Cour Pénale Internationale

International Criminal Court

Original: **English**

No.: **ICC-01/05-01/08**
Date: **19 July 2012**

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

Public redacted version of "Decision on the tenth and seventeenth transmissions of 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 Aimé Kilolo Musamba
Mr Peter Haynes

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
Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

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 ("Chamber") of the International Criminal Court ("Court"), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* ("*Bemba* case") issues the following Decision on the tenth and seventeenth transmissions of applications by victims to participate in the proceedings ("Decision").

I. Background

1. Between 14 October 2010 and 17 March 2011, the Registry submitted three reports concerning the involvement of certain intermediaries in the completion of victims' applications for participation in the *Bemba* case.[1] In particular, the reports deal with the involvement of [REDACTED] intermediaries. [REDACTED].[2] [3]

2. On 14 January 2011, the Chamber issued its "Decision on the 'Report of the Registry drawing to the Chamber's attention an issue regarding an application for participation in the proceedings'",[4] whereby it ordered the Victims Participation and Reparations Section ("VPRS") to contact all applicants assisted by [REDACTED] in order to verify their statements.[5]

3. On 22 June 2011, the VPRS filed its "Tenth report to Trial Chamber III on applications to participate in the proceedings", *ex parte*, Registry only,[6]

[1] 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[REDACTED] 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.
[2] [REDACTED].
[3] [REDACTED].
[4] Decision on the "Report of the Registry drawing to the Chamber's attention an issue regarding an application for participation in the proceedings", 14 January 2011, ICC-01/05-01/08-1125-Conf-Exp.
[5] [REDACTED].
[6] Tenth report to Trial Chamber III on applications to participate in the proceedings, 23 June 2011, ICC-01/05-01/08-1561-Conf-Exp and confidential *ex parte* annexes.

and transmitted 203 victims' applications to the Chamber,[7] and the related redacted versions to the Office of the Prosecutor ("prosecution") and the defence (together "the parties")[8] ("Tenth Set"). The Tenth Set contains 203 applications that were completed with the assistance of [REDACTED] and verified by the VPRS.

4. 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'" ("11 July 2011 Decision"),[9] in which it ordered the VPRS to, *inter alia,* (a) contact the applicants assisted by [REDACTED] in order to verify the accuracy of the information contained in their applications; (b) contact the applicants assisted by [REDACTED] and included in the ninth transmission of applications for participation, in order to verify the accuracy of the information contained in their applications; and (c) file the original applications of re-interviewed applicants, together with any supplementary information collected as well as a consolidated individual assessment report by 16.00 on Friday 3 October 2011.

5. [REDACTED].[10] [11]

6. [REDACTED].[12]

7. On 28 November 2011, after having been granted an extension of time,[13] the VPRS filed its "Seventeenth report to Trial Chamber III on

[7] Tenth transmission to the Trial Chamber of applications for participation in the proceedings, 23 June 2011, ICC-01/05-01/08-1559 and confidential *ex parte* annexes.
[8] Tenth transmission to the parties and legal representatives of the applicants of redacted versions of applications for participation in the proceedings, 23 June 2011, ICC-01/05-01/08-1560 and confidential redacted annexes.
[9] 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.
[10] [REDACTED].
[11] [REDACTED].
[12] [REDACTED].
[13] Decision on the Registry's "Corrigendum to the Request for an extension of time to report on further investigations relating to intermediaries", 29 July 2011, ICC-01/05-01/08-1618-Conf.

applications to participate in the proceedings", *ex parte*, Registry only,[14] and transmitted 175 annexes with victims' applications to the Chamber[15] and the related redacted versions of these applications to the parties ("Seventeenth Set", together with the Tenth Set "Tenth and Seventeenth Sets"). [16] In accordance with the 11 July 2011 Decision, the Seventeenth Set contains applications that were completed with the assistance of [REDACTED] and verified by the VPRS, and it is accompanied by a "Report on the investigations pursuant to the Chamber's Decision on the Registry's 'Report on issues concerning intermediaries' involvement in completion of applications for participation'".[17]

8. Pursuant to the Chamber's order in the "Decision setting a timeline for the filing of observations on pending victims' applications", [18] the prosecution[19] and the defence[20] filed their observations on the Tenth and Seventeenth Sets on 14 and 15 July 2011, and on 20 December 2011 respectively.

