-946-Corr, Corrigendum to Prosecution’s Observations on 218 Applications for Victim’s Participation in the Proceedings, 14 October 2010, at paras. 5-12; ICC-01/05-01/08-952, Prosecution’s Observations on 176 Applications for Victims’ Participation in the Proceedings, 14 October 2010, at paras. 5-11.

## Background

4. On 24 September 2010, the Chamber requested the parties to present their observations on each set of victims' applications that would be transmitted within 10 days of their notification.<sup>4</sup>

5. As regards the applications transmitted on 8 October 2010, all the 104 applicants are natural persons. All applicants request to be allowed to participate in the trial proceedings against Jean-Pierre Bemba Gombo ("Accused").

## Factual analysis of the applications

### A. Applications that *prima facie* meet the requirements for victim participation

6. The Prosecution submits that the following Applicants, all natural persons, unqualifiedly meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage: a/0710/10, a/0711/10, a/0713/10, a/0715/10, a/0716/10, a/0718/10, a/0720/10, a/0724/10, a/0867/10, a/0869/10, a/0875/10, a/0881/10, a/0921/10, a/0922/10, a/0924/10, a/0931/10, a/0970/10, a/0976/10, a/0978/10, a/0979/10, a/1031/10, a/1259/10, a/1260/10, a/1262/10, a/1263/10, a/1362/10, a/1365/10, a/1366/10, a/1367/10, a/1444/10, a/1454/10, a/1464/10, a/1476/10, a/1489/10, a/1494/10, a/1503/10, a/1537/10, a/1571/10, a/1590/10, a/1606/10, a/1624/10, a/1657/10, a/1663/10, a/1828/10, a/1847/10, a/1973/10, a/1995/10, a/2134/10, a/2171/10, a/2172/10, a/2173/10, a/2182/10, a/2198/10, a/2200/10, a/2201/10, a/2204/10, a/2206/10, a/2207/10, a/2208/10, a/2209/10, a/2210/10, a/2155/10, a/1854/10, a/2152/10, a/2151/10, a/2150/10, a/2148/10, a/2146/10, a/2165/10, a/2164/10, a/2163/10, a/2162/10, a/2168/10, a/2143/10, a/2144/10, a/2142/10, a/2141/10, a/2140/10, a/2139/10, a/2136/10, a/2154/10, a/2159/10, a/2160/10, a/2145/10.

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<sup>4</sup> ICC-01/05-01/08-T-25-CONF-ENG, 24 September 2010, p. 24, lines 4-6.

7. The application submitted by Applicant a/2175/10 provides a church membership card as proof of identity. The Prosecution submits that this document may fall within the list of documents previously cited as acceptable by the Pre-Trial Chamber (“PTC”)<sup>5</sup> and endorsed by the Chamber.<sup>6</sup> This applicant should therefore be allowed to participate in the trial proceedings. Alternatively, if the Chamber concludes that this identity document is insufficient, the Prosecution submits that the applicant be requested to provide adequate proof of identity.

8. The applications submitted by Applicants a/2166/10, a/2177/10, a/2178/10, a/2179/10, a/2181/10, a/0717/10, a/0723/10, a/0722/10, a/2202/10, a/2203/10 and a/2176/10 provide identity documents that are not on the list of documents previously cited as acceptable by the PTC<sup>7</sup> and endorsed by the Chamber.<sup>8</sup> These applicants submitted electoral cards, baptism cards, “*certificat de carence*”, temporary certificates and a vaccination card as proof of identity.<sup>9</sup> The Prosecution submits that these documents should be considered as sufficient proof of identity because, as the Chamber has recognized, the list of documents developed as proof of identity is not exhaustive; it is merely a sample of the types of documents that have been used by Chambers of this Court in determining proof of identity.<sup>10</sup> These applicants should therefore be allowed to participate in the trial proceedings. Alternatively, if the Chamber concludes that any or all of these identity documents are insufficient, the Prosecution submits that the applicants be requested to provide adequate proof of identity.

<sup>5</sup> ICC-01/05-01/08-320, Fourth decision on victims’ participation, 12 December 2008, at paras. 36. Item (xx) in the list is “*carte d’identité pastorale*”.

<sup>6</sup> ICC-01/05-01/08-699, 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, 22 February 2010, at para.36.

<sup>7</sup> ICC-01/05-01/08-320, at para. 36.

<sup>8</sup> ICC-01/05-01/08-699, at para. 36.

