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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 401 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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I. Introduction

1. Pursuant to Rule 89(1) of the Rules of Procedure and Evidence (“Rules”), the Office of the Prosecutor (“Prosecution”) submits the following observations on 401 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 21 April 2011.¹

2. For the reasons detailed below, the Prosecution supports Trial Chamber III (“Chamber”) granting authorization to participate as victims in the above-mentioned proceedings, pursuant to Article 68(3) of the Rome Statute (“Statute”), to 316 applicants. The Prosecution does not object to the Chamber determining that Applicants a/0008/11, a/2676/10 and a/2681/10 meet the requirements, although the identity document provided is not on the list of documents recognized as proof of identify or the date of victimization indicated in their applications is not within the time-frame of the charges.

3. The Prosecution submits that redactions make it difficult to state whether applications made by Applicants a/2688/10, a/2691/10, a/2703/10, a/2728/10, a/2729/10, a/2731/10, a/2855/10, a/2860/10, a/3171/10, a/3184/10, a/3187/10, a/3188/10, a/3190/10, a/3191/10, a/3192/10, a/3200/10, a/3205/10, a/3206/10, a/3207/10, a/3208/10, a/3211/10, a/3212/10, a/3215/10, a/3216/10, a/3218/10, a/3220/10, a/3226/10, a/3233/10, a/3234/10, a/3236/10, a/3238/10, a/3242/10, a/3243/10, a/3246/10, a/3247/10, a/3248/10, a/3249/10, a/3250/10, a/3251/10, a/0019/11, a/0021/11, a/0022/11, a/0024/11, a/0029/11, a/0058/11, a/0063/11, a/0066/11, a/0074/11 and a/0076/11 meet all the requirements for participation. The Prosecution does not object to the Chamber determining that non-

¹ ICC-01/05-01/08-1382, Ninth transmission to the parties and legal representatives of the applicants of redacted versions of applications for participation in the proceedings, 21 April 2011.

redacted versions of the applications meet the requirements, or requesting additional documentation and/or information.

4. The Prosecution submits that applications made by Applicants a/0734/10, a/1355/10, a/1405/10, a/1727/10, a/1747/10, a/2258/10, a/2316/10, a/2391/10, a/2693/10, a/2679/10, a/2682/10, a/2722/10, a/2723/10, a/3163/10, a/3219/10, a/3222/10, a/3232/10, a/0034/11, a/0052/11, a/0053/11, a/0084/11, a/0086/11, a/0090/11, a/0091/11, a/0093/11, a/0095/11, a/0102/11, a/0104/11, a/0107/11, a/0111/11, a/0112/11, a/0115/11 and a/0122/11 should be deferred until further information or documentation is obtained.

5. With regard to the legal criteria for victims' participation in the proceedings, the Prosecution reincorporates here the submissions set out in its previous filings.²

II. Factual analysis of the applications

A. Applications that meet the requirements for victim participation

6. The Prosecution submits that except for the 85 Applicants below, other applicants meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage: a/0392/08, a/0668/09, a/0009/10, a/0704/10, a/0705/10, a/0727/10, a/0728/10, a/0729/10, a/0730/10, a/0732/10, a/0733/10, a/0811/10, a/0812/10, a/0821/10, a/0907/10, a/0922/10, a/1029/10, a/1048/10, a/1050/10, a/1258/10, a/1264/10, a/1344/10, a/1356/10, a/1357/10, a/1358/10, a/1359/10, a/1360/10, a/1361/10, a/1402/10, a/1404/10, a/1442/10, a/1465/10, a/1467/10, a/1485/10, a/1492/10, a/1501/10, a/1540/10, a/1554/10, a/1556/10, a/1557/10, a/1627/10, a/1629/10, a/1632/10, a/1633/10, a/1650/10, a/1651/10, a/1652/10, a/1701/10, a/1719/10, a/1720/10, a/1721/10,

² 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.