9. 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

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[14] Seventeenth report to Trial Chamber III on applications to participate in the proceedings, 28 November 2011, ICC-01/05-01/08-1959-Conf-Exp and confidential *ex parte* annexes.
[15] Seventeenth transmission to the Trial Chamber of applications for participation in the proceedings, 28 November 2011, ICC-01/05-01/08-1957 and confidential *ex parte* annexes. Annex 56 includes three individual applications.
[16] Seventeenth transmission to the parties and legal representatives of the applicants of redacted versions of applications for participation in the proceedings, 28 November 2011, ICC-01/05-01/08-1958 and confidential redacted annexes.
[17] Report on the investigations pursuant to the Chamber's Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation", 28 November 2011, ICC-01/05-01/08-1960-Conf-Exp.
[18] Decision setting a timeline for the filing of observations on pending victims' applications, 9 September 2011, ICC-01/05-01/08-1726.
[19] Prosecution's Observations on 203 Applications for Victims' Participation in the Proceedings, 15 July 2011, ICC-01/05-01/08-1603; Prosecution's Observations on 175 Applications for Victims' Participation in the Proceedings, 20 December 2011, ICC-01/05-01/08-2025.
[20] Observations de la Défense sur la « Dixième transmission aux parties et aux représentants légaux des versions expurgées des demandes de participation à la procédure », 14 July 2011, ICC-01/05-01/08-1599 and confidential Annex A; Observations de la Défense sur les 175 demandes de participation transmises le 29 Novembre 2011, 20 December 2011, ICC-01/05-01/08-2024-Conf and confidential Annex A.

("Regulations"): Article 68 of the Statute, Rules 85 and 89 of the Rules and Regulation 86 of the Regulations.

II. Summary of the observations of the parties

A. Observations of the prosecution

10. In relation to the legal criteria for victims' participation in the proceedings, the prosecution reiterates the observations made in its previous submissions relating to victims' applications.[21]

11. Turning to the Tenth and Seventeenth Sets,[22] the prosecution submits that 300 applicants should be granted authorisation to participate as their applications meet all the requirements under Article 68(3) of the Statute for participation in the trial stage of the proceedings.[23]

12. In relation to five applicants, it is submitted that they should be deemed to meet the requirements. To that end, the prosecution asserts that with regard to applications that (i) fail to provide an exact date for the events mentioned in the account; (ii) provide a broad or imprecise time-frame for the harm allegedly suffered by the applicant; or (iii) mention a date which falls slightly outside the temporal scope of the charges in the present case, the applicants have nevertheless established, *prima facie*, the causal link between the harm suffered and the crimes committed within the acceptable time-frame.[24]

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[21] ICC-01/05-01/08-1603, paragraph 6; ICC-01/05-01/08-2025, paragraph 6,
[22] The prosecution provides observations in relation to 377 applications while the 378 annexes transmitted with the tenth and seventeenth transmissions comprise a total of 380 applications.
[23] ICC-01/05-01/08-1603, paragraph 7; ICC-01/05-01/08-2025, paragraph 9.
[24] ICC-01/05-01/08-1603, paragraphs 2 and 8 ; ICC-01/05-01/08-2025, paragraphs 20 to 21.

