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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**

**With confidential *ex parte* annexes only available to the Registry and the  
respective common legal representative**

**Decision on 653 applications by victims to participate in the proceedings**

**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  
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**Legal Representatives of the Victims**

Ms Marie-Edith Douzima Lawson  
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**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**

Mr Xavier-Jean Keïta

**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**

Trial Chamber III (“Trial Chamber” or “Chamber”) of the International Criminal Court (“Court” or “ICC”), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, (“Bemba case”) issues the following Decision on 653 applications by victims to participate in the proceedings.

## I. Background and Submissions

1. On 12 December 2008, the Single Judge of Pre-Trial Chamber III (“Pre-Trial Chamber”) issued his “Fourth Decision on Victims’ Participation” in which 54 individuals were authorised to participate as victims in the pre-trial stage of the present case.<sup>1</sup>

2. On 22 February 2010, Trial Chamber III issued its “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”. In this decision, the Chamber, *inter alia*, endorsed the Pre-Trial Chamber’s criteria regarding the documents necessary for an application, including those required for proof of an applicant’s identity.<sup>2</sup> The Chamber further instructed the Registry to transmit the applications for participation to the parties in an appropriate form whereby any information which may lead to the identification of the victims and their whereabouts has been expunged.<sup>3</sup>

3. On 30 June 2010, the Chamber issued its Decision on a first set of applications entitled “Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings”.<sup>4</sup>

<sup>1</sup> Fourth Decision on Victims’ Participation, 12 December 2008, ICC-01/05-01/08-320, pages 36 and 37.

<sup>2</sup> 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, ICC-01/05-01/08-699, paragraphs 35 and 36.

<sup>3</sup> ICC-01/05-01/08-699, paragraph 39 iii).

<sup>4</sup> Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings, 30 June 2010, ICC-01/05-01/08-807; *Corrigendum* to Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings, 12 July 2010, ICC-01/05-01/08-807-Corr.

4. On 18 August 2010, the Office of the Prosecutor (“prosecution”) filed the “Revised Second Amended Document Containing the Charges”.<sup>5</sup>

5. On 6 September 2010, Trial Chamber III issued its “Decision on three issues related to victims’ applications for participation in the proceedings” whereby it, *inter alia*, rejected the defence request for disclosure of dates and locations of alleged events described in victims’ applications for participation.<sup>6</sup>

6. On 7 September 2010, the Chamber issued its “Decision setting a time-limit for the submission of new victims’ applications for participation”.<sup>7</sup>

7. During the Status Conference held on 24 September 2010, the Chamber informed the parties that an approximate number of 850 victims’ applications to participate in the proceedings would be notified to the parties in sets and on a rolling basis. The Chamber further ordered the parties to submit their observations on each set within 10 days of being notified.<sup>8</sup>

8. On 18 November 2010, the Chamber issued its “Decision on 772 applications by victims to participate in the proceedings” (“Decision of 18 November 2010” or “18 November 2010 Decision”) whereby it decided on the second, third, fourth, fifth and sixth sets of victims’ applications for participation in the proceedings.<sup>9</sup>

9. The prosecution filed its observations on the seventh and eighth sets of

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<sup>5</sup> Revised Second Amended Document Containing the Charges, ICC-01/05-01/08-856 and its annexes.

<sup>6</sup> Decision on three issues related to victims’ applications for participation in the proceedings, 6 September 2010, ICC-01/05-01/08-871, paragraph 17.

<sup>7</sup> Decision setting a time-limit for the submission of new victims’ applications for participation, 7 September 2010, ICC-01/05-01/08-875.

<sup>8</sup> Transcript, ICC-01/05-01/08-T-25-Conf-ENG, 24 September 2010, pages 23 and 24.

<sup>9</sup> Decision on 772 applications by victims to participate in the proceedings, 18 November 2010, ICC-01/05-01/08-1017 and its confidential *ex parte* annexes.

victims' applications for participation in the proceedings on 28 October<sup>10</sup> and 11 November 2010,<sup>11</sup> respectively.

10. The defence filed its observations on the seventh and eighth sets of victims' applications for participation in the proceedings on 26 November<sup>12</sup> and 8 December 2010,<sup>13</sup> respectively.

## II. Relevant Provisions

11. 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") and the Regulations of the Court ("Regulations"):

### Article 68 of the Statute

#### Protection of the victims and witnesses and their participation in the proceedings

1. The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have regard to all relevant factors, including age, gender as defined in article 7, paragraph 3, and health and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The Prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

[...]

3. Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.

[...]

### Rule 85 of the Rules

<sup>10</sup> Prosecutions's Observations on 373 Applications for Victims' Participation in the Proceedings, 28 October 2010, ICC-01/05-01/08-979.

<sup>11</sup> Prosecution's Observations on 280 Applications for Victims' Participation in the Proceedings, 11 November 2010, ICC-01/05-01/08-1006.

<sup>12</sup> Defence Observations on the "Seventh Transmission to the parties and legal representatives of redacted versions of applications for participation in the proceedings", 26 November 2010, ICC-01/05-01/08-1053 and its confidential annex.

<sup>13</sup> Observations de la Défense sur les 280 demandes de participation à la procédure en qualité de victimes, 8 December 2010, ICC-01/05-01/08-1082 and its confidential annex.

### **Definition of Victims**

For the purposes of the Statute and the Rules of Procedure and Evidence:

- (a) 'Victims' means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court;
- (b) Victims may include organizations or institutions that have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes and to their historic monuments, hospitals and other places and objects for humanitarian purposes.

### **Rule 89 of the Rules**

#### **Application for participation of victims in the proceedings**

1. In order to present their views and concerns, victims shall make written application to the Registrar, who shall transmit the application to the relevant Chamber. Subject to the provisions of the Statute, in particular article 68, paragraph 1, the Registrar shall provide a copy of the application to the Prosecutor and the defence, who shall be entitled to reply within a time limit to be set by the Chamber. Subject to the provisions of sub-rule 2, the Chamber shall then specify the proceedings and manner in which participation is considered appropriate, which may include making opening and closing statements.

[...]

4. Where there are a number of applications, the Chamber may consider the applications in such a manner as to ensure the effectiveness of the proceedings and may issue one decision.

### **Rule 91 of the Rules**

#### **Participation of legal representatives in the proceedings**

1. A Chamber may modify a previous ruling under rule 89.

[...]

### **Regulation 86 of the Regulations**

#### **Participation of victims in the proceedings under rule 89**

1. For the purposes of rule 89 and subject to rule 102 a victim shall make a written application to the Registrar who shall develop standard forms for that purpose which shall be approved in accordance with regulation 23, sub regulation 2 [...]

[...]

3. Victims applying for participation in the trial and/or appeal proceedings shall, to the extent possible, make their application to the Registrar before the start of the stage of the proceedings in which they want to participate.

[...]

5. The Registrar shall present all applications described in this regulation to the Chamber together with a report thereon. The Registrar shall endeavour to present one report for a group of victims, taking into consideration the distinct interests of the victims.

6. Subject to any order of the Chamber, the Registrar may also submit one report on a number of applications received in accordance with sub-regulation 1 to the Chamber seized of the case or situation in order to assist that Chamber in issuing only one decision on a number of applications in accordance with rule 89, sub-rule 4. Reports covering all applications received in a certain time period may be presented on a periodic basis.

7. Before deciding on an application, the Chamber may request, if necessary with the assistance of the Registrar, additional information from *inter alia*, States, the Prosecutor, the victims or those acting on their behalf or with their consent. If information is received from States or the Prosecutor, the Chamber shall provide the relevant victim or victims with an opportunity to respond.

8. A decision taken by a Chamber under rule 89 shall apply throughout the proceedings in the same case, subject to the powers of the relevant Chamber in accordance with rule 91, sub-rule 1.

### III. Summary of the Observations of the Parties

12. The parties submitted observations on the redacted versions of the 653 applications dealt with in the present decision. These observations were taken into account when examining each application.

#### A. Observations of the Prosecution

13. The prosecution submits that 538 out of 653 applicants should be granted authorisation to participate from the proceedings as they *prima facie* meet the requirements. In relation to 37 applicants, the prosecution contends that, although they omit information in their applications, they can be presumed to meet the requirements.<sup>14</sup> With regard to these applicants, the prosecution recalls its previous submission according to which applicants claiming to be victims of sexual violence should be admitted.<sup>15</sup> It also reiterates its position that a certain number of identity documents which have not been enumerated by the Single Judge of the Pre-Trial Chamber should be considered as being sufficient to establish the applicant's identity.<sup>16</sup> It further submits that applications by victims for acts which occurred outside the charged time-frame but which are nonetheless close to the specified dates and within a general margin of appreciation should be accepted.<sup>17</sup>

14. With regard to 50 applicants, the prosecution contends that the redactions of information in the application or the identity document prevent it from assessing whether or not the applicants meet the requirements. Accordingly, the prosecution "leaves it to the Chamber" to determine whether the non-redacted applications meet the requirements or whether additional information needs to be requested.<sup>18</sup> In the same vein, the prosecution "leaves it to the Chamber" to

<sup>14</sup> ICC-01/05-01/08-979, paragraphs 8 and 9; ICC-01/05-01/08-1006, paragraphs 8, 9 and 19.

