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No.: **ICC-01/05-01/08**  
Date: **6 December 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***

**Public Document**

**Application by the Legal Representative of Victims for leave to call victims to appear as witnesses and present their views and concerns to the Chamber**

**Source: Ms Douzima-Lawson Marie-Edith, Legal Representative of Victims**

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

**The Office of the Prosecutor**

Ms Petra Kneuer

**Counsel for the Defence**

Mr Nkwebe Liriss

**Legal Representatives of the Victims**

Mr Assingambi Zarambaud

Ms Marie-Edith Douzima-Lawson

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(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

**Deputy Registrar**

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

1- This Application is submitted pursuant to the *Order regarding applications by victims to present their views and concerns or to present evidence* of 21 November 2011,<sup>1</sup> in which the Chamber requests Legal Representatives wishing to present evidence on behalf of their clients or wishing victims to present their views and concerns to the Chamber to seek the Chamber's leave in writing.

### **A) PRESENTATION OF EVIDENCE**

2- The Legal Representative intends to call victims she represents to testify before the Chamber in order to present evidence relating to the following charges confirmed against Jean-Pierre Bemba Gombo:

- (i) murder constituting a crime against humanity (count 7) within the meaning of article 7(l)(a) of the Statute;
- (ii) rape constituting a crime against humanity (count 1) within the meaning of article 7(l)(g) of the Statute;
- (iii) murder constituting a war crime (count 6) within the meaning of article 8(2)(c)(i) of the Statute;
- (iv) rape constituting a war crime (count 2) within the meaning of article 8(2)(e)(vi) of the Statute; and
- (v) pillaging constituting a war crime (count 8) within the meaning of article 8(2)(e)(v) of the Statute;

3- These victims, who have all been admitted as participants in the trial, will give evidence under oath in court in documentary form (written statements) derived from their interviews by the parties.

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<sup>1</sup> ICC-01/05-01/08-1935.

4- The Legal Representative estimates that the time required for the presentation of the evidence will be an average of six hours per victim.

5- Victims wishing to testify will seek to establish the prosecuted facts in order to contribute to the determination of the truth by assisting the Chamber in ascertaining what exactly happened. If allowed to testify in person before the Chamber, the victims can achieve this by sharing their knowledge of the context of the case with the Chamber or by drawing its attention to relevant information of which it has been unaware.

6- These victims have suffered pillaging, rape and the murder of their family members.

7- At paragraph 17 of its decision on the confirmation of the charges, the Pre-Trial Chamber stated that towns and cities in the Central African Republic, including Bossangoa, Damara, Bossembélé, Sibut, Bozoum, Bossembélé, PK 22 and Bangui, were among the many locations attacked.

8- At paragraph 288, the Pre-Trial Chamber states that there is evidence establishing that rapes were committed when MLC soldiers travelled through the territory of the Central African Republic.

9- However, all of the fifteen or so Prosecution witnesses with dual (victim/witness) status who have testified before the Chamber are all from Bangui, the capital of the Central African Republic, and the surrounding area.

10- Hence, the alleged acts ascribed to the *Banyamulenge* in the other areas of the Central African Republic referred to in the decision on the confirmation of the charges have been consistently challenged by the Defence from the confirmation of charges hearing up until the trial.

11- At paragraph 2 of the decision on the confirmation of the charges, the Pre-Trial Chamber noted that the Defence disputes the allegation that MLC soldiers were responsible for the crimes committed in the Central African Republic especially since other armed forces were involved in the fighting. In addition, during concluding observations in court, the Defence screened a video of persons interviewed in Sibut who claimed that the MLC troops were freeing the population from François Bozizé's troops. By showing this video, the Defence intended to demonstrate that whilst the alleged crimes occurred during the attack in the Central African Republic, they were not committed by MLC troops. It has maintained this argument throughout the trial, most recently during the examination of Witness 151.

12- Although the Legal Representative challenged the video, arguing that this video evidence originates from supporters of the MLC and Jean-Pierre Bemba Gombo and that the persons interviewed, who are local representatives of the town of Sibut appointed by Patassé when he was still president of the Central African Republic, would naturally testify for the MLC troops who came to support his regime (paragraph 103), the Defence again used this video at trial to challenge the testimony of several witnesses who stated that the MLC troops had also committed crimes in other towns and cities in the Central African Republic.