13. With respect to seventeen applicants, the prosecution submits that the applications may be deemed to meet the requirements for victim participation, or in the alternative, a decision on their applications should be deferred until further information or documentation is obtained.[25] This concerns instances where applicants (i) indicate the date of victimisation with reference to the general context of the events;[26] or (ii) confirm the original application in their additional statements appended to the applications but fail to confirm the dates of victimisation indicated in the original applications.[27]

14. With regard to forty applicants, the prosecution submits that a decision on their applications should be deferred until additional documentation or information is provided.[28] This concerns instances where the applicant (i) fails to provide valid identity documents or the required documents with regard to applications submitted on behalf of a relative;[29] (ii) fails to provide sufficient information concerning the dates of their victimisation[30] or the dates and the perpetrators of the crimes from which they claim to have suffered;[31] or (iii) provides an account that is not sufficiently clear to determine whether a crime covered by the charges was committed.[32]

15. In relation to nine applicants, the prosecution contends that redactions in their applications make it difficult to determine whether they meet all the requirements for participation and leaves it to the Chamber to decide whether the applicants have provided adequate proof of identity or

[25] ICC-01/05-01/08-1603, paragraph 8, 14 to 15 and 19; ICC-01/05-01/08-2025, paragraphs 22 to 23 and 42.
[26] ICC-01/05-01/08-1603, paragraph 8.
[27] ICC-01/05-01/08-2025, paragraph 22.
[28] ICC-01/05-01/08-1603, paragraphs 9 to 13 and 20; ICC-01/05-01/08-2025, paragraphs 27 to 37 and 43.
[29] ICC-01/05-01/08-1603, paragraphs 9 to 11; ICC-01/05-01/08-2025, paragraphs 23 to 26, 28 to 31, 37 and 40.
[30] ICC-01/05-01/08-1603, paragraph 12; ICC-01/05-01/08-2025, paragraphs 27, 32 and 33.
[31] ICC-01/05-01/08-2025, paragraph 31 and 32.
[32] ICC-01/05-01/08-2025, paragraph 34.

sufficient information to demonstrate a link between the alleged harm and the crimes charged.[33] With regard to four applicants who submitted that the dates recorded in their original applications were not accurate and subsequently provided information suggesting that the alleged events occurred during the Banyamulengués' first attack and, as such, at a time falling outside the temporal scope of the present case, the prosecution submits that "it cannot be ruled out that the trauma suffered by these applicants affected their ability to recollect the exact dates". The prosecution therefore leaves it to the Chamber to decide whether further information should be sought from these applicants.[34]

16. Finally, the prosecution submits that two applicants do not meet the requirements for participation, since their applications respectively refer to the destruction of property and acts of torture and violence which are not related to the crimes charged.[35]

B. Observations of the defence

17. The defence urges the Chamber to (i) reject all applications contained in the Tenth and Seventeenth Sets;[36] (ii) order the VPRS to communicate less redacted versions of the applications to the parties or to the prosecution so that it can fulfil its disclosure obligations to the defence;[37] (iii) instruct the VPRS to examine the redactions procedure with a view to ensuring that redactions are proportionate and are made only when absolutely necessary;[38] and (iv) either reclassify as "confidential" the annexes to its decisions on applications by victims to participate in the proceedings, or

[33] ICC-01/05-01/08-2025, paragraphs 38 to 39 and 44.
[34] ICC-01/05-01/08-1603, paragraphs 14 to 15.
[35] ICC-01/05-01/08-1603, paragraphs 16 to 17 and 22.
[36] ICC-01/05-01/08-1599, page 14; ICC-01/05-01/08-2024, page 15.
[37] ICC-01/05-01/08-1599, page 14; ICC-01/05-01/08-2024, page 15.
[38] ICC-01/05-01/08-1599, page 14; ICC-01/05-01/08-2024, page 15.

provide redacted versions thereof to the defence.[39] With regard to the redactions applied by the VPRS, the defence notably challenges the non-communication of the identities of the persons who assisted the applicants in completing their application forms. In this respect, the defence further highlights that the identities are redacted in all but one application, which, according to the defence, reveals the alleged "arbitrary nature" of the redactions applied by the VPRS.[40]

18. To substantiate its request to reject all applications, the defence relies upon the same arguments it formulated in relation to previous sets of applications. Specifically, the defence challenges the causal link between the harm allegedly suffered by the applicants and the location of *Mouvement de Libération du Congo* troops[41] or the charges against the accused.[42] The defence also argues that certain applications are incomplete, do not provide valid identity documents or lack precision.[43]