a/1741/10, a/1824/10, a/1849/10, a/1850/10, a/1851/10, a/1852/10, a/1853/10, a/1860/10,
a/1861/10, a/1862/10, a/1863/10, a/1864/10, a/1865/10, a/1866/10, a/1867/10, a/1868/10,
a/1869/10, a/1870/10, a/1871/10, a/1872/10, a/1873/10, a/1883/10, a/1884/10, a/1885/10,
a/1886/10, a/2144/10, a/2184/10, a/2727/10, a/2265/10, a/2312/10, a/2362/10, a/2363/10,
a/2389/10, a/2460/10, a/2477/10, a/2478/10, a/2482/10, a/2507/10, a/2509/10, a/2652/10,
a/2664/10, a/2674/10, a/2675/10, a/2677/10, a/2678/10, a/2680/10, a/2683/10, a/2684/10,
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a/2701/10, a/2702/10, a/2704/10, a/2705/10, a/2706/10, a/2707/10, a/2708/10, a/2710/10,
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a/2856/10, a/3159/10, a/3160/10, a/3161/10, a/3164/10, a/3165/10, a/3166/10, a/3167/10,
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a/3195/10, a/3196/10, a/3197/10, a/3198/10, a/3199/10, a/3201/10, a/3202/10, a/3203/10,
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a/3258/10, a/0005/11, a/0006/11, a/0007/11, a/0009/11, a/0010/11, a/0011/11, a/0012/11,
a/0013/11, a/0014/11, a/0015/11, a/0016/11, a/0017/11, a/0018/11, a/0020/11, a/0023/11,
a/0025/11, a/0026/11, a/0027/11, a/0028/11, a/0030/11, a/0031/11, a/0032/11, a/0033/11,
a/0035/11, a/0036/11, a/0037/11, a/0038/11, a/0039/11, a/0040/11, a/0041/11, a/0042/11,
a/0043/11, a/0044/11, a/0045/11, a/0046/11, a/0047/11, a/0048/11, a/0049/11, a/0050/11,
a/0051/11, a/0054/11, a/0055/11, a/0056/11, a/0057/11, a/0059/11, a/0060/11, a/0061/11,
a/0062/11, a/0064/11, a/0065/11, a/0067/11, a/0068/11, a/0069/11, a/0070/11, a/0071/11,
a/0072/11, a/0073/11, a/0075/11, a/0077/11, a/0078/11, a/0079/11, a/0080/11, a/0081/11,
a/0082/11, a/0085/11, a/0087/11, a/0088/11, a/0089/11, a/0092/11, a/0094/11, a/0096/11,
a/0097/11, a/0098/11, a/0099/11, a/0100/11, a/0101/11, a/0103/11, a/0105/11, a/0106/11,
a/0108/11, a/0109/11, a/0110/11, a/0113/11, a/0114/11, a/0116/11, a/0117/11, a/0118/11,
a/0119/11, a/0120/11, a/0121/11, a/0123/11, a/0124/11, a/0125/11, a/0126/11, a/0128/11,
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a/0137/11, a/0138/11, a/0139/11, a/0140/11, a/0141/11, a/0142/11, a/0143/11, a/0144/11,
a/0145/11, a/0146/11, a/0147/11, a/0148/11, a/0149/11, a/0150/11, a/0151/11, a/0152/11,

a/0153/11, a/0154/11, a/0155/11, a/0156/11, a/0172/11, a/0173/11, a/0174/11, a/0175/11, a/0176/11, a/0177/11, a/0178/11, a/0180/11, a/0181/11, a/0182/11, a/0183/11, a/0184/11, a/0185/11.

B. Applications that may be deemed to meet the requirements for victim participation

7. The application submitted by Applicant a/0008/11 provides an identity document - "carte de demandeur d'employ" - that is not on the list of documents previously cited as acceptable by the Pre-Trial Chamber ("PTC")³ and endorsed by the Chamber.⁴ The Prosecution submits that this document 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.⁵ 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 should be requested to provide adequate proof of identity.

8. Applicants a/2676/10 and a/2681/10 respectively indicate the date of victimization on 16 October 2002 and 16 March 2003. The time-frame alleged by the Prosecution and upheld in the Confirmation Decision is "on or about 26 October 2002 to 15 March 2003,"⁶ which the Chamber accepted.⁷ The Prosecution considers that the

³ ICC-01/05-01/08-320, Fourth Decision on Victims' Participation, 12 December 2008, at para. 36.

⁴ 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; ICC-01/05-01/08-1017, Decision on 772 applications by victims to participate in the proceedings, 18 November 2010, at para.40.

⁵ ICC-01/05-01/08-699, at para.36; ICC-01/05-01/08-1017, at para. 40.

⁶ 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 para. 254.

⁷ 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.

charged time-frame permits applicants to claim victim status if they allege they were victims of acts that occurred close to the specified dates and within a general margin of appreciation. However, if the Chamber considers the dates here insufficient, the Prosecution suggests that the applicants be requested to provide additional information.

