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Pénale
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**International
Criminal
Court**

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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 373 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 373 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 15 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 proceedings, pursuant to Article 68(3) of the Rome Statute (“Statute”), to 322 applicants, as they *prima facie* meet the requirements. The Prosecution submits that Applicants a/1287/10, a/1284/10, a/1378/10, a/1377/10, a/1276/10, a/1968/10, a/1972/10, a/1277/10, a/1443/10, a/0708/10, a/0890/10 and a/1047/10 can be presumed to meet the requirements, although they omit information in their applications. The Prosecution submits that redactions make it difficult to state whether applications made by Applicants a/0889/10, a/0893/10, a/0895/10, a/0911/10, a/1639/10, a/1586/10, a/1638/10, a/1604/10, a/0896/10, a/0989/10, a/1053/10, a/1584/10, a/1526/10, a/1375/10, a/1292/10, a/1285/10, a/1282/10, a/1281/10, a/1270/10, a/1268/10, a/1453/10, a/1898/10, a/0933/10 and a/1240/10 meet the requirements. The Prosecution leaves it to the Chamber to determine whether the identity of Applicant a/1838/10 has been proved or the applicant should provide additional documentation. The Prosecution submits that applications made by Applicants a/1592/10, a/1891/10, a/1022/10, a/1674/10, a/1675/10, a/1715/10, a/1434/10, a/1896/10, a/0987/10, a/0995/10 and a/1042/10 should be deferred until further

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-01/05-01/08-955, Seventh transmission to the parties and legal representatives of redacted versions of applications for participation in the proceedings, 15 October 2010.

information and documentation is obtained. The Prosecution finally submits that the applications made by Applicants a/1684/10, a/2022/10 and a/1280/10 do not meet the requirements.

3. With regard to the legal criteria for victims' participation in the proceedings, the Prosecution reincorporates here the submissions set out in its previous filings.³

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 15 October 2010, all the 373 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, meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage: a/0709/10, a/0725/10, a/0741/10, a/0747/10, a/0753/10, a/0754/10, a/0755/10, a/0756/10, a/0757/10, a/0759/10, a/0760/10, a/0761/10, a/0762/10,

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.

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

a/0763/10, a/0764/10, a/0765/10, a/0766/10, a/0767/10, a/0768/10, a/0769/10, a/0770/10,
a/0771/10, a/0782/10, a/0783/10, a/0784/10, a/0785/10, a/0787/10, a/0808/10, a/0810/10,
a/0836/10, a/0838/10, a/0856/10, a/0859/10, a/0868/10, a/0870/10, a/0873/10, a/0874/10,
a/0876/10, a/0877/10, a/0880/10, a/0886/10, a/0888/10, a/0897/10, a/0898/10, a/0899/10,
a/0900/10, a/0903/10, a/0905/10, a/0908/10, a/0909/10, a/0913/10, a/0914/10, a/1913/10,
a/1915/10, a/1947/10, a/1957/10, a/1960/10, a/1961/10, a/1962/10, a/1963/10, a/1767/10,
a/1770/10, a/1811/10, a/1812/10, a/1813/10, a/1814/10, a/1816/10, a/1817/10, a/1818/10,
a/1819/10, a/1820/10, a/1821/10, a/1822/10, a/1823/10, a/1825/10, a/1826/10, a/1254/10,
a/1255/10, a/1257/10, a/1266/10, a/1289/10, a/1371/10, a/1376/10, a/1428/10, a/1409/10,
a/1432/10, a/1433/10, a/1445/10, a/1446/10, a/1437/10, a/1480/10, a/1502/10, a/1539/10,
a/1563/10, a/1582/10, a/1587/10, a/1588/10, a/1581/10, a/1591/10, a/1593/10, a/1594/10,
a/1601/10, a/1602/10, a/1603/10, a/1623/10, a/1634/10, a/1635/10, a/1636/10, a/1637/10,
a/2276/10, a/1372/10, a/1640/10, a/1641/10, a/1430/10, a/1431/10, a/1429/10, a/1379/10,
a/1892/10, a/1897/10, a/1890/10, a/1895/10, a/1899/10, a/1642/10, a/1643/10, a/1644/10,
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a/1054/10, a/1241/10, a/1242/10, a/1243/10, a/1244/10, a/1247/10, a/1253/10, a/1966/10, a/1967/10, a/1971/10, a/1974/10, a/1975/10, a/1979/10, a/1980/10, a/1981/10, a/1982/10, a/1983/10, a/1984/10, a/1988/10, a/1989/10, a/1991/10, a/1992/10, a/1993/10, a/1994/10, a/1996/10, a/1997/10, a/1998/10, a/2000/10, a/2001/10, a/2004/10, a/2005/10, a/2009/10, a/2010/10, a/2012/10, a/2014/10, a/2020/10, a/2021/10, a/2024/10, a/2189/10, a/2196/10, a/2197/10, a/2215/10, a/2217/10, a/2226/10, a/2227/10, a/2234/10, a/2235/10, a/2236/10, a/2238/10, a/2242/10, a/2249/10, a/2262/10, a/2267/10, a/2268/10, a/2269/10, a/2280/10, a/2271/10, a/2273/10, a/2274/10, a/2412/10, a/2413/10, a/2414/10, a/2219/10, a/2221/10, a/2224/10, a/2229/10, a/2213/10 and a/2214/10.