19. In line with its previous submissions, the defence requests that the Chamber reject the applications of a number of applicants on account of various factors that, in the view of the defence, undermine the applicant's credibility.[44] Specifically, the defence challenges applications where the information contained in the original application forms ("Original Applications") contradicts certain information contained in the additional statements appended to the forms ("Additional Statements"), which, in light of the Chamber's jurisprudence and in the absence of any explanation for the contradictions, should be rejected. The defence notably observes that in a number of applications, the applicants explain in the Additional

[39] ICC-01/05-01/08-2024, page 15.
[40] ICC-01/05-01/08-1599, paragraphs 13 to 16.
[41] ICC-01/05-01/08-1599, paragraphs 21 to 22; ICC-01/05-01/08-2024, paragraphs 13 to 18.
[42] ICC-01/05-01/08-1599, paragraphs 23 to 24; 11 to 14; ICC-01/05-01/08-2024, paragraphs 19 to 22.
[43] ICC-01/05-01/08-1599, paragraph 25; ICC-01/05-01/08-2024, paragraphs 29 to 33.
[44] ICC-01/05-01/08-1599, paragraphs 3 to 8; ICC-01/05-01/08-2024-Conf, paragraphs 6 to 12.

Statements that they do not remember the date of the alleged events while, in the Original Applications, they provided a precise date.[45]

20. According to the defence, such contradictions clearly demonstrate that the information contained in the Original Applications – or part of this information – does not reflect the applicants' own account of the events.[46]

21. Concerning the alleged tendency to provide an excessive value for the pillaged goods, the defence submits that this should be taken into account in the general assessment of the applicants' credibility, rather than for the mere purpose of the specific evaluation of the harm suffered, inasmuch as such an evaluation indicates an "excessive intervention" by an intermediary.[47]

III. Analysis and conclusions

22. The Chamber underlines that the present Decision was preceded by a number of confidential or *ex parte* filings. However, in light of the principle of publicity of the proceedings enshrined in Articles 64(7) and 67(1) of the Statute, the present Decision is filed confidentially, together with its corresponding public redacted version. To the extent that the public redacted or confidential versions make reference to the existence of, or, to a limited extent, the content of documents filed on a confidential or *ex parte* basis, the Chamber considers that the information concerned does not warrant confidentiality or, as the case may be, *ex parte* treatment at this time.

23. In this regard, the Chamber notes that the defence's observations on the Seventeenth Set (document ICC-01/05-01/08-2024-Conf) were filed confidentially while the defence's observations on the Tenth Set as well as

[45] ICC-01/05-01/08-2024-Conf, paragraph 6.
[46] ICC-01/05-01/08-2024-Conf, paragraph 8.
[47] ICC-01/05-01/08-1599, paragraphs 4 and 8; ICC-01/05-01/08-2024-Conf, paragraph 12.

the prosecution's observations on the Tenth and Seventeenth Sets were filed publicly. As a majority of the information contained in document ICC-01/05-01/08-2024-Conf does not warrant confidential treatment, the defence is instructed to file a public redacted version thereof. In accordance with the approach taken in the present Decision, the public should be informed that the applications contained in the Tenth and Seventeenth Sets were re-examined as a result of doubts as to the involvement of certain intermediaries in the completion of applications. However, any information suggesting that the applications contained in the Tenth and Seventeenth Sets were completed with the assistance of [REDACTED] should be redacted.

24. Turning to the parties' observations on the Tenth and Seventeenth Sets, the Chamber recalls that (i) the defence's request for the communication of less redacted versions of the applications, (ii) the submissions regarding the redaction procedure applied by the VPRS,[48] as well as (iii) the defence's request related to the confidentiality level of the annexes,[49] have all already been addressed in previous decisions on victims' applications. As in the present circumstances the defence does not provide any new arguments warranting a departure from the Chamber's previous findings, these requests are rejected.