C. Applications bearing redactions that may be sufficient to meet the requirements for victim participation

9. The applications submitted by Applicants a/0019/11, a/0021/11, a/0022/11, a/0024/11 and a/0029/11 provide membership cards as proof of identity. The Prosecution notes that membership cards are included in the list of documents cited as generally acceptable by the PTC⁸ and endorsed by the Chamber.⁹ In these instances, however, redactions on the cards render it impossible to identify the organizations or associations to which the membership cards relate.

10. The non-redacted portions of applications from Applicants a/2688/10, a/2691/10, a/2703/10, a/2728/10, a/2729/10, a/2731/10, a/2855/10, a/2860/10, a/3171/10, a/3184/10, a/3187/10, a/3188/10, a/3190/10, a/3191/10, a/3192/10, a/3200/10, a/3205/10, a/3206/10, a/3207/10, a/3208/10, a/3211/10, a/3212/10, a/3215/10, a/3216/10, a/3218/10, a/3220/10, a/3226/10, a/3233/10, a/3234/10, a/3242/10, a/3243/10, a/3246/10, a/3247/10, a/3248/10, a/3249/10, a/3250/10 and a/3251/10 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

⁸ ICC-01/05-01/08-320, at paras. 36-38. “*Carte d’association*” is one the documents listed as acceptable proof of identity.

⁹ ICC-01/05-01/08-699, at para.36; ICC-01/05-01/08-1017, at para.40.

applicants were committed within the locations of the charges confirmed against the Accused.¹⁰

11. The applications submitted by Applicants a/3236/10, a/3238/10, a/0058/11, a/0063/11, a/0066/11, a/0074/11 and a/0076/11 provide identity documents that, due to the extent of the redactions applied to the applications, cannot be identified.

12. The Prosecution therefore leaves it in the hands of the Chamber to determine whether non-redacted versions of these applications meet the requirements, or these applicants should be requested to provide additional information or documentation.

D. Applications in respect of which decisions should be deferred until additional documentation is provided

13. Applicants a/0734/10 and a/0115/11 submitted identity documents which are illegible.

14. The application submitted by Applicant a/1727/10 provides as identity document a medical card. The Chamber rejected this type of document as sufficient proof of identity.¹¹

15. Both Applicants a/2258/10 and a/0084/11 fail to provide death certificate of the victims of the alleged crimes.

16. Applicant a/0086/11 did not provide any document to prove the relationship between the applicant and the victim.

¹⁰ The Prosecution notes that the territorial scope of the charges confirmed against the Accused includes a substantial part of the territory of the Central African Republic. See ICC-01/05-01/08-424, at paras. 117, 150, 188, 277, 322, 333, 486.

¹¹ ICC-01/05-01/08-1017, at para. 42.

17. Applicant a/0122/11 seems to apply on behalf of her deceased husband. However, from the account of events that she provides, the applicant apparently suffered personal and direct harm as victim of rape and pillaging. The Prosecution therefore submits that decision on this application should be deferred until sufficient documentation is provided in order for the applicant to apply on her own behalf.

18. The Prosecution suggests that these Applicants be requested to submit adequate documentation.

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

19. As regards to Applicant a/1405/10, the portion of the application form related to the description of the crimes suffered by the applicant is illegible.

20. The application submitted by Applicant a/2693/10 provides different dates with regard to the same incident during which the applicant was victimized.

21. Applicants a/1747/10, a/2316/10, a/2391/10 and a/0034/11 do not specify the date when the alleged crimes occurred.

22. Applicant a/2722/10 does not state the location where the alleged crimes were committed.

23. Applicant a/2723/10 indicates the date of victimization on 16 May 2003. The time-frame alleged by the Prosecution and upheld in the Confirmation Decision is “on or about 26 October 2002 to 15 March 2003,”¹² which the Chamber accepted.¹³

¹² ICC-01/05-01/08-424, at para. 254.

¹³ ICC-01/05-01/08-836, at para. 51.

24. Applicant a/3222/10 does not identify the perpetrators of the crime allegedly suffered. The perpetrators are merely referred to as “the rebels”.

25. As regards to Applicant a/3219/10, the Prosecution notes a discrepancy between the date of birth on the applicant’s birth certificate and the date indicated in the relevant section of the application form.

26. Applicants a/1355/10,¹⁴ a/2679/10,¹⁵ a/2682/10,¹⁶ a/3163/10, a/3232/10, a/0052/11, a/0053/11,¹⁷ a/0090/11,¹⁸ a/0091/11, a/0093/11, a/0095/11, a/0102/11, a/0104/11,¹⁹ a/0107/11,²⁰ a/0111/11²¹ and a/0112/11²² provide unclear accounts with regard to the crimes that they allegedly suffered.