7. The applications submitted by Applicants a/0786/10, a/0920/10, a/0991/10, a/0872/10, a/0906/10, a/1653/10, a/1749/10, a/2026/10 and a/2211/10 provide identity documents that are not on the list of documents previously cited as acceptable by the Pre-Trial Chamber (“PTC”)⁵ and endorsed by the Chamber.⁶ These applicants submitted electoral cards, certificate of declaration of loss, vaccination card, job seeker card, residence certificate, student card and refugee identity document as proof of identity.⁷ 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.⁸ 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.

⁵ ICC-01/05-01/08-320, Fourth Decision on Victims' Participation, 12 December 2008, at paras. 36.

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 Applicants a/0786/10, a/0920/10, a/0991/10 submitted electoral cards; Applicant a/0872/10 submitted a certificate of declaration of loss (“*attestation de declaration de perte*”); Applicant a/0906/10 submitted a vaccination card; Applicant a/1653/10 submitted a job seeker card; Applicant a/1749/10 submitted a residence certificate; Applicant a/2026/10 submitted a student card; Applicant a/2211/10 submitted a refugee identity document.

⁸ ICC-01/05-01/08-699, at para.36.

B. Applications that omit relevant information but may be presumed to meet the requirements for victim participation

8. Applicants a/1282/10, a/1287/10, a/1284/10, a/1378/10, a/1377/10, a/1276/10, a/1968/10, a/1972/10, a/1277/10 and a/1443/10 claim that they were subject to sexual violence, but do not specifically allege that they were raped by the troops of the *Mouvement de Libération du Congo* (“MLC”). In light of the similarity of the crimes allegedly suffered by these applicants to the crime of rape with which the Accused is charged,⁹ the Prosecution submits that these applicants’ claims indicate a causal link between the charges and the harm they suffered. They, therefore, should be allowed to participate in the trial proceedings. Alternatively, should the Chamber consider this information insufficient, the Prosecution suggests that these applicants be requested to provide clarification with regard to the crimes that they suffered.

9. Applicants a/0708/10, a/0890/10 and a/1047/10 indicate the date of victimization respectively as 17 March 2003, 23 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,”¹⁰ which the Chamber accepts.¹¹ The Prosecution considers that the 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.

⁹ 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, page 185.

¹⁰ ICC-01/05-01/08-424, at para. 254.

¹¹ 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.

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

10. The applications submitted by Applicants a/0889/10, a/0893/10, a/0895/10, a/0911/10, a/1639/10, a/1586/10, a/1638/10, a/1604/10, a/0896/10, a/0989/10 and a/1053/10 provide membership cards ("*cartes d'adhésion*") as proof of identity. The Prosecution notes that membership cards are included in the list of documents cited as generally acceptable by the PTC¹² and endorsed by the Chamber.¹³ In these instances, however, redactions on the cards render it impossible to identify the organizations or associations to which the membership cards relate. The Prosecution therefore submits that the Chamber may determine that these membership cards are sufficient to establish identity. Alternatively, if the Chamber concludes that they are insufficient, the Prosecution submits that these applicants be requested to provide adequate proof of identity.