25. In relation to the specific challenges concerning redactions of the identities of the individuals who assisted the applicants in completing their application forms, the Chamber recalls that redactions of these individuals' identities have been explicitly authorised by the Chamber. [50]

[48] Corrigendum to the Decision on 401 applications by victims to participate in the proceedings and setting a final deadline for the submission of new victims' applications to the Registry, 21 July 2011, ICC-01/05-01/08-1590-Corr, paragraphs 28 to 34 and 38(g).
[49] Decision on 471 applications, by victims to participate in the proceedings, 9 March 2012 (notified on 12 March 2012), ICC-01/05-01/08-2162, paragraphs 16-17.
[50] ICC-01/05-01/08-1590-Corr, paragraph 31.

Notwithstanding this general principle, there may be specific instances where the identity of the intermediary is disclosed. This is the case, in particular, when the intermediary is a person known to the parties, when he or she works for the Court or he or she is a participant involved in the present proceedings. In the context of the Tenth and Seventeenth Sets, one applicant was assisted by an individual whose identity is already known to the parties.[51] Consequently, this intermediary's name was not redacted in the application transmitted to the parties, and the defence's argument that the VPRS' approach relating to redactions of the name of intermediaries is of an "arbitrary" nature cannot be sustained.

26. For the purpose of analysing the individual applications in light of the parties' observations, the Chamber follows the approach adopted in its previous decisions.[52] Accordingly, the parties' observations in relation to the individual applications as summarised above, will be analysed and decided upon in the present Decision, while a case-by-case analysis for each application is provided in Annexes A, B, C, and D.

A. Individual applications for participation

1. Specificity of the applications contained in the Tenth and Seventeenth Sets

27. In the context of the Tenth and Seventeenth Sets, the Chamber's analysis focuses on the considerations pertaining to contradictions between the Original Applications and the Additional Statements, the credibility of the applicants and the extent of the intermediaries' involvement in the

[51] [REDACTED].
[52] See, for example, ICC-01/05-01/08-1590-Corr and Decision on 270 applications by victims to participate in the proceedings, 25 October 2011, ICC-01/05-01/08-1862.

completion of the applications. In this regard, the Chamber has previously held that "when there are indicators that there might have been a misunderstanding or that there is a doubt as to the extent of the intermediary's involvement in the completion of the applications for participation, it will either reject the application for participation or defer its decision until further information pursuant to Regulation 86(7) of the Regulations is received."[53] In line with this approach, and having identified such doubts with regard to certain intermediaries,[54] the Chamber previously deferred its decision on pending applications completed with the assistance of the intermediaries concerned.[55]

28. The Chamber was also of the view that the doubts related to the involvement of [REDACTED] should not prejudice the applicants concerned and decided that a sweeping rejection of all applications completed with the assistance of certain intermediaries was not warranted. Therefore, in order to provide the applicants with an opportunity to either confirm their original application or add any clarifications or rectifications, as necessary, the Chamber ordered the VPRS to consistently re-examine the applications completed with the assistance of [REDACTED]. For the sake of consistency and in order to ensure equal treatment of all applicants that would need to be re-interviewed, the Chamber further decided that all applicants concerned should be re-interviewed by the VPRS.[56]

29. During the period covered by this exercise, the applicants concerned did not suffer any material prejudice, insofar as, in accordance with the Chamber's "Decision on the legal representation of victim applicants at

[53] Decision on 772 applications by victims to participate in the proceedings, 18 November 2010, ICC-01-05-01/08-1017, paragraph 52.
[54] ICC-01/05-01/08-1862, paragraph 31; ICC-01/05-01/08-2011, paragraph 19.
[55] ICC-01/05-01/08-1017, paragraph 63(c); Decision on 653 applications by victims to participate in the proceedings, 23 December 2010, ICC-01/05-01/08-1091, paragraph 37(c); ICC-01/05-01/08-1590-Corr, paragraph 38(c).
[56] ICC-01/05-01/08-1593-Conf-Exp, paragraphs 29 and 34.

trial",[57] they continued to be represented by the legal representatives of the applicants and in particular by the OPCV.

30. Having received for each individual applicant the application form completed with the assistance of [REDACTED] together with a statement collected by the VPRS in the context of the re-examination, the Chamber is now in a position to make a balanced assessment in light of the applicants' own account of the alleged events. For that purpose, the Chamber developed a specific methodology, taking into account the specific features of the applications. This methodology will be sketched out below.