27. The Prosecution therefore suggests that decision on these applications should be deferred and that the applicants be requested to provide additional information to demonstrate the link between the personal harm they suffered and the crimes charges confirmed against the Accused.

¹⁴ It is not clear whether or not the applicant was victim of pillaging. He asserts that during the period from 25 October 2002 to 15 March 2003, the Banyamulengue took control of Bossembélé and committed exactions against the population such as killing and cannibalism. For these reasons he did not return to the town to take his goods back.

¹⁵ It is unclear whether the perpetrators intended to kill the applicant’s child.

¹⁶ The loss of personal goods is not attributed to pillaging by the applicant.

¹⁷ It is unclear whether Applicants a/3163/10, a/3232/10, a/0052/11 and a/0053/11 were raped. .

¹⁸ Applicant a/0090/11 claims having suffered physical harm as a result of being shot by the *Banyamulenges*. The crime alleged by this applicant does not directly fall within the scope of the charges confirmed against the Accused. This crime however arose in light of the *Banyamulenges*’ conduct.

¹⁹ Applicants a/0091/11, a/0093/11, a/0095/11, a/0102/11, a/0104/11 did not state in section B of the application form “Informations Relatives Au(x) Crime(s) Allégué(s)”, the events that led to the pillaging of their property. They merely list, in section C, items that were stolen and the value of those items.

²⁰ The applicant is not clear about the crime and the harm he suffered. He claims on the one hand that his house was burnt by the Banyamulengue and as a result he lost his goats and hens, and on the other hand states that those animals were stolen by the same perpetrators.

²¹ Applicant a/0111/11 states that his goods were burnt as a result of a shell allegedly launched by the *Mouvement de Libération du Congo* (“MLC”) troops. In addition to the burnt goods, the applicant lists other lost items.

²² Applicant a/0112/11 claims that part of his property was destroyed because of shelling carried out by the *Banyamulenges*, which is not part of the crimes with which the Accused is charged. The information does not enable the Prosecution to make a meaningful assessment.

III. Conclusion

28. The Prosecution submits that except for the 85 applicants mentioned below, other applicants, meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage.

29. Although Applicants a/0008/11, a/2676/10 and a/2681/10 provided an identity document not on the list of documents recognized as proof of identify or indicated the date of victimization slightly outside the time-frame of the charges, the Prosecution submits that they may be deemed to meet the requirements; alternatively, the Chamber may request additional information and/or documentation.

30. Redactions to applications by Applicants a/2688/10, a/2691/10, a/2703/10, a/2728/10, a/2729/10, a/2731/10, a/2855/10, a/2860/10, a/3171/10, a/3184/10, a/3187/10, a/3188/10, a/3190/10, a/3191/10, a/3192/10, a/3200/10, a/3205/10, a/3206/10, a/3207/10, a/3208/10, a/3211/10, a/3212/10, a/3215/10, a/3216/10, a/3218/10, a/3220/10, a/3226/10, a/3233/10, a/3234/10, a/3236/10, a/3238/10, a/3242/10, a/3243/10, a/3246/10, a/3247/10, a/3248/10, a/3249/10, a/3250/10, a/3251/10, a/0019/11, a/0021/11, a/0022/11, a/0024/11, a/0029/11, a/0058/11, a/0063/11, a/0066/11, a/0074/11 and a/0076/11 make it difficult to determine whether the applicants meet all the requirements for participation. The Prosecution does not object to the Chamber determining that the non-redacted applications meet the requirements or requesting additional information.

31. The Prosecution submits that applications made by Applicants a/0734/10, a/1355/10, a/1405/10, a/1727/10, a/1747/10, a/2258/10, a/2316/10, a/2391/10, a/2693/10, a/2679/10, a/2682/10, a/2722/10, a/2723/10, a/3163/10, a/3219/10, a/3222/10, a/3232/10, a/0034/11, a/0052/11, a/0053/11, a/0084/11, a/0086/11, a/0090/11, a/0091/11, a/0093/11,

a/0095/11, a/0102/11, a/0104/11, a/0107/11, a/0111/11, a/0112/11, a/0115/11 and a/0122/11 should be deferred until further information or documentation is obtained.



Luis Moreno-Ocampo, Prosecutor

Dated this 17th Day of May 2011
At The Hague, The Netherlands