11. The non-redacted portions of applications from Applicants a/1584/10, a/1526/10, a/1375/10, a/1292/10, a/1285/10, a/1282/10,¹⁴ a/1281/10, a/1270/10, a/1268/10, a/1453/10, a/1898/10, a/0933/10 and a/1240/10 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 applicants were committed within the locations of the charges confirmed against the Accused.¹⁵ 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

¹² ICC-01/05-01/08-320, at paras. 36-38. "*Carte d'association*" is one the documents listed as acceptable proof of identity.

¹³ ICC-01/05-01/08-699, at para.36.

¹⁴ The Prosecution further notes that Applicant a/1282/10 alleges in general terms that she was subject to sexual violence (para. 8).

¹⁵ 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.

in the instant case. Alternatively, the Prosecution suggests that these applicants be requested to provide additional information.

D. Applications in respect of which, the Prosecution leaves it to the Chamber to determine whether they meet the requirements for victim participation

12. The application submitted by Applicant a/1838/10 provides an identity document that, due to the extent of the redactions applied to the application, cannot be identified. The Prosecution therefore leaves it to the Chamber to determine whether this document is sufficient to establish identity, or this applicant should be requested to provide adequate proof of identity.

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

13. Applicants a/1592/10, a/1891/10 and a/1022/10 appear to largely meet the requirements for participation in the trial proceedings against the Accused. However, these applicants do not state the locations where the crimes against them were committed. The Prosecution therefore cannot comment on whether there is a sufficient link between the crimes alleged by these applicants and the charges in the instant case. The Prosecution suggests that these applications be deferred until the outstanding information is obtained.

14. Applicants a/1674/10, a/1675/10 and a/1715/10 indicate the date of victimization respectively as 29 October 2003, 3 November 2010 and 29 October 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,”¹⁶ which the Chamber accepts.¹⁷

¹⁶ ICC-01/05-01/08-424, at para. 254.

¹⁷ ICC-01/05-01/08-836, at para. 51.

The Prosecution notes that the indication of the year by these applicants is likely due to an oversight. The Prosecution deems it however appropriate that these applications be deferred and that the applicants be given the opportunity to clarify the year of victimization.

15. Applicants a/1434/10 and a/1896/10 indicate the date of victimization respectively as 26 February and 31 October, but do not specify the year. The Prosecution submits that it is appropriate that these applications be deferred and that the applicants be given the opportunity to state the year of victimization.

16. Applicant a/0987/10 asserts that he was victim of extensive pillaging but does not identify the perpetrators of the crime. Therefore, he has not demonstrated the causal link between the personal harm that he suffered and the charges against the Accused. The Prosecution suggests that decision on this application be deferred and the applicant be given the opportunity to clarify who the perpetrators of the pillaging against him were.

17. Applicant a/0995/10 states that during an attack conducted by the MLC troops, her house was burnt and destroyed. She claims personal harm in relation to the loss of all her goods. However, it is unclear whether her goods were pillaged or destroyed. The Prosecution therefore submits that this applicant has not demonstrated the causal link between the personal harm that she suffered and the crimes with which the Accused is charged. The Prosecution suggests that decision on this application be deferred until further information is obtained about the loss of the applicant's property.

18. Applicant a/1042/10 claims that she suffered personal harm from the murder of her husband. She provides a vaccination card as proof of her identity. For the reasons stated in paragraph 7 above, the Prosecution submits that this document

should be considered as sufficient proof of identity. However, she fails to provide death certificate of her husband as well as proof of her relationship with the victim. The Prosecution therefore suggests that decision on this application be deferred until sufficient documentation is obtained.

F. Applications that do not meet the requirements for victim participation

19. Applicants a/1684/10 and a/2022/10 claim that they were subject respectively to torture and beating, which are not part of the crimes with which the Accused is charged. The Prosecution submits that there is no causal link between the harm suffered by these applicants and the charges against the Accused; these applications therefore do not meet the requirements for victim participation.

20. Applicant a/1280/10 claimed personal harm in relation to her daughter's death, which was caused by a stray bullet. The Prosecution submits that this incident does not amount to any of the crimes within the jurisdiction of the Court, and this application therefore does not meet the requirements for victim participation.