<sup>15</sup> ICC-01/05-01/08-979, paragraph 8.

<sup>16</sup> ICC-01/05-01/08-979, paragraph 7; ICC-01/05-01/08-1006, paragraph 7.

<sup>17</sup> ICC-01/05-01/08-979, paragraph 9.

<sup>18</sup> ICC-01/05-01/08-979, paragraphs 10 to 12; ICC-01/05-01/08-1006, paragraphs 10, 11 and 20.

determine whether two applications satisfy the time-frame of the charges.<sup>19</sup>

15. Furthermore, with regard to 23 applications, it is suggested that the applications be deferred until further information is provided by the applicants. This observation notably concerns applications where the applicant fails to indicate the precise location, date, or perpetrator of the alleged crime or where the description of the harm suffered is not precise enough to establish that the applicant suffered harm as a result of a crime charged.<sup>20</sup>

16. Finally, the prosecution submits that 3 applications do not meet the requirements for victim participation as they refer to acts of torture or beating or the death caused by a stray bullet. According to the prosecution these acts “are not part of the crimes with which the Accused is charged” or do “not amount to any of the crimes within the jurisdiction of the Court.”<sup>21</sup>

## **B. Observations of the Defence**

17. In the relief sought, the defence requests that all 653 applications for participation in the proceedings be rejected, because none of them fulfil the requisite criteria.

18. It further reiterates previous complaints formulated in relation to the six first sets of applications already decided upon by the Chamber. In particular, it complains as to the late filing of the applications and criticises the general scheduling of the transmissions, inasmuch as a significant number of applications, organised in different groups, were transmitted to the parties within a time-frame of less than one month.<sup>22</sup> The defence submits that, in the

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<sup>19</sup> ICC-01/05-01/08-1006, paragraphs 8, 9 and 21.

<sup>20</sup> ICC-01/05-01/08-979, paragraphs 13 to 18; ICC-01/05-01/08-1006, paragraphs 12, 17 and 22

<sup>21</sup> ICC-01/05-01/08-979, paragraphs 19, 20 and 26.

<sup>22</sup> ICC-01/05-01/08-1053, paragraph 5; ICC-01/05-01/08-1082, paragraphs 7 and 8.



event that the late disclosure of these application forms has prejudiced its ability to put relevant questions to the current prosecution witnesses, it reserves its right to request the Chamber to recall these witnesses in order to be able to submit additional questions or exhibits based on the information deriving from these application forms.<sup>23</sup> The defence further requests that the deadline for the submission of applications for participation be also made applicable to any additional information to be submitted.<sup>24</sup>

19. In addition, reiterating its complaint pertaining to the procedure applied to redactions, it requires the Chamber to order the Victims Participation and Reparation Section (“VPRS”) to disclose the unredacted versions of the applications to the prosecution and the defence as such extensive redactions do not enable the defence to (i) assess whether key elements of the criteria to be admitted as a participating victim are fulfilled (date and place of the alleged events and identity of the applicant) and (ii) access information which might be considered to be exculpatory or material to the preparation of the defence.<sup>25</sup>

20. The defence also contends that when the allegations are vague, the applications for participation should be rejected as the applicants did not submit sufficient details to allow a determination as to whether “the elements of an offence charged set out in the charges have been met”.<sup>26</sup> It submits for instance that many applicants alleging the commission of pillage did not provide (i) the necessary information as to the description of the property taken to allow the assessment of the gravity criterion or (ii) the necessary information to assess whether the property was appropriated without the consent of the rightful owner.<sup>27</sup>

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<sup>23</sup> ICC-01/05-01/08-1053, paragraph 6; ICC-01/05-01/08-1082, paragraph 10.

<sup>24</sup> ICC-01/05-01/08-1082, paragraph 9.

<sup>25</sup> ICC-01/05-01/08-1053, paragraphs 7 to 18; ICC-01/05-01/08-1082, paragraphs 11 to 25.

