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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 82 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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Introduction

1. Pursuant to Rule 89(1) of the Rules of Procedure and Evidence (“Rules”) and the oral order (“Order”)¹ 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 2010.²

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 74 Applicants, as they *prima facie* meet the requirements. The Prosecution leaves it to the Chamber to determine whether Applicants a/0790/10, a/0792/10, a/0804/10, a/0816/10 and a/0817/10 should provide additional documentation to prove their identity. The Chamber should defer its decision on the applications of Applicants a/0834/10, a/0835/10 and a/1049/10, 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.³

¹ 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.

² ICC-01/05-01/08-937, Sixth transmission to the parties and legal representatives of redacted versions of applications for participation in the proceedings.

³ 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.⁴

5. As regards the applications transmitted on 8 October 2010, all the 82 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/0788/10, a/0793/10, a/0794/10, a/0795/10, a/0796/10, a/0797/10, a/0798/10, a/0799/10, a/0801/10, a/0802/10, a/0803/10, a/0805/10, a/0806/10, a/0818/10, a/0820/10, a/0822/10, a/0823/10, a/0824/10, a/0825/10, a/0826/10, a/0827/10, a/0828/10, a/0829/10, a/0830/10, a/0831/10, a/0832/10, a/0833/10, a/0866/10, a/0878/10, a/0879/10, a/0884/10, a/0885/10, a/0950/10, a/0940/10, a/0928/10, a/0927/10, a/0917/10, a/0912/10, a/0910/10, a/1001/10, a/1245/10, a/1246/10, a/1248/10, a/1249/10, a/1250/10, a/1251/10, a/1450/10, a/1474/10, a/1524/10, a/1973/10, a/1596/10, a/1589/10, a/1549/10, a/1541/10, a/1628/10, a/1900/10, a/1901/10, a/1902/10, a/1903/10, a/1905/10, a/1906/10, a/1908/10, a/1909/10, a/1910/10, a/1911/10, a/1912/10, a/1913/10, a/1914/10, a/1934/10, a/1958/10, a/1986/10.

7. The application submitted by Applicant a/0819/10 provides a church membership card as proof of identity. The Prosecution submits that this document

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

may fall within the list of documents previously cited as acceptable by the Pre-Trial Chamber (“PTC”)⁵ and endorsed by the Chamber.⁶ 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/0800/10 and a/1904/10 provide identity documents that are not on the list of documents previously cited as acceptable by the PTC⁷ and endorsed by the Chamber.⁸ These applicants submitted electoral cards. 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.⁹ 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.

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

9. The applications submitted by Applicants a/0790/10, a/0792/10, a/0804/10, a/0816/10 and a/0817/10 provide “*attestation état civil*” to prove their identities. The “*attestation état civil*” is a statement of the chief of the village (“*chef de village*”) attesting to the applicant’s identity. This item is not included in the list of documents

⁵ 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*”.

⁶ 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.

⁷ ICC-01/05-01/08-320, at para. 36.

⁸ ICC-01/05-01/08-699, at para. 36.

⁹ ICC-01/05-01/08-699, at para. 36.

previously cited as acceptable to establish the identity of the victim, by the PTC¹⁰ and endorsed by the Chamber.¹¹ The Prosecution is aware that, according to the established jurisprudence of the PTC¹² and the Chamber,¹³ 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 the 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 identities of these applicants have been proved, or the applicants should be requested to provide additional documentation.

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

10. Applicant a/0835/10 appears to meet the requirements for participation in the trial proceedings against the Accused. However, this applicant does not submit any proof of identity. The Prosecution therefore suggests that this application be deferred and that the applicant be given the opportunity to provide proof of identity.

11. Applicant a/0834/10 claims that on 5 March 2003 the *Mouvement de Libération du Congo* ("MLC") troops surrounded the town of Mongoumba in order to commit pillaging. The applicant states that he and other inhabitants were physically and materially "slaughtered". He claims to have suffered material loss as a result of these events, but does not provide any further details about the crime committed against him. The Prosecution therefore suggests that this application be deferred and this

¹⁰ ICC-01/05-01/08-320, at para. 36.

¹¹ ICC-01/05-01/08-699, at para. 36.

¹² ICC-01/05-01/08-320, at para. 37.

¹³ ICC-01/05-01/08-699, at para. 36.

applicant be requested to provide clarification with regard to the crime that he suffered.

12. Applicant a/1049/10 asserts that he suffered personal harm in relation to the death of his grandmother at Mongoumba on 5 March 2003. Although the applicant claims that the MLC soldiers were responsible for that incident,¹⁴ the scant information provided by him does not enable the Prosecution to comment on whether there is a sufficient link between the crimes alleged and the charges in the instant case. Further information is necessary to ascertain the cause of death. Moreover, the applicant annexes a death certificate to his application, but he provides neither proof of the relationship between him and the victim, nor proof of his own identity. The Prosecution therefore suggests that this application be deferred until further information and documentation is obtained.

Conclusion

13. 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/0788/10, a/0793/10, a/0794/10, a/0795/10, a/0796/10, a/0797/10, a/0798/10, a/0799/10, a/0801/10, a/0802/10, a/0803/10, a/0805/10, a/0806/10, a/0818/10, a/0819/10, a/0820/10, a/0822/10, a/0823/10, a/0824/10, a/0825/10, a/0826/10, a/0827/10, a/0828/10, a/0829/10, a/0830/10, a/0831/10, a/0832/10, a/0833/10, a/0866/10, a/0878/10, a/0879/10, a/0884/10, a/0885/10, a/0950/10, a/0940/10, a/0928/10, a/0927/10, a/0917/10, a/0912/10, a/0910/10, a/1001/10, a/1245/10, a/1246/10, a/1248/10, a/1249/10, a/1250/10, a/1251/10, a/1450/10, a/1474/10, a/1524/10, a/1973/10, a/1596/10, a/1589/10, a/1549/10, a/1541/10, a/1628/10, a/1900/10, a/1901/10, a/1902/10, a/1903/10, a/1905/10, a/1906/10, a/1908/10, a/1909/10, a/1910/10, a/1911/10, a/1912/10, a/1913/10, a/1914/10, a/1934/10, a/1958/10, a/1986/10, a/0800/10 and a/1904/10.

¹⁴ Applicant a/1049/10 stated that his grandmother was forced to drink urine by the MLC soldiers, and afterwards she fell ill and died.

14. The Prosecution leaves it to the Chamber to determine whether Applicants a/0790/10, a/0792/10, a/0804/10, a/0816/10 and a/0817/10 have proved their identities or should provide additional documentation.

15. The Prosecution submits that applications made by Applicants a/0834/10, a/0835/10 and a/1049/10 should be deferred until further information and documentation is obtained.



Luis Moreno-Ocampo, Prosecutor

Dated this 21st Day of October 2010

At The Hague, The Netherlands