2. Methodology for the assessment of the applications contained in the Tenth and Seventeenth Sets

If the information provided in the Additional Statement is consistent with the information provided in the corresponding Original Application, the Chamber's assessment relies on both the Original Application and the Additional Statement

31. As a general rule and to the extent that the information provided in the Additional Statement is consistent with or complementary to the information contained in the Original Application, the Chamber bases its assessment on the information provided in both the Original Application and the Additional Statement.

In case of inconsistency between information provided in the Additional Statement and information contained in the Original Application, the Chamber's assessment is based on the information contained in the Additional Statement

[57] Decision on the legal representation of victim applicants at trial, 19 November 2010, ICC-01/05-01/08-1020.

32. In relation to apparent contradictions between the Original Application and the Additional Statement, the Chamber notes the defence's argument that in accordance with the Chamber's jurisprudence, applications revealing obvious contradictions between the accounts provided in the Original Application and the Additional Statement without any explanation should be rejected.

33. However, in the context of the Tenth and Seventeenth Sets, the Chamber is of the view that the doubts in relation to the intermediaries' involvement may explain such contradictions. In addition, the Additional Statement was provided upon the request of the Chamber and directly collected by the VPRS in order to verify whether the information contained in the Original Application was accurate. Accordingly, in the absence of any indication undermining the reliability of the information recorded in the Additional Statement, this information should be considered as reflecting a reliable account of the alleged events. As a result, in case of contradictions between the information provided in the Original Application and the Additional Statement, the Chamber's assessment is based on the information provided in the Additional Statement and, if applicable, additional observations conveyed in the VPRS reports.[58]

The Additional Statements are considered on the basis of their intrinsic coherence

34. In case of inconsistencies between the Original Application and the Additional Statement, the Chamber assesses the applications on a case-by-case basis and in light of the intrinsic coherence of the Additional Statements.

[58] Registry's assessment of applications, ICC-01/05-01/08-1561-Conf-Exp-Anx3 and ICC-01/05-01/08-1959-Conf-Exp-Anx3.

35. Without departing from its approach of assessing the applications on a case-by-case basis, a comparison between the Original Applications and the respective Additional Statements allows the Chamber to identify a series of recurrent patterns. As these patterns were also referred to in the parties' observations, they are addressed below.

36. First, in a number of Additional Statements, the applicants explain that they do not remember the exact date of the alleged events, while the corresponding Original Applications provide a precise date. In these cases, the Chamber is of the view that the acknowledgement that the person does not remember the precise date should not serve, *ipso facto*, to exclude the applicant. Rather, the Chamber assesses the applications on the basis of the intrinsic coherence within the Additional Statements, in order to determine whether the general context described in the Additional Statements indicates *prima facie* that the alleged events occurred within the temporal scope of the present case. In the absence of any indication to that effect, or if the information provided suggests that the alleged events fall outside the temporal scope of the present case, the applications will be rejected.

37. Second, the Chamber notes that in a number of Additional Statements, the applicant does not confirm all crimes that were referred to in the Original Applications. This observation specifically applies to the alleged crime of rape. In these instances, the Chamber assesses the applicants' accounts on the basis of the general information provided in the Additional Statements and any factors suggesting whether or not the applicant was raped. Depending on the circumstances, such factors may include, *inter alia*, information relating to the applicant's state of health, stigmatisation by the community or abandonment by the partner. In the absence of any such factors, the crime of rape will not be considered for the purpose of the assessment. Here, the Chamber further notes the internal report by the field

interpreters, highlighting that some applicants were reluctant to admit that they were victims of rape, and often used other expressions such as *"faire du mal"* (doing harm) to express that they were raped.[59]

B. Summary of the Annexes

38. The applicant-by-applicant analysis is set out in the appended Annexes as follows:

- Annex A, filed as *ex parte* only available to the Registry and Mr Assingambi Zarambaud: analysis of the applications belonging to Group A (alleged crimes committed in or around Bangui and PK12);
- Annex B, filed as *ex parte* only available to the Registry and Ms Marie-Edith Douzima Lawson: analysis of the applications belonging to Group B (alleged crimes committed in or around Damara and Sibut);
- Annex C, filed as *ex parte* only available to the Registry and Ms Marie-Edith Douzima Lawson: 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* only available to the Registry and Ms Marie-Edith Douzima Lawson: analysis of the applications belonging to Group D (alleged crimes committed in or around Mongoumba).