<sup>26</sup> ICC-01/05-01/08-1053, paragraph 19.

<sup>27</sup> ICC-01/05-01/08-1053, paragraphs 19 to 22; ICC-01/05-01/08-1082, paragraphs 34 to 37.

21. With regard to the individual applications, the defence restates the observations made in its previous filings, notably those pertaining to the applicant's failure to link the alleged harm to the events of the case (alleged crimes falling outside of temporal and geographical scope of the case as well as of the material scope for acts such as occupation of property or attempted murder<sup>28</sup>) and the unreliable nature of certain identification documents.<sup>29</sup>

22. In addition, the defence contends that applications should be rejected when the applicant identifies various persons, including persons who are not related to the crimes charged, as being responsible for their victimisation. Insofar as the Pre-Trial Chamber declined to confirm responsibility as co-perpetrator and instead confirmed the charges upon the basis of responsibility as a person effectively acting as military commander, it is submitted that such claims do not fall under the remit of the mode of liability confirmed by the Pre-Trial Chamber. In the same vein, it is contended that applications mentioning the presence of different warring groups without any reference to Mr Jean-Pierre Bemba should also be rejected.<sup>30</sup> It is further submitted that a group of applicants designated Mr Bemba as being responsible for their victimisation on the basis of hearsay and that in light of the indirect source of information, these applications for participation should be rejected.<sup>31</sup>

23. Lastly, the defence highlights that in a number of applications, the person who assisted the applicant in filling in the form, describes his occupation as being "*intermédiaire de la CPI*". According to the defence, as there is no official status of such designation, this gives rise to a "doubt as to the extent of the intermediary's involvement in the filling in of the applications for participation"<sup>32</sup>, insofar as it might have influenced the applicants with regard to their decision to submit an

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<sup>28</sup> ICC-01/05-01/08-1082, paragraphs 31 to 33 and 38 to 40.

<sup>29</sup> ICC-01/05-01/08-1082, paragraphs 28 to 29.

<sup>30</sup> ICC-01/05-01/08-1082, paragraphs 42 and 43.

<sup>31</sup> ICC-01/05-01/08-1082, paragraph 44.

<sup>32</sup> ICC-01/05-01/08-1082, footnote 53, making reference to ICC-01/05-01/08-1017, paragraph 52.

application as well as the content thereof.<sup>33</sup>

#### **IV. Analysis and Conclusions**

24. The applications are assessed by the Chamber in conformity with the general principles and criteria recalled and developed in its 18 November 2010 Decision, in particular in paragraphs 37 to 46. Furthermore, in its analysis, the Chamber follows the approach adopted in its 18 November 2010 Decision. Accordingly, general comments submitted by the parties will be analysed and decided upon in the present decision, while a case-by-case analysis of each application, addressing the parties' specific comments, is provided in Annexes A, B, C, D and E which should be read in conjunction with the present Decision.

##### **A) Individual applications for participation**

25. The Chamber will hereunder address specific issues raised by the parties in their respective observations. As the observations pertaining to the applicable evidential threshold for victims' applications, the scope of the case and the procedure applied to redactions have already been addressed by the Chamber in its 18 November 2010 Decision,<sup>34</sup> only additional issues raised by the parties in their observations to the seventh and eighth transmissions will be considered in the following paragraphs.

##### **1) Identification of perpetrators and persons responsible for the alleged crimes**

26. The Chamber notes the defence argument that a large number of applications should be rejected because the applicant identifies various persons or groups, including persons who are not related to the crimes charged, as being responsible for their victimisation. In this regard, the Chamber recalls that which

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<sup>33</sup> ICC-01/05-01/08-1082, paragraph 45.

<sup>34</sup> ICC-01/05-01/08-1017, paragraphs 48 to 60.

has already been underlined by the Chamber with regard to applicants who were not present at the material time and place:<sup>35</sup>

94. It will inevitably sometimes be impossible for applicants to establish precisely who committed relevant crimes during the alleged attacks in the CAR, particularly given their absence at the material time. In the view of the Chamber it would be a considerable and unfair burden to require an applicant to demonstrate who fired a particular shell or who looted a house or other property. The accused is charged with offences allegedly committed in the period between 26 October 2002 to 15 March 2003, and there is evidence that his troops allegedly targeted the civilian population in each of the relevant locations, in an organised manner, as they advanced into, and later retreated from, the CAR in the aftermath of military clashes with the troops of President Bozizé. Given that troops allegedly controlled by the accused were at the various locations described by the applicants at the time of the material events, notwithstanding the fact that the responsibility of others cannot be discounted, on the material provided to the Bench there is *prima facie* evidence (as opposed to proof beyond a reasonable doubt or on a balance of probabilities) that the relevant applicants are victims under Rule 85(a) of the Rules, having suffered personal harm as a result of crimes confirmed against the accused, in the period between 26 October 2002 to March 2003.

