



Original: **English**

No.: **ICC-01/05-01/08**
Date: **21 February 2017**

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 Redacted

Order inviting submissions on experts

Order 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

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

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

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* (“the case”), issues the following “Order inviting submissions on experts”.

I. Procedural background

1. On 22 July 2016, the Chamber ordered the Registry to, *inter alia*, provide a list of experts to assist the Chamber in its determinations relevant to reparations.¹ The Chamber set 15 September 2016 as deadline for the Registry to submit the list, and subsequently extended the deadline twice to 31 December 2016.²
2. The Registry filed the list of experts on 22 December 2016.³ The list includes 27 names. Subsequently, the Chamber was informed that an additional expert with relevant expertise on reparations was added to the general list of experts “accessible at all time to all Organs of the Court and all participants”, maintained by the Registry in accordance with Regulation 44(1) of the Regulations of the Court.⁴

II. Analysis

3. Pursuant to Rule 97(2) of the Rules of Procedure and Evidence and to facilitate the fair and expeditious conduct of the current phase of the proceedings, the Chamber is considering the appointment of one or more of the following experts to assist the Chamber in its determinations on reparations:

¹ ICC-01/05-01/08-3410, para. 9a. In footnote 12, the Chamber specified that the list 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”.

² Order on the Trust Fund for Victims’ request for an extension of the time limit, 07 October 2016, ICC-01/05-01/08-3442; Order on the Registry request for extension of time to identify experts, 28 October 2017, ICC-01/05-01/08-3453.

³ List of Proposed Experts Pursuant to Trial Chamber III’s Decisions ICC-01/05-01/08-3410 of 22 July 2016, ICC-01/05-01/08-3442 of 7 October 2016 and ICC-01/05-01/08-3453 of 28 October 2016, 22 December 2016, ICC-01/05-01/08-3487.

⁴ See emails from the Registry to the Chamber on 14 February 2017 at 14:27 and 16 February 2017 at 15:03.

- i. [REDACTED]
- ii. [REDACTED]
- iii. [REDACTED]
- iv. [REDACTED]

4. The defence for Mr Jean Pierre Bemba Gombo (“Defence”) and the legal representative of the victims (“LRV”), including the Office of Public Counsel for Victims (“OPCV”) as representatives of victim applicants, may provide their views on these experts. These views shall be provided *jointly*, unless the Defence, LRV and OPCV are unable to agree upon the appropriate expert(s) to be appointed.
5. Considering the submissions on reparations filed to date⁵ and the amount of information relevant to victims existing in the record of the case,⁶ the Chamber is of the preliminary view that the instructions given to the expert(s) should include the following issues:
- a. Victims and groups of victims eligible to benefit from reparations, including issues relevant to the “identification of victims”;
 - b. Types of relevant harm suffered by direct and indirect victims as a result of the crimes for which Mr Bemba was convicted, regardless of whether or not they have participated at trial;
 - c. Scope of Mr Bemba’s liability for reparations, including the financial or monetary assessment of the harm suffered by the victims under (b);

⁵ Submission by the International Organization for Migration to the International Criminal Court pursuant to article 75(3) of the statute on the issues proposed by Trial Chamber III on the 12th August 2016, 17 October 2016, ICC-01/05-01/08-3447; Submission by QUB Human Rights Centre on reparations issues pursuant to Article 75 of the Statute, 17 October 2016, ICC-01/05-01/08-3444; Observations by the Redress Trust pursuant to Article 75(3) of the Statute and Rule 103 of the Rules, 17 October 2016, ICC-01/05-01/08-3448; Joint submission by the United Nations containing observations on Reparations pursuant to Rule 103 of the Rules of Procedure and Evidence, 17 October 2016, ICC-01/05-01/08-3449; Defence observations on reparations, 31 October 2016, ICC-01/05-01/08-3458-Conf; Observations de la Représentante légale des victimes relativement aux réparations, 31 October 2016, ICC-01/05-01/08-3459-Conf; Prosecution’s Observations on Reparations, 31 October 2016, ICC-01/05-01/08-3454; Submissions relevant to reparations, 31 October 2016, ICC-01/05-01/08-3455; Registry’s observations pursuant to Trial Chamber Order ICC-01/05-01/08-3410 of 22 July 2016, 31 October 2016, ICC-01/05-01/08-3460; Observations relevant to reparations, 31 October 2016, ICC-01/05-01/08-3454.

⁶ ICC-01/05-01/08-3410, para. 6. This includes the information set out in the applications of 5,229 victims authorised to participate in the proceedings pursuant to Article 68(3) of the Statute, where the victims outlined the circumstances of their victimization and provided information as to the harm they suffered. In addition, the Judgment and Sentencing Decisions identify elements of the general impact of the crimes committed as well as specific harm suffered by certain individual victims; see Judgment, ICC-01/05-01/08-3343, paras 624, 633 and 640; and Sentencing Decision, ICC-01/05-01/08-3399, paras 11, 23, 31-32, 35-40, 49-51.

- d. Types and modalities of reparations that would be appropriate to address the harm under (b);
 - e. Criteria for victims' prioritization, including sexual violence, child victims, or other appropriate criteria.
6. The Defence and the LRV, including the OPCV, are to consult with a view to proposing joint instructions relevant to the issues identified above, including any specific aspect the experts should in their view address, for the Chamber's consideration, so that the expert(s) are placed in the best possible position to achieve a balanced and comprehensive analysis.⁷ If the Defence, LRV, and OPCV are unable to agree upon joint instructions, they are to propose separate instructions.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

ORDERS the Registry to provide the CV and application of [REDACTED] to the Defence, LRV and OPCV forthwith;

ORDERS the LRV, OPCV and the Defence to file joint observations on the experts identified at paragraph 3; or to file separate observations if, wholly or in part, an agreement cannot be found, by 3 March 2017;

ORDERS the LRV, OPCV and the Defence to file proposed "joint instructions" as set out at paragraphs 5 and 6; or to file separate instructions if, wholly or in part, an agreement cannot be found, by 3 March 2017;

INVITES the OTP, the Registry, and the Trust Fund for Victims to file observations on the proposed instructions, by 13 March 2017.

⁷ See Decision on the procedures to be adopted for instructing expert witnesses, 10 December 2007, ICC-01/04-01/06-1069, para. 15.

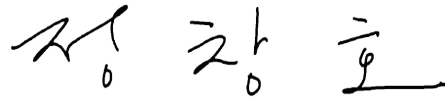
Done in both English and French, the English version being authoritative.



Judge Joyce Aluoch



Judge Geoffrey Henderson



Judge Chang-ho Chung

Dated this 21 February 2017

At The Hague, The Netherlands