IV. Orders

39. For these reasons, the Chamber hereby:

a. Grants participating status to the following 331 applicants:

- Group A: a/0845/10; a/0847/10; a/0859/10; a/0905/10; a/1037/10; a/1266/10; a/1268/10; a/1270/10; a/1276/10; a/1277/10; a/1281/10;

[59] Internal Report of the field interpreters, 29 November 2011, ICC-01/05-01/08-1960-Conf-Exp-Anx2.

a/1284/10; a/1285/10; a/1289/10; a/1376/10; a/1377/10; a/1379/10; a/1459/10; a/1469/10; a/1517/10; a/1530/10; a/1533/10; a/1543/10; a/1550/10; a/1762/10; a/1766/10; a/1767/10; a/1770/10; a/1774/10; a/1776/10; a/1784/10; a/1790/10; a/1791/10; a/1794/10; a/1798/10; a/1804/10; a/1810/10; a/1921/10; a/1927/10; a/1929/10; a/1930/10; a/1944/10; a/1945/10; a/1947/10; a/1952/10; a/1953/10; a/1954/10; a/1956/10; a/1963/10; a/1966/10; a/1968/10; a/1971/10; a/1972/10; a/1974/10; a/1976/10; a/1979/10; a/1981/10; a/1984/10; a/1989/10; a/1993/10; a/1996/10; a/1998/10; a/2004/10; a/2005/10; a/2010/10; a/2014/10; a/2025/10; a/2026/10; a/2271/10; a/2273/10; a/2419/10; a/2423/10; a/2425/10; a/2429/10; a/2432/10; a/2433/10; a/2461/10; a/2469/10; a/2489/10; a/2836/10; a/0042/11; a/0043/11; a/0044/11; a/0045/11; a/0046/11; a/0051/11; a/0052/11; a/0053/11; a/0054/11; a/0055/11; a/0057/11; a/0059/11; a/0061/11; a/0062/11; a/0118/11; a/0123/11; a/0128/11; a/0129/11; a/0130/11; a/0131/11; a/0135/11; a/0136/11; a/0137/11; a/0138/11; a/0139/11; a/0324/10; a/0331/10; a/0644/10; a/0645/10; a/0668/09; a/0675/10; a/0676/10; a/0680/10; a/0686/10; a/0687/10; a/0688/10; a/0704/10; a/0848/10; a/0856/10; a/0862/10; a/0863/10; a/0898/10; a/0899/10; a/0900/10; a/0903/10; a/0907/10; a/0933/10; a/0935/10; a/0936/10; a/0939/10; a/0944/10; a/0948/10; a/0959/10; a/0984/10; a/0985/10; a/1034/10; a/1036/10; a/1282/10; a/1287/10; a/1371/10; a/1372/10; a/1378/10; a/1460/10; a/1487/10; a/1531/10; a/1572/10; a/1574/10; a/1627/10; a/1629/10; a/1632/10; a/1650/10; a/1765/10; a/1786/10; a/1924/10; a/1942/10; a/2258/10; a/2422/10; a/2426/10; a/2428/10; a/2435/10; a/2457/10; a/2462/10; a/2466/10; a/2482/10; a/3159/10; a/3245/10;

- Group B: a/1269/10; a/1369/10; a/1478/10; a/1490/10; a/1521/10; a/1545/10; a/1585/10; a/1597/10; a/1598/10; a/1800/10; a/1926/10; a/1940/10; a/1949/10; a/1977/10; a/1987/10; a/0844/10; a/0021/10; a/0048/11; a/0121/11; a/0306/10; a/0321/10; a/0646/10; a/0662/10; a/0670/10; a/0853/10; a/0854/10; a/0951/10; a/0999/10; a/1288/10; a/1515/10; a/1561/10; a/1577/10; a/1778/10;

