



Original: **English**

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

Date: **22 July 2016**

TRIAL CHAMBER III

Before: Judge Joyce Aluoch, Presiding
Judge Geoffrey Henderson
Judge Chang-ho Chung

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
v. JEAN-PIERRE BEMBA GOMBO**

Public Document

Order requesting submissions relevant to reparations

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr Jean-Jacques Badibanga

Counsel for the Defence

Mr Peter Haynes
Ms Kate Gibson
Ms Melinda Taylor

Legal Representatives of the Victims

Ms Marie-Edith Douzima-Lawson

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

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Mr Nigel Verril

Detention Section

**Victims Participation and Reparations
Section**

Ms Isabelle Guibal

Trust Fund for Victims

Mr Pieter de Baan

Trial Chamber III (“Chamber”) of the International Criminal Court, in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (“Bemba case” or “case”), issues the following “Order requesting submissions relevant to reparations”:

1. On 21 March 2016, the Chamber issued its Judgment pursuant to Article 74 of the Rome Statute (“Judgment” and “Statute”, respectively).¹
2. On 4 April 2016, the defence filed its Notice of Appeal against the Judgment pursuant to Article 74 of the Statute.²
3. On 21 June 2016, the Decision on Sentence pursuant to Article 76 of the Statute was issued (“Sentencing Decision”).³
4. On 6 July 2016, the Presidency recomposed the Chamber.⁴
5. According to Article 75(1) of the Statute, the Court shall establish “principles relating to reparations”. The Chamber notes that, in *The Prosecutor v. Thomas Lubanga Dyilo* (“Lubanga case”), the Appeals Chamber has developed detailed principles on reparations.⁵ The Appeals Chamber ruled that the principles should be “general concepts that, while formulated in light of the circumstances of a specific case, can nonetheless be applied, adapted, expanded upon, or added to by future Trial Chambers”.⁶ The Appeals Chamber also determined five elements that, as a minimum, need to be addressed in a Reparations Order pursuant to Article 75 of the Statute.⁷

¹ Judgment pursuant to Article 74 of the Statute, 21 March 2016, [ICC-01/05-01/08-3343](#).

² Defence Notice of Appeal against the Judgment pursuant to Article 74 of the Statute, 4 April 2016, [ICC-01/05-01/08-3348](#).

³ Decision on Sentence pursuant to Article 76 of the Statute, 21 June 2016, [ICC-01/05-01/08-3399](#).

⁴ Decision replacing two judges in Trial Chamber III, 7 July 2016, [ICC-01/05-01/08-3403](#).

⁵ Amended Reparations Order, 3 March 2015, [ICC-01/04-01/06-3129-AnxA](#), paras 6 *et seq.* The Appeals Chamber referred to: the beneficiaries of reparations; the relevant harm; causation; dignity and non-discrimination and non-stigmatisation; the liability of the convicted person; the standard and burden of proof; the child victims; consultation with victims; the modalities of reparations; the proportionality of reparations; the rights of the defence; the role of states and other stakeholders; and the publicity of the proceedings.

⁶ Amended Reparations Order, 3 March 2015, [ICC-01/04-01/06-3129-AnxA](#), para. 5.

⁷ The Appeals Chamber indicated the following five essential elements must be addressed in a Reparations Order: (1) it must be directed against the convicted person; (2) it must establish and inform the convicted person of his or her liability with respect to the reparations awarded in the order; (3) it must specify, and provide

6. The Chamber notes that 5,229 victims were authorised to participate in the case pursuant to Article 68(3) of the Statute.⁸ In their applications, the victims outlined the circumstances of their victimization⁹ and provided information as to the harm they suffered.¹⁰ In addition, the Judgment and Sentencing Decision identify elements of the general impact of the crimes committed as well as specific harm suffered by certain individual victims.¹¹
7. In order to assist the Chamber, the Legal Representative of Victims (“LRV”) and the Defence for Mr Bemba (“Defence”), as well as the Office of the Prosecutor (“Prosecution”), the Registry and the Trust Fund for Victims (“TFV”) are requested to submit by 15 September 2016 observations on the following issues:
- a. whether the principles established by the Appeals Chamber in the *Lubanga* case need to be amended or supplemented in the light of the particular circumstances of the case;
 - b. the criteria and methodology to be applied in the determination and assessment of (i) the eligibility of victims; (ii) the relevant harms and (iii) the scope of liability of Mr Bemba, including the determination of the precise extent of the (monetary) obligations to be imposed on him;
 - c. the types and modalities of reparations appropriate to address the harm relevant in the circumstances of the case, including

