

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 29 July 2011

**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***

**Confidential**

**Decision on the Registry's "Corrigendum to the Request for an extension of  
time to report on further investigations relating to intermediaries"**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda

Ms Petra Kneuer

**Counsel for the Defence**

Mr Nkwebe Liriss

Mr Aimé Kilolo Musamba

**Legal Representatives of the Victims**

Ms Marie-Edith Douzima Lawson

Mr Assingambi Zarambaud

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for Participation/Reparation**

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms Silvana Arbia

**Defence Support Section**

**Victims and Witnesses Unit**

Ms Maria Luisa Martinod Jacome

**Detention Section**

**Victims Participation and Reparations Section**

Ms Fiona McKay

**Other**

1. Trial Chamber III ("Chamber") of the International Criminal Court ("Court"), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, is seized of the Registry's "Corrigendum to the Request for an extension of time to report on further investigations relating to intermediaries" ("Request"), filed on 20 July 2011.<sup>1</sup>
2. Between 14 October 2010 and 3 June 2011, the Registry submitted four reports concerning the involvement of two intermediaries ("Intermediary 1" and "Intermediary 2") in the completion of victims' applications for participation in this case.<sup>2</sup>
3. On 11 July 2011, the Chamber issued its "Decision on the Registry's 'Report on issues concerning intermediaries' involvement in completion of applications for participation'" ("Decision of 11 July"),<sup>3</sup> in which it ordered the Victims Presentation and Reparations Section ("VPRS") to (a) contact the 161 applicants assisted by Intermediary 1 and initially contacted by the OPCV in order to verify the accuracy of the information contained in their applications; (b) contact the 70 applicants assisted by Intermediary 2 and included in the Ninth Transmission of applications for participation, in order to verify the accuracy of the information contained in their applications; (c) continue its efforts to contact any applicants who could not be reached to date, with a view to re-interviewing them to verify the accuracy of the information contained in their applications; (d) file a report with the Chamber

<sup>1</sup> Corrigendum to the Request for an extension of time to report on further investigations relating to intermediaries, 20 July 2011, ICC-01/05-01/08-1601-Conf-Corr.

<sup>2</sup> Report of the Registry drawing to the Chamber's attention an issue regarding an application for participation in the proceedings, 14 October 2010 (notified on 15 October 2010), ICC-01/05-01/08-953-Conf-Exp, and confidential *ex parte* annexes thereto; Preliminary Report of the Registry on issues raised by the testimony of Witness W-73 during the proceedings of the case *The Prosecutor v. Jean-Pierre Bemba Gombo*, including three annexes, submitted by e-mail from the Associate Legal Officer, CMS, to the Legal Officer of Trial Chamber III, on 17 March 2011 at 17:09; Final report on the investigations pursuant to the Chamber's Decision on the "Report of the Registry drawing to the Chamber's attention an issue regarding an application for participation in the proceedings", 31 March 2011, ICC-01/05-01/08-1369-Conf-Exp, and three confidential *ex parte* annexes thereto; Report on issues concerning intermediaries' involvement in completion of applications for participation, 3 June 2011, ICC-01/05-01/08-1478-Conf.

<sup>3</sup> Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation", 11 July 2011, ICC-01/05-01/08-1593-Conf.

on the results of its inquiry under (a), (b) and (c) by 16.00 on Friday 3 October 2011; and (e) file or re-file in the record of the case, by 16.00 on Friday 3 October 2011, (i) the original applications of re-interviewed applicants, together with any supplementary information collected during the inquiry process and (ii) a consolidated individual assessment report following the model of the report on the Tenth Transmission of applications for participation (together, "Chamber's Orders").

4. In its Request, the Registry seeks an extension of time until 31 January 2012 to implement the Chamber's Orders.<sup>4</sup> To that end, the Registry represents that the implementation of the Chamber's Orders would require (a) the use of an expert for a period of two days in September 2011;<sup>5</sup> (b) the full-time work of one staff member for a period of twelve weeks to conduct interviews in Bangui, including the hiring of one additional staff member; (c) approximately one month of full-time work by two Associate Legal Officers and two Database Assistants at headquarters in order to enter and analyze the new information, report on the results of the interviews and transmit the applications, as well as supplementary information and consolidated individual reports.<sup>6</sup>
5. For these reasons, the Registry asserts that "[d]ue to the time required for preparation and the design of a methodology, the unavailability of staff to begin the interview process until the month of October 2011, and the existence of competing obligations pursuant to orders of this and other Chambers, the Registry (...) would not be in a position to complete the steps required for the implementation of the Chamber's orders in the 11 July Decision until the end

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<sup>4</sup> ICC-01/05-01/08-1601-Conf-Corr, page 8.

<sup>5</sup> According to the Registry, an expert is necessary to put in place "an appropriate and specific methodology" to respond to the anticipated problem that applicants who have already been contacted by the Office of Public Council for Victims ("OPCV") "may experience incomprehension and anxiety if they are contacted directly by the VPRS, in the absence of the OPCV, to discuss the content of their applications." (ICC-01/05-01/08-1601-Conf-Corr, paragraph 4).