- Group C: a/0842/10; a/0849/10; a/0858/10; a/0860/10; a/0861/10; a/1267/10; a/1271/10; a/1272/10; a/1275/10; a/1279/10; a/1370/10; a/1522/10; a/1542/10; a/1544/10; a/1595/10; a/1775/10; a/1780/10; a/1783/10; a/1792/10; a/1795/10; a/1922/10; a/1928/10; a/1931/10; a/1936/10; a/1938/10; a/1985/10; a/1990/10; a/1999/10; a/2002/10; a/2003/10; a/2006/10; a/2013/10; a/2015/10; a/2017/10; a/2027/10; a/2028/10; a/2270/10; a/2424/10; a/2456/10; a/2834/10; a/0009/10; a/0041/11; a/0133/11; a/0328/10; a/0663/10; a/0673/10; a/0857/10; a/0934/10; a/0937/10; a/0943/10; a/0949/10; a/0953/10; a/0956/10; a/0958/10; a/0960/10; a/0986/10; a/1274/10; a/1286/10; a/1373/10; a/1468/10; a/1509/10; a/1569/10; a/1771/10; a/1777/10; a/1781/10; a/1801/10; a/1943/10; a/1948/10; a/2838/10; a/2839/10; a/2420/10; a/2430/10; a/2438/10; a/2487/10;

- Group D: a/0841/10; a/0855/10; a/0901/10; a/1038/10; a/1278/10; a/1462/10; a/1495/10; a/1555/10; a/1556/10; a/1768/10; a/1769/10; a/1772/10; a/1796/10; a/1797/10; a/1805/10; a/1806/10; a/1807/10; a/1932/10; a/1933/10; a/1959/10; a/1978/10; a/2007/10; a/2016/10; a/2023/10; a/2272/10; a/2434/10; a/2440/10; a/2442/10; a/2448/10; a/2830/10; a/0119/11; a/0120/11; a/0124/11; a/0125/11; a/0127/11; a/0297/10; a/0302/10; a/0327/10; a/0648/10; a/0649/10; a/0657/10; a/0679/10; a/0681/10; a/0682/10; a/0689/10; a/0850/10; a/0932/10; a/0946/10; a/0947/10; a/0952/10; a/0957/10; a/0982/10; a/1000/10; a/1580/10; a/1802/10; a/1809/10; a/1923/10; a/1970/10;

b. Rejects the applications to participate of 49 applicants, namely: a/0840/10; a/1283/10; a/1374/10; a/1375/10; a/1471/10; a/1575/10; a/1779/10; a/1782/10; a/1785/10; a/1787/10; a/1788/10; a/1799/10; a/1808/10; a/1937/10; a/1951/10; a/1982/10; a/1983/10; a/1988/10; a/1994/10; a/2001/10; a/2021/10; a/2444/10; a/2447/10; a/2837/10; a/0060/11; a/0938/10; a/1280/10; a/1651/10; a/2022/10; a/2184/10; a/2664/10; a/0851/10; a/1039/10; a/1499/10; a/1955/10; a/1472/10; a/1764/10; a/1803/10; a/1965/10; a/2018/10; a/2451/10; a/2835/10;

a/0843/10; a/1964/10; a/2019/10; a/0126/11; a/0647/10; a/0684/10; a/2831/10;

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

d. Orders the Registry to (i) prepare a report compiling the extracts of the annexes to the present decision relating to applicants represented by the OPCV and whose applications were rejected; and (ii) notify the OPCV of such report as soon as practicable;

e. Orders the defence to file as soon as practicable a public redacted version of document ICC-01/05-01/08-2024-Conf in accordance with the instructions set out in paragraph 23 of the present Decision.

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

Judge Sylvia Steiner

Judge Joyce Aluoch **Judge Kuniko Ozaki**

Dated this 19 July 2012

At The Hague, The Netherlands