reasons for, the type of reparations ordered, either collective, individual or both, pursuant to rules 97(1) and 98 of the Rules of Procedure and Evidence; (4) it must define the harm caused to direct and indirect victims as a result of the crimes for which the person was convicted, as well as identify the modalities of reparations that the Trial Chamber considers appropriate based on the circumstances of the specific case before it; and (5) it must identify the victims eligible to benefit from the awards for reparations or set out the criteria of eligibility based on the link between the harm suffered by the victims and the crimes for which the person was convicted; Judgment on the appeals against the ‘Decision establishing the principles and procedures to be applied to reparations’ of 7 August 2012”, 3 March 2015, [ICC-01/04-01/06-3129](#), para. 32.

⁸ Judgment, [ICC-01/05-01/08-3343](#), para 18.

⁹ Namely the facts, location(s) of the crimes, timeframe, alleged perpetrators, etc.

¹⁰ The victims provided documentation, such as lists of pillaged items, police reports, death certificates and medical certificates.

¹¹ Judgment, [ICC-01/05-01/08-3343](#), paras 624, 633 and 640; Sentencing Decision, [ICC-01/05-01/08-3399](#), paras 11, 23, 31-32, 35-40, 49-51.

- factors relating to the appropriateness of awarding reparations on an individual basis, a collective basis, or both;
- d. whether experts may be usefully appointed to assist the Chamber in determining any of the issues set out above pursuant to Rule 97 of the Rules of Procedure and Evidence (“Rules”);
 - e. any other issue the parties and participants wish to bring to the attention of the Chamber.
8. Organisations interested in making submissions on the issues set out above, pursuant to Article 75(3) of the Statute and Rule 103 of the Rules, must request leave from the Chamber by 15 August 2016.
 9. In addition, the Registry is requested to provide:
 - a. a list of experts available to assist the Chamber in its determinations of the relevant issues set out above;¹² and
 - b. an update on the security situation in the Central African Republic based on information currently available.
 10. At this preliminary stage and pending a determination by the Chamber of the approach to be taken on reparations, the Registry is *not* required to undertake steps in the field to publicise the reparations proceedings pursuant to Rule 96 of the Rules or seek individual applications for reparations.

¹² The list of experts should include individuals with relevant experience in: the mapping of victims, identification of traumas and assessment of harms suffered by victims of mass crimes, including a financial or monetary assessment, needs of prioritization and differentiation in categories of victims, including victims of sexual violence and child victims, and expertise on manners appropriate to avoid re-traumatization, stigmatisation and/or discrimination and to ensure gender inclusion in the proceedings leading to and the design of reparations in the case.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

ORDERS the LRV, the Defence, the Prosecution, the Registry and the TFV to submit the observations outlined in paragraph 7 of this Order by 15 September 2016;

ORDERS the Registry to report on the issues outlined in paragraph 9 of this Order by 15 September 2016;

INVITES interested organisations to request leave to make submissions, pursuant to Article 75(3) and Rule 103 of the Rules, on the issues outlined in paragraph 7 of this Order by 15 August 2016.

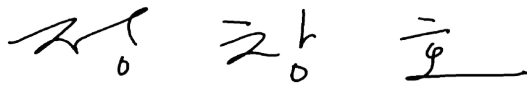
Done in both English and French, the English version being authoritative.



Judge Joyce Aluoch



Judge Geoffrey Henderson



Judge Chang-ho Chung

Dated this 22 July 2016

At The Hague, The Netherlands