27. The Chamber is of the view that these considerations also apply, *mutatis mutandis*, to instances where the applicant attributes the responsibility to various persons or warring groups, including those connected to the charges. In this respect, the Chamber considers that a number of applicants might not be in a position to clearly attribute responsibility for their victimization. As a consequence, the Chamber is of a view that, given that troops allegedly controlled by the accused were at the various locations described by the applicants at the time of the material events, in the absence of any indication that the crimes were exclusively committed by perpetrators who are not linked to the present case, the mere reference in the applications to other persons or warring groups will not, as such, automatically serve to exclude the applicant. Such applications will need to be analysed on a case-by-case, notably by taking into account the general circumstances of the events, the account of the applicant and the coherence of the application for participation

2) Alleged crimes falling outside the material scope of the case

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<sup>35</sup> ICC-01/05-01/08-1017, paragraph 25.

28. The Chamber notes the defence contention that some applicants refer to acts with which the accused is not charged, namely acts of attempted murder, illegal occupation of property, ransacking or instances where applicants suffered from snakebites, sudden miscarriages or an unexplained coma.

29. In this respect, the Chamber recalls that whenever the interests of victims are not related to the confirmed charges, their applications for participation in the present case are rejected. Accordingly, the Chamber previously held that the harm resulting from the “shelling”<sup>36</sup>, the destruction of property by fire when there is no indication that the property was looted before being destroyed,<sup>37</sup> torture,<sup>38</sup> temporary detainment<sup>39</sup> and assault<sup>40</sup> are not reflected in the confirmed charges. Likewise, the Chamber is of the view that acts of illegal occupation of property, ransacking and instances of snakebites, sudden miscarriages and unexplained coma are not included in the crimes of which the accused is charged.

30. However, in relation to the defence contention as to acts of attempted murder, the Chamber is of the view that, depending on the specific circumstances, certain acts could amount to an attempt to commit one of the crimes under the confirmed charges and as such could be reflected in those charges. In particular, the Chamber considers that whenever an applicant has been deliberately shot at and not merely hit by a stray bullet, it can *prima facie* be inferred that the alleged perpetrator had the intent to cause the death of that applicant and has accordingly taken action commencing the execution of the charged crime of murder, by means of a substantial step, namely by deliberately shooting at the applicant with a deadly weapon. However, the alleged perpetrator did not achieve the act because of circumstances independent of his or her intentions. In such instances, the Chamber considers that such acts clearly

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<sup>36</sup> ICC-01/05-01/08-807-Corr, paragraph 89.

<sup>37</sup> ICC-01/05-01/08-807-Corr, paragraph 90.

<sup>38</sup> ICC-01/05-01/08-1017, paragraph 56.

<sup>39</sup> ICC-01/05-01/08-1017, paragraph 56.

<sup>40</sup> ICC-01/05-01/08-1017, paragraph 56.

constitute an attempt to commit the charged crime of murder within the framework of the Rome Statute and that accordingly, the application for participation should not be dismissed on the grounds raised by the Defence.

### 3) Vagueness of the allegations

31. With regard to the defence submission pertaining to the vagueness of the allegations and in particular in relation to pillage, the Chamber reiterates that the applicants are required to establish that the four criteria under Rule 85 have been met *prima facie*.<sup>41</sup> While this standard requires the applicant to provide a general description of the harm suffered, it is not necessary to provide either a detailed description of the constitutive elements of a particular offence or a precise description of each of the items allegedly pillaged. The Chamber further highlights that the defence selectively quoted the Pre-Trial Chamber II's decision pursuant to Article 61(7)(a) and (b) of the Statute ("Decision on the Confirmation of the Charges"). According to the defence, "cases of petty property expropriation may not fall under the scope of article 8(2)(e)(v) of the Statute"<sup>42</sup> and accordingly, in the absence of a description of the property allegedly taken, the gravity criterion cannot be assessed.