<sup>6</sup> ICC-01/05-01/08-1601-Conf-Corr, paragraph 5.

of January 2012.”<sup>7</sup>

6. In accordance with Article 21(1) of the Rome Statute (“Statute”), the Chamber has considered the following provisions of the Statute, the Rules of Procedure and Evidence (“Rules”), the Regulations of the Court and the Regulations of the Registry: Articles 64 and 68 of the Statute, Rules 89 and 101 of the Rules, Regulations 35(2), 81 and 86 of the Regulations of the Court and Regulation 107 of the Regulations of the Registry.
7. Of particular relevance is Regulation 35(2) of the Regulations of the Court, which provides that “[t]he Chamber may extend or reduce any time limit if good cause is shown”. That is the provision against which the Chamber will consider the Registry’s Request.
8. The Chamber is mindful that the VPRS needs to have sufficient time to implement the Chamber’s Orders in a thorough manner. In this respect, the Chamber emphasizes that hitherto, it has afforded the Registry considerable latitude on timing and has granted the Registry several extensions of time to file submissions relating to the matters addressed in the Decision of 11 July. Specifically, the Registry was granted a 31 day extension<sup>8</sup> to file its “Final report on the investigations pursuant to the Chamber’s Decision on the ‘Report of the Registry drawing to the Chamber’s attention an issue regarding an application for participation in the proceedings’”.<sup>9</sup> Likewise, for the submission of the “Preliminary Report of the Registry on issues raised by the testimony of Witness W-73 during the proceedings of the case *The Prosecutor v. Jean-Pierre Bemba Gombo*”,<sup>10</sup> the Registry was initially granted a six day

<sup>7</sup> ICC-01/05-01/08-1601-Conf-Corr, paragraph 6.

<sup>8</sup> Decision on the Registry Request for an Extension of Time, 28 February 2011, ICC-01/05-01/08-1303-Conf-Exp, paragraph 11.

<sup>9</sup> ICC-01/05-01/08-1369-Conf-Exp.

<sup>10</sup> Preliminary Report of the Registry on issues raised by the testimony of Witness W-73 during the proceedings of the case *The Prosecutor v. Jean-Pierre Bemba Gombo* including three annexes, submitted by e-mail from the Associate Legal Officer, CMS, to the Legal Officer of Trial Chamber III, 17 March 2011 at 17.09.

extension of time<sup>11</sup> and was subsequently granted a further extension of one additional day.<sup>12</sup> In each instance in which the Registry sought an extension of time, the Chamber granted the requested number of additional days, and in one instance, granted an extension beyond the Registry's request.<sup>13</sup>

9. Balanced against the VPRS' need for adequate time is the imperative that victims' participation in the proceedings be effective and meaningful. Participating victims should be given sufficient opportunity to participate in the trial proceedings, and each postponement of the filing of applications automatically reduces this opportunity and therefore diminishes the concerned victims' ability to have their views and concerns presented and considered. Any extensions of time should therefore be limited to situations where the circumstances genuinely prevent the Registry from complying with the time limit imposed by the Chamber.
10. With regard to the present Request, the Chamber is of the view that the Registry has failed to show good cause why the interview process should be postponed until October 2011, which is the premise upon which its request for an extension of time until 31 January 2012 rests.
11. First and foremost, the Chamber set the deadline of 3 October 2011 on the basis of the VPRS' own submissions. The VPRS represented that it was able to review 30 applications per week on average.<sup>14</sup> On the basis of this information, the Chamber calculated that 231 applications could be verified within eight weeks. The Chamber's Decision was issued on 11 July 2011. If the VPRS had started the inquiries by 18 July 2011, it would have been possible –

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<sup>11</sup> Email from the Legal Officer of Trial Chamber III to the Associate Legal Officer, DCS, 10 March 2011 at 11.01.

<sup>12</sup> Email from the Legal Officer of Trial Chamber III to the Associate Legal Officer, DCS, 17 March 2011 at 16.29.

<sup>13</sup> See Email from the Legal Officer of Trial Chamber III to the Associate Legal Officer, DCS, 17 March 2011 at 16.29.

<sup>14</sup> Information received at a meeting with representatives of the VPRS on 20 April 2011.

based on VPRS' own estimates - to complete the inquiry by 12 September 2011, leaving the VPRS with three additional weeks to process the applications and to prepare a report thereon.

12. The VPRS' submission that the interview process can only start as of October 2011 is premised on the assertion that the interview process can not begin until a new interview methodology is formulated. The VPRS has not provided a convincing explanation on why a new methodology is required and the Chamber is not persuaded that it is. Accordingly, the Chamber is not convinced that the commencement of the interview process needs to be postponed until October 2011.

13. Because the Registry has apparently not yet begun to implement the Chamber's Orders, it is clear that the deadline of 3 October 2011 cannot be met without jeopardising the thoroughness of the verification process. Nevertheless, the Chamber expects the VPRS to initiate the interview process, at the very latest, by the end of the summer judicial recess. I.e., by 8 August 2011. Accepting the Registry's estimate of sixteen weeks to complete the implementation of the Chamber's Orders,<sup>15</sup> the Chamber grants, on one-time basis, an extension of time until 28 November 2011.

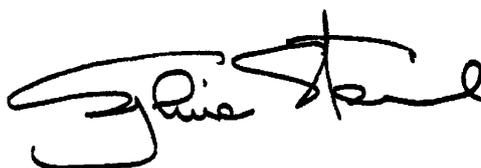
14. For these reasons, the Chamber hereby

- (a) PARTIALLY GRANTS the Registry's Request; and
- (b) ORDERS the VPRS to implement the Chamber's Orders by 16.00 on **28 November 2011**.

Done in both English and French, the English version being authoritative.

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<sup>15</sup> ICC-01/05-01/08-1601-Conf-Corr, paragraph 5.



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**Judge Sylvia Steiner**



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**Judge Joyce Aluoch**



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**Judge Kuniko Ozaki**

Dated this 29 July 2011

At The Hague, The Netherlands