<sup>9</sup> Applicants a/2177/10, a/2178/10, a/2179/10 and a/2181/10 submitted electoral cards; Applicants a/0717/10, a/0723/10 and a/2177/10 submitted baptism cards; Applicant a/0722/10 submitted a “*certificat de carence*”, whereby the Mayor of her municipality certified that she was not registered after being born; Applicants a/2202/10 and a/2203/10 submitted temporary certificates issued by a Police Commander who identified the applicants; Applicant a/2176/10 submitted a vaccination card issued by the Ministry of Public Health of the Central African Republic (“CAR”).

<sup>10</sup> ICC-01/05-01/08-699, at para.36.

**B. Applications bearing redactions that may be sufficient to meet the requirements for participation**

9. The non-redacted portions of applications from Applicants a/2170/10, a/2175/10,<sup>11</sup> a/2202/10,<sup>12</sup> a/2205/10, a/2203/10<sup>13</sup> appear to largely meet the requirements for participation in the trial proceedings against the Accused. However, because of redactions the Prosecution cannot determine whether the crimes against the applicants were committed within the locations of the charges confirmed against the Accused.<sup>14</sup> The Prosecution therefore submits that the Chamber may determine that there is a sufficient link between the crimes alleged by the applicants and the charges in the instant case. Alternatively, the Prosecution suggests that these applicants be requested to provide additional information.

10. The application submitted by Applicant a/0712/10 provide an identity document that, due to the extent of the redactions applied to the applications, cannot be identified. The Prosecution therefore leaves it in the hands of the Chamber to determine whether this document is sufficient to establish identity. Alternatively, if the Chamber concludes that it is insufficient, the Prosecution submits that this applicant be requested to provide adequate proof of identity.

**C. Applications in respect of which, the Prosecution leaves it to the Chamber to determine whether they meet the requirements**

11. The application submitted by Applicant a/0719/10 provides a statement of the chief of the village ("*chef de village*") attesting to the applicant's identity. This item is

<sup>11</sup> The Prosecution further notes that Applicant a/2175/10 provides an identity document (para.7) that may fall within the list of documents considered as acceptable by the PTC and endorsed by the Chamber.

<sup>12</sup> The Prosecution further notes that Applicant a/2202/10 provides an identity document (para. 8) that is not on the list of documents considered as acceptable by the PTC and endorsed by the Chamber.

<sup>13</sup> The Prosecution further notes that Applicant a/2203/10 provides an identity document (para. 8) that is not on the list of documents considered as acceptable by the PTC and endorsed by the Chamber.

<sup>14</sup> The Prosecution notes that the territorial scope of the charges confirmed against the Accused includes a substantial part of the territory of the CAR. See ICC-01/05-01/08-424, Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute on the charges of the Prosecutor against Jean-Pierre Bemba Gombo, 15 June 2009, at paras. 117, 150, 188, 277, 322, 333, 486.

not included in the list of documents previously cited as acceptable to establish the identity of the victim, by the PTC<sup>15</sup> and endorsed by the Chamber.<sup>16</sup> The Prosecution is aware that, according to the established jurisprudence of the PTC<sup>17</sup> and the Chamber,<sup>18</sup> where it is not possible for an applicant to produce one of the documents listed as acceptable, a statement signed by two witnesses attesting to the identity of the applicant will be considered. However, the Prosecution observes that the chief of the village is an official representative at the first level of the politico-administrative structure in Central African Republic, and is elected by his subordinates for a 10-year mandate. As such, his statement can be considered an official document. The Prosecution, therefore, leaves it to the Chamber to determine whether the identity of this applicant has been proved, or the applicant should be requested to provide additional documentation.

**D. Applications in respect of which, decisions should be deferred until additional information is provided**

12. Applicants a/0721/10 and a/1252/10 both claim to have suffered personal harm from pillaging and the murder of some relatives.<sup>19</sup> However, they fail to provide death certificates of their relatives as well as proof of the relationship between the applicants and the victims. The Prosecution suggests that decisions on these applications be deferred until sufficient documentation is obtained.

13. Applicant a/1486/10 claims personal harm from pillaging and the murder of three persons, which include her brother and her husband. However, it is unclear who the third person is. Moreover, the applicant only provides a death certificate for her husband, and fails to provide any further documentation. In the Prosecution's

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<sup>15</sup> ICC-01/05-01/08-320, at para. 36.

<sup>16</sup> ICC-01/05-01/08-699, at para. 36.

<sup>17</sup> ICC-01/05-01/08-320, at para. 37.

<sup>18</sup> ICC-01/05-01/08-699, at para. 36.

<sup>19</sup> Applicant a/0721/10 claims personal harm with regard to the murder of a brother; Applicant a/1252/10 claims personal harm with regard to the murder of two children.

view, therefore, decision on this application should be deferred until the applicant clarifies who the third victim of murder is, and sufficient documentation is obtained.