13- At paragraph 446 of the decision on the confirmation of the charges, the Pre-Trial Chamber found "that there is sufficient evidence to establish substantial grounds to believe that Mr Jean-Pierre Bemba Gombo, at all times relevant to the charges,

effectively acted as a military commander and had effective authority and control over the MLC troops who committed the crimes against humanity of murder and rape and the war crimes of murder, rape and pillaging in the CAR from on or about 26 October 2002 to 15 March 2003.”

14- Nonetheless, the Defence continues to dispute Bemba’s visit to his troops in the field. It has recently challenged the account of Witness 213, who stated that he accompanied Bemba to Bangui and to other towns and cities in the Central African Republic.<sup>2</sup>

15- In light of these persistent challenges, it is therefore appropriate for these victims from the localities in the Central African Republic mentioned in the decision on the confirmation of the charges to be afforded the opportunity to give evidence in respect of the alleged crimes, their perpetrators, and the period during which the events occurred in accordance with the material period indicated in the decision on the confirmation of the charges.<sup>3</sup>

16- In accordance with the decision of 23 December 2011 on the common legal representation of the victims, I represent the victims from the following geographical groupings:

Group B: In or around Damara and Sibut.

Group C: In or around Boali, Bossemgoa and Bozoum.

Group D: In or around Mongouma.

17- The victims proposed as witnesses live within these geographical groupings.

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<sup>2</sup> CAR-OTP-0056-0318, p. 340.

<sup>3</sup> *Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo.*

18- The information they will provide will assist the Chamber in gaining a better understanding of the facts before it and in assessing their scope.

19- Their testimony will serve to dispel misunderstandings over certain points, such as the manner in which the crimes were committed, the identity of the perpetrators and the exact period of the events.

20- These testimonies will also supplement the evidence presented by the Office of the Prosecutor.

21- Some victims will testify to Bemba's visit to his troops in their localities and the devastation wreaked upon the population by the *Banyamulenge* through their behaviour.

22- Three of the victims whom I have contacted are waiving their anonymity as witnesses. They feel that this is necessary for the determination of the truth.

23- It is not out of the question, therefore, that the other victims whom I shall contact during the winter recess will do likewise.

24- The proposed presentation of evidence will in no way prejudice the rights of the Accused to a fair trial. Firstly, this is a right accorded to the victims; secondly, the Accused will have the opportunity to cross-examine the victims who testify; and, finally, it is likely that all these witnesses will waive their anonymity.

24bis- Furthermore, I am not seeking to call all of the 1,038 victims I represent pursuant to the various decisions on the common legal representation of victims.

25- The Legal Representative intends to seek protective measures for these witnesses on grounds either of their safety or of their vulnerability.

26- These are victims who have been authorised to participate in the trial and are registered under the following numbers:

a/0394/08

a/0290/08

a/0175/10

a/0866/10

a/0555/08

a/0542/08

a/2349/10

a/1356/10

a/0573/08

a/1828/10

## **B) PRESENTATION OF THE VIEWS AND CONCERNS OF THE VICTIMS**

27- I rely on the jurisprudence in the *Lubanga* case<sup>4</sup> in seeking leave for those victims granted leave to appear as witnesses also to be allowed to present their views and concerns in person after giving testimony.

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<sup>4</sup> ICC-01/04-01/06-2031-Anx, Trial Chamber I, 9 July 2009.



28- The estimated time required for the presentation of the views and concerns of these victims is in the order of one and a half hours on average.

29- The interests of the participating victims are affected by the presentation of their views and concerns owing to their victim status.

30- At the appropriate time, their statements may also serve to enable an assessment of all the harm suffered by the victims.

**FOR THESE REASONS**

I respectfully request the Chamber to allow the ten victims to be called to present evidence as well as their own views and concerns.

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[signed]  
Ms Marie-Edith Douzima-Lawson

Dated this 6 December 2011

At The Hague, The Netherlands