Conclusion

21. The Prosecution submits that the following Applicants, all natural persons, meet all of the requirements under Article 68(3) of the Statute for participation in the proceedings at the trial stage: a/0709/10, a/0725/10, a/0741/10, a/0747/10, a/0753/10, a/0754/10, a/0755/10, a/0756/10, a/0757/10, a/0759/10, a/0760/10, a/0761/10, a/0762/10, a/0763/10, a/0764/10, a/0765/10, a/0766/10, a/0767/10, a/0768/10, a/0769/10, a/0770/10, a/0771/10, a/0782/10, a/0783/10, a/0784/10, a/0785/10, a/0787/10, a/0808/10, a/0810/10, a/0836/10, a/0838/10, a/0856/10, a/0859/10, a/0868/10, a/0870/10, a/0873/10, a/0874/10, a/0876/10, a/0877/10, a/0880/10, a/0886/10, a/0888/10, a/0897/10, a/0898/10, a/0899/10, a/0900/10, a/0903/10, a/0905/10, a/0908/10, a/0909/10, a/0913/10, a/0914/10, a/1913/10,

a/1915/10, a/1947/10, a/1957/10, a/1960/10, a/1961/10, a/1962/10, a/1963/10, a/1767/10,
a/1770/10, a/1811/10, a/1812/10, a/1813/10, a/1814/10, a/1816/10, a/1817/10, a/1818/10,
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a/1054/10, a/1241/10, a/1242/10, a/1243/10, a/1244/10, a/1247/10, a/1253/10, a/1966/10,
a/1967/10, a/1971/10, a/1974/10, a/1975/10, a/1979/10, a/1980/10, a/1981/10, a/1982/10,
a/1983/10, a/1984/10, a/1988/10, a/1989/10, a/1991/10, a/1992/10, a/1993/10, a/1994/10,
a/1996/10, a/1997/10, a/1998/10, a/2000/10, a/2001/10, a/2004/10, a/2005/10, a/2009/10,
a/2010/10, a/2012/10, a/2014/10, a/2020/10, a/2021/10, a/2024/10, a/2189/10, a/2196/10,

a/2197/10, a/2215/10, a/2217/10, a/2226/10, a/2227/10, a/2234/10, a/2235/10, a/2236/10, a/2238/10, a/2242/10, a/2249/10, a/2262/10, a/2267/10, a/2268/10, a/2269/10, a/2280/10, a/2271/10, a/2273/10, a/2274/10, a/2412/10, a/2413/10, a/2414/10, a/2219/10, a/2221/10, a/2224/10, a/2229/10, a/2213/10, a/2214/10, a/0786/10, a/0920/10, a/0991/10, a/0872/10, a/0906/10, a/1653/10, a/1749/10, a/2026/10 and a/2211/10.

22. Although Applicants a/1287/10, a/1284/10, a/1378/10, a/1377/10, a/1276/10, a/1968/10, a/1972/10, a/1277/10, a/1443/10, a/0708/10, a/0890/10 and a/1047/10 omit information in their applications, the Prosecution submits that they can be presumed to meet the requirements; alternatively, the Chamber may request additional information.

23. Redactions to applications by Applicants a/0889/10, a/0893/10, a/0895/10, a/0911/10, a/1639/10, a/1586/10, a/1638/10, a/1604/10, a/0896/10, a/0989/10, a/1053/10, a/1584/10, a/1526/10, a/1375/10, a/1292/10, a/1285/10, a/1282/10, a/1281/10, a/1270/10, a/1268/10, a/1453/10, a/1898/10, a/0933/10 and a/1240/10 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.

24. The Prosecution leaves it to the Chamber to determine whether the identity of Applicant a/1838/10 has been proved or the applicant should provide additional documentation.

25. The Prosecution submits that applications made by Applicants a/1592/10, a/1891/10, a/1022/10, a/1674/10, a/1675/10, a/1715/10, a/1434/10, a/1896/10, a/0987/10, a/0995/10 and a/1042/10 should be deferred until further information and documentation is obtained.

26. The Prosecution submits that the applications made by Applicants a/1684/10, a/2022/10 and a/1280/10 do not meet the requirements for victim participation.



Luis Moreno-Ocampo, Prosecutor

Dated this 28th Day of October 2010

At The Hague, The Netherlands