14. Applicant a/2180/10 indicates the date of victimization on 15 March but omit to specify the year. The time-frame alleged by the Prosecution and upheld in the Confirmation Decision is “on or about 26 October 2002 to 15 March 2003,”<sup>20</sup> which the Chamber accepts.<sup>21</sup> The Prosecution deems it therefore appropriate that this application be deferred and that the applicant be given the opportunity to clarify the year of victimization.

15. The Prosecution also notes that this applicant provides an electoral card as proof of identity. Although this document is not on the list of documents previously cited as acceptable by the PTC<sup>22</sup> and endorsed by the Chamber,<sup>23</sup> the Prosecution submits that it should be considered as sufficient proof of identity for the reasons stated above in paragraph 8. Alternatively, if the Chamber concludes that this identity document is insufficient, the Prosecution submits that the applicant be requested to provide adequate proof of identity.

16. Furthermore, because of redactions, the Prosecution cannot determine whether the crimes against Applicant a/2180/10 were committed within the locations of the charges confirmed against the Accused.<sup>24</sup> The Prosecution submits that the Chamber may determine that there is a sufficient link between the crimes alleged by the applicant and the charges in the instant case. Alternatively, the Prosecution suggests that this applicant be requested to provide additional information.

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<sup>20</sup> ICC-01/05-01/08-424, at para. 254.

<sup>21</sup> ICC-01/05-01/08-836, Decision on the defence application for corrections to the Document Containing the Charges and for the prosecution to file a Second Amended Document Containing the Charges, 20 July 2010, at para. 51.

<sup>22</sup> ICC-01/05-01/08-320, at paras. 36.

<sup>23</sup> ICC-01/05-01/08-699, at para.36.

<sup>24</sup> The Prosecution notes that the territorial scope of the charges confirmed against the Accused includes a substantial part of the territory of the CAR. See ICC-01/05-01/08-424, at paras. 117, 150, 188, 277, 322, 333, 486.



## Conclusion

17. The Prosecution submits that the following Applicants, all natural persons, unqualifiedly meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage: a/0710/10, a/0711/10, a/0713/10, a/0715/10, a/0716/10, a/0718/10, a/0720/10, a/0724/10, a/0867/10, a/0869/10, a/0875/10, a/0881/10, a/0921/10, a/0922/10, a/0924/10, a/0931/10, a/0970/10, a/0976/10, a/0978/10, a/0979/10, a/1031/10, a/1259/10, a/1260/10, a/1262/10, a/1263/10, a/1362/10, a/1365/10, a/1366/10, a/1367/10, a/1444/10, a/1454/10, a/1464/10, a/1476/10, a/1489/10, a/1494/10, a/1503/10, a/1537/10, a/1571/10, a/1590/10, a/1606/10, a/1624/10, a/1657/10, a/1663/10, a/1828/10, a/1847/10, a/1973/10, a/1995/10, a/2134/10, a/2171/10, a/2172/10, a/2173/10, a/2182/10, a/2198/10, a/2200/10, a/2201/10, a/2204/10, a/2206/10, a/2207/10, a/2208/10, a/2209/10, a/2210/10, a/2155/10, a/1854/10, a/2152/10, a/2151/10, a/2150/10, a/2148/10, a/2146/10, a/2165/10, a/2164/10, a/2163/10, a/2162/10, a/2168/10, a/2143/10, a/2144/10, a/2142/10, a/2141/10, a/2140/10, a/2139/10, a/2136/10, a/2154/10, a/2159/10, a/2160/10, a/2145/10, a/2166/10, a/2177/10, a/2178/10, a/2179/10, a/2181/10, a/0717/10, a/0723/10, a/0722/10 and a/2176/10.

18. The Prosecution submits that redactions to applications by Applicants a/2170/10, a/2175/10, a/2202/10, a/2205/10, a/2203/10 and a/0712/10 make it difficult to state with certainty that the applicants meet the requirements. The Chamber may determine that the non-redacted applications meet the requirements. Alternatively, the Chamber may request additional information.

19. The Prosecution leaves it to the Chamber to determine whether the identity of Applicant a/0719/10 has been proved or the applicant should provide additional documentation.

20. The Prosecution submits that applications made by Applicants a/0721/10, a/1252/10, a/1486/10 and a/2180/10 should be deferred until further information and documentation is obtained.



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**Luis Moreno-Ocampo, Prosecutor**

Dated this 21<sup>st</sup> Day of October 2010

At The Hague, The Netherlands