32. The Chamber considers that each single act of pillage shall not be assessed in isolation but shall be analysed in the context of the pillaging of a town or a place. In this respect, the Chamber further directs the defence's attention to *inter alia* paragraphs 322 to 355 of the Decision on the Confirmation of the Charges where instances of pillage of belongings such as livestock, clothing, food supplies, radios, televisions, money, furniture or cell phones are listed. Accordingly, such instances, qualified by the defence as amounting to "petty property expropriation" and thus not grave enough to be considered by the

<sup>41</sup> ICC-01/05-01/08-1017, paragraph 48.

<sup>42</sup> ICC-01/05-01/08-1053, paragraph 21 quoting the 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), ICC-01/05-01/08-424, paragraph 317.

Court, are in fact reflected in the confirmed charges. Therefore, the Chamber rejects the defence arguments in that respect.

4) The alleged role of so-called “*intermédiaires de la Cour*”

33. The Chamber notes the defence submission that a number of applications should be rejected because the person who assisted the applicants in filling in their forms describes his occupation as “*intermédiaire de la CPI*”.

34. At the outset, the Chamber recalls that it has recognised “the role that intermediaries might play during the application process, notably in assisting in the filling in of the forms, even writing down the answers given by applicants – some of them being illiterate or not speaking the language in which the form was filled in.”<sup>43</sup> The Chamber has further held that only when there is a “doubt as to the extent of the intermediary’s involvement in the filling in of the applications for participation” will the Chamber either reject the application for participation or defer its decision until further information is received pursuant to Regulation 86(7) of the Regulations of the Court.<sup>44</sup> In the instant case, the Chamber is not convinced by the defence argument that the mere fact that the persons consider themselves and might have introduced themselves to applicants as intermediaries for the Court might have either influenced the decision by the applicant to submit an application for participation or had any impact on their account of the events as a result of which they have allegedly suffered. Accordingly, in the view of the Chamber, the mere mention of the occupation of “*intermédiaire de la CPI*” does not, as such, give rise to a doubt of such nature as to require that the application be either rejected or deferred until further information is received.

35. Overall, in its assessment of the applications and of any material annexed

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<sup>43</sup> ICC-01/05-01/08-1017, paragraph 51.

<sup>44</sup> ICC-01/05-01/08-1017, paragraph 52.

thereto, the Chamber has ensured that the relevant applicants have provided sufficient evidence to establish, *prima facie*, that they are victims under Rule 85(a) or (b) of the Rules on the basis that they suffered personal harm as a result of crimes which have been confirmed against the accused, namely the alleged murder, rape or pillage by the Banyamulengués troops under the control of the accused from on or about 26 October 2002 to 15 March 2003. However, as a result of its assessment, the Chamber requests that further information be provided in relation to 76 applications for participation in order to reach a decision on the merits of these applications.

## **B) Summary of the Annexes**

36. The applicant-by-applicant analysis is set out in the appended annexes as follows:

- Annex A, filed as *ex parte* available to the Registry and Mr Zarambaud only: analysis of the applications belonging to Group A (alleged crimes committed in or around Bangui and PK12);
- Annex B, filed as *ex parte* available to the Registry and Ms Douzima only: analysis of the applications belonging to Group B (alleged crimes committed in or around Damara and Sibut);
- Annex C, filed as *ex parte* available to the Registry and Ms Douzima only: analysis of the applications belonging to Group C (alleged crimes committed in or around Boali, Bossembélé, Bossangoa and Bozoum);
- Annex D, filed as *ex parte* available to the Registry and Ms Douzima only: analysis of the applications belonging to Group D (alleged crimes committed in or around Mongoumba); and
- Annex E, filed as *ex parte* available to the Registry and Mr Zarambaud only: analysis of the applications made by witnesses.



## V) Orders

37. For these reasons, the Trial Chamber hereby:

a. Grants participating status to the following 553 applicants:

- Group A: a/0708/10; 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/0783/10;  
a/0784/10; a/0785/10; a/0786/10; a/0787/10; a/0808/10;  
a/0810/10; a/0836/10; a/0838/10; a/0868/10; a/0870/10;  
a/0872/10; a/0873/10; a/0874/10; a/0876/10; a/0877/10;  
a/0880/10; a/0886/10; a/0888/10; a/0889/10; a/0890/10;  
a/0893/10; a/0895/10; a/0896/10; a/0897/10; a/0908/10;  
a/0909/10; a/0911/10; a/0913/10; a/0914/10; a/0915/10;  
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a/0987/10; a/0988/10; a/0989/10; a/0990/10; a/0991/10;  
a/0992/10; a/0993/10; a/0994/10; a/0995/10; a/0996/10;  
a/0998/10; a/1002/10; a/1003/10; a/1004/10; a/1012/10;  
a/1013/10; a/1014/10; a/1023/10; a/1024/10; a/1025/10;  
a/1026/10; a/1027/10; a/1028/10; a/1032/10; a/1033/10;  
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a/1637/10; a/1638/10; a/1639/10; a/1640/10; a/1641/10;  
a/1642/10; a/1643/10; a/1644/10; a/1653/10; a/1654/10;  
a/1658/10; a/1660/10; a/1661/10; a/1662/10; a/1666/10;  
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a/1895/10; a/1896/10; a/1897/10; a/1898/10; a/1899/10;  
a/1915/10; a/1960/10; a/1961/10; a/1962/10; a/1975/10;  
a/1980/10; a/1991/10; a/1992/10; a/1997/10; a/2009/10;  
a/2012/10; a/2020/10; a/2024/10; a/2189/10; a/2196/10;  
a/2197/10; a/2211/10; a/2213/10; a/2214/10; a/2215/10;  
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a/2227/10; a/2229/10; a/2234/10; a/2235/10; a/2236/10;  
a/2238/10; a/2242/10; a/2262/10; a/2267/10; a/2268/10;

a/2269/10; a/2274/10; a/2280/10; a/0809/10; a/1630/10;  
 a/1664/10; a/1829/10; a/1856/10; a/2336/10; a/2337/10;  
 a/2356/10; a/2358/10; a/2359/10; a/2361/10; a/2364/10;  
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 a/2378/10; a/2379/10; a/2380/10; a/2381/10; a/2382/10;  
 a/2383/10; a/2384/10; a/2385/10; a/2386/10; a/2415/10;  
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 a/2467/10; a/2468/10; a/2470/10; a/2471/10; a/2472/10;  
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 a/2483/10; a/2511/10; a/2512/10; a/2514/10; a/2515/10;  
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 a/2524/10; a/2525/10; a/2526/10; a/2527/10; a/2528/10;  
 a/2530/10; a/2531/10; a/2532/10; a/2533/10; a/2534/10;  
 a/2541/10; a/2542/10; a/2544/10; a/2570/10; a/2571/10;  
 a/2572/10; a/2573/10; a/2574/10; a/2575/10; a/2576/10;  
 a/2577/10; a/2580/10; a/2581/10; a/2582/10; a/2583/10;  
 a/2586/10; a/2588/10; a/2590/10; a/2591/10; a/2596/10;  
 a/2604/10; a/2606/10; a/2607/10; a/2611/10; a/2615/10;  
 a/2620/10; a/2623/10; a/2624/10; a/2626/10; a/2628/10;  
 a/2631/10; a/2634/10; a/2637/10; a/2638/10; a/2639/10;  
 a/2640/10; a/2641/10; a/2642/10; a/2643/10; a/2644/10;  
 a/2645/10; a/2646/10; a/2647/10; a/2648/10; a/2649/10;  
 a/2650/10; a/2651/10; a/2654/10; a/2658/10; a/2661/10;  
 a/2662/10 and a/2665/10;

- Group B: a/1730/10; a/2367/10; a/2431/10; a/2485/10;  
 a/2486/10; a/2490/10; a/2491/10; a/2493/10; a/2494/10;

a/2495/10; a/2496/10; a/2497/10; a/2498/10; a/2499/10;  
 a/2500/10; a/2501/10; a/2503/10; a/2505/10; a/2522/10;  
 a/2535/10; a/2545/10; a/2546/10; a/2547/10; a/2548/10;  
 a/2549/10; a/2550/10; a/2551/10; a/2552/10; a/2553/10;  
 a/2554/10; a/2555/10; a/2556/10; a/2557/10; a/2558/10;  
 a/2559/10; a/2560/10; a/2561/10; a/2562/10; a/2563/10;  
 a/2564/10; a/2565/10; a/2566/10; a/2567/10; a/2568/10;  
 a/2569/10; a/2587/10; a/2617/10; a/2621/10; a/2627/10;  
 a/2629/10; a/2630/10; a/2635/10; a/2653/10; a/2663/10;

- Group C: a/2259/10; a/2313/10; a/2314/10; a/2315/10;  
 a/2317/10; a/2318/10; a/2320/10; a/2321/10; a/2322/10;  
 a/2323/10; a/2324/10; a/2325/10; a/2326/10; a/2327/10;  
 a/2328/10; a/2329/10; a/2330/10; a/2331/10; a/2332/10;  
 a/2333/10; a/2334/10; a/2335/10; a/2348/10; a/2349/10;  
 a/2351/10; a/2352/10; a/2355/10; a/2387/10; a/2388/10;  
 a/2390/10; a/2392/10; a/2396/10; a/2397/10; a/2398/10;  
 a/2399/10; a/2400/10; a/2403/10; a/2405/10; a/2406/10;  
 a/2407/10; a/2408/10; a/2409/10; a/2411/10; a/2455/10;  
 a/2480/10; a/2506/10; a/2508/10; a/2513/10; a/2578/10;  
 a/2584/10; a/2589/10; a/2592/10; a/2593/10; a/2595/10;  
 a/2598/10; a/2599/10; a/2600/10; a/2601/10; a/2602/10;  
 a/2603/10; a/2608/10; a/2609/10; a/2610/10; a/2614/10;

- Group D: a/0791/10; a/2338/10; a/2339/10; a/2340/10;  
 a/2341/10; a/2342/10; a/2343/10; a/2344/10; a/2345/10;  
 a/2346/10; a/2347/10; a/2517/10; a/2529/10; a/2536/10;  
 a/2537/10; a/2538/10; a/2539/10; a/2540/10; a/2543/10;  
 a/2579/10 and a/2585/10.

- Dual status: a/2412/10; a/2413/10 and a/2414/10.

b. Rejects the applications to participate by 24 applicants, namely:  
 a/0782/10; a/0906/10; a/1022/10; a/1042/10; a/1445/10; a/1539/10; a/1700/10;  
 a/1711/10; a/1715/10; a/1716/10; a/1717/10; a/1817/10; a/1833/10; a/1913/10;  
 a/2249/10; a/1350/10; a/2243/10; a/2319/10; a/2350/10; a/2374/10; a/2625/10;  
 a/2657/10; a/2659/10 and a/2660/10;

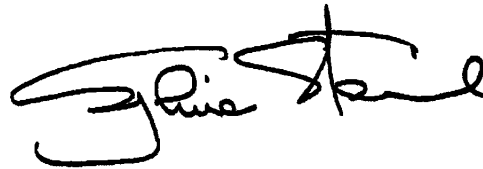
c. Defers its decision on the following 76 victims' applications until further information is submitted: a/0856/10; a/0859/10; a/0898/10; a/0899/10;  
 a/0900/10; a/0903/10; a/0905/10; a/0933/10; a/0935/10; a/0936/10; a/0939/10;  
 a/0944/10; a/0946/10; a/0948/10; a/0959/10; a/0985/10; a/1034/10; a/1036/10;  
 a/1037/10; a/1266/10; a/1268/10; a/1270/10; a/1276/10; a/1277/10; a/1280/10;  
 a/1281/10; a/1282/10; a/1284/10; a/1285/10; a/1287/10; a/1289/10; a/1371/10;  
 a/1372/10; a/1375/10; a/1376/10; a/1377/10; a/1378/10; a/1379/10; a/1765/10;  
 a/1766/10; a/1767/10; a/1770/10; a/1947/10; a/1957/10; a/1963/10; a/1966/10;  
 a/1967/10; a/1968/10; a/1971/10; a/1972/10; a/1974/10; a/1979/10; a/1981/10;  
 a/1982/10; a/1983/10; a/1984/10; a/1988/10; a/1989/10; a/1993/10; a/1994/10;  
 a/1996/10; a/1998/10; a/2000/10; a/2001/10; a/2004/10; a/2005/10; a/2010/10;  
 a/2014/10; a/2021/10; a/2022/10; a/2026/10; a/2271/10; a/2273/10; a/2448/10;  
 a/2463/10 and a/2434/10;

d. Rejects the defence request to order the VPRS to disclose at this stage unredacted versions of the applications for participation to the prosecution and the defence;

e. Orders the Registry to submit to the Chamber a report on any potential requests for protective and special measures for victims who have been granted status to participate as soon as practicable;

f. Orders that any victims who have been granted participating status and who wish to participate in person during the trial proceedings as of January 2011 shall apply in writing no later than 7 January 2011.

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



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Judge Sylvia Steiner



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Judge Joyce Aluoch



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Judge Kuniko Ozaki

Dated this Thursday 23 December 2010

At The Hague, The Netherlands