



Original: **English**

No.: ICC-01/05-01/08
Date: 7 December 2017

TRIAL CHAMBER III

Before: Judge Joyce Aluoch, Presiding Judge
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 version of “Seventeenth report to Trial Chamber III on applications to participate in the proceedings”, 29 November 2011,
ICC-01/05-01/08-1959-Conf-Exp**

Source: Registry

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

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the “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” issued by Trial Chamber III (the “Chamber”) on 22 February 2010 (“22 February 2010 Decision”);¹

NOTING the “Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings” dated 30 June 2010;²

NOTING the memorandum of the Presiding Judge dated 16 September 2010 which required the Registry to provide the Chamber with reports which, for each application, summarise the alleged facts and harm suffered as well as providing a *prima facie* assessment of the application’s compliance with the requirements of rule 85 of the Rules of Procedure and Evidence;³

NOTING the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 3 June 2011;⁴

NOTING the “Status of the applications filled in with the assistance [Intermediary 1]” dated 6 May 2011;⁵

NOTING the Chamber’s “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” dated 21 July 2011;⁶

¹ ICC-01/05-01/08-699.

² ICC-01/05-01/08-807.

³ Memorandum dated 16 September 2010 from the Presiding Judge to the Director, Division of Court Services.

⁴ ICC-01/05-01/08-1478-Conf.

⁵ ICC-01/05-01/08-1391-Conf-Exp.

⁶ ICC-01/05-01/08-1590.

NOTING the Chamber's Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 11 July 2011 (the "11 July Decision");⁷

NOTING the Registry's "Corrigendum to the Request for an extension of time to report on further investigations relating to intermediaries" dated 20 July 2011,⁸ and the Chamber's "Decision on the Registry's "Corrigendum to the Request for an extension of time to report on further investigations relating to intermediaries" dated 29 July 2011;⁹

NOTING the OPCV "Information to the Chamber following the "Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 16 September 2011¹⁰ and the Chamber's "Decision on the OPCV's application concerning the inquiry into victims' applications completed with the assistance of Intermediary 1" dated 17 October 2011;¹¹

NOTING article 68(3) of the Rome Statute, rule 89(1) of the Rules of Procedure and Evidence and regulation 86 (4), (5) and (7) of the Regulations of the Court;

CONSIDERING that pursuant to the Chamber's 11 July Decision the Registry conducted interviews in the Central African Republic ("CAR") with 179 applicants regarding the content of their applications for participation;

⁷ ICC-01/05-01/08-1593-Conf.

⁸ ICC-01/05-01/08-1601-Conf-Corr.

⁹ ICC-01/05-01/08-1618-Conf.

¹⁰ ICC-01/05-01/08-1755-Conf-Exp.

¹¹ ICC-01/05-01/08-1844-Conf.

CONSIDERING that the applications submitted by 175 persons¹² have now been processed and redacted in accordance with the guidelines established by the Chamber;¹³

TRANSMITS to the Chamber the following report on 175 applications for participation in the proceedings.

A. Background and content of this report

1. The present report covers 175 applications to participate in the proceedings of natural persons.
2. The 175 applications have been filed with the Chamber. The present report serves to transmit to the Chamber the reports which are required by regulation 86(5) of the Regulations of the Court as further elaborated by the memorandum of the Presiding Judge dated 16 September 2010.
3. 128 of the 175 applications covered in this report have previously been transmitted to the Chamber and parties.¹⁴ Following the 14 October Registry Report and the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation",¹⁵ the Chamber deferred its decision on these applications until further information was submitted.¹⁶ In accordance with the Chamber's 11 July Decision, these

¹² Applicants [REDACTED] were met in the course of the inquiry, but their applications have been assessed as incomplete and not related to the case, respectively. They are thus not transmitted. [REDACTED]

¹³ ICC-01/05-01/08-699, paragraph 33.

¹⁴ A list of these applications was transmitted to the Chamber, the parties and participants in ICC-01/05-01/08-1391-Conf-Exp-Anx. Another list of applications completed with the assistance of Intermediary 2 and that were included in the Ninth transmission of victims applications for participation was provided by email on 7 June 2011 at 12:01, sent by the Chief of Section, VPRS to the Legal Officer, Pre-Trial Division.

¹⁵ ICC-01/05-01/08-1478-Conf.

¹⁶ ICC-01/05-01/08-1017 paragraph 63 d), ICC-01/05-01/08-1091 paragraph 67 b), and ICC-01/05-01/08-1590 paragraph 38 c).

applications are now transmitted again along with supplementary information collected during the inquiry process.¹⁷

4. For a small number of applications,¹⁸ the VPRS was not able to meet directly with the applicant, but with a close relative who declared that he or she could speak on his or her behalf. Where this is the case, it is indicated in the individual assessment. In one specific case,¹⁹ the relatives conveyed, supported by a medical certificate, that the applicant was too affected by the events to meet the VPRS. In this case, the declaration taken from his relative,²⁰ as regards the relative's application, confirmed the content of the applicant's application.

5. This report provides an overview of the applications transmitted, while the following documents are provided as annexes:
 - **Annex 1:** An explanation of the contents of the individual assessment reports which constitute Annex 3;
 - **Annex 2:** Map showing the geographical areas used to group applications;
 - **Annex 3:** Reports under regulation 86(5), providing the Registry's assessment of each application (as explained in Annex 1);
 - **Annex 4:** Additional documents sent by the Office of Public Counsel for Victims (OPCV) to the VPRS in relation to individual applications;
 - **Annex 5:** Index showing applications filed with this report per geographical area A to D.

¹⁷ ICC-01/05-01/08-1593-Conf., paragraph 37 e).

¹⁸ [REDACTED]

¹⁹ [REDACTED]

²⁰ [REDACTED]

6. As described in its previous reports,²¹ the Registry has categorized applications according to the geographical locations at which crimes are alleged by the applicants to have been committed.²² These groupings are explained in Annex 1 and shown on the map in Annex 2. The applications which are the subject of this report fall within all four groups, but in order to facilitate the Chamber's consideration, an Index is provided as Annex 4. This annex divides the applications according to their groups (groups A to D) based on the geographical area of the alleged events.²³ The Registry draws to the Chamber's attention the fact that it is not aware, when processing the applications, whether any applicants would fall within group E (dual status victims)²⁴. As a consequence, none of the applications has been allocated to this group.
7. In view to ensure that a unique and coherent message is sent to the applicants who were assisted by one of the intermediaries and who were met by the VPRS whether in the course of the first or second inquiry mission, the Registry recommends that a single decision on applications that were the subject of the two inquiries be issued.

B. *Prima facie* assessments in relation to rule 85

8. As requested by the Chamber, the Registry has, for each application covered by this report, undertaken a *prima facie* assessment of compliance with the requirements of rule 85. The reports which constitute Annex 3 show the individual results of these assessments, and the reasons for them

²¹ For example, the Registry's Report on applications to participate in the proceedings, ICC-01/05-01/08-653-Conf-Exp, paragraph 8 ; Second report to Trial Chamber III on applications to participate in the proceedings, ICC-01/05-01/08-796-Conf-Exp, paragraphs 6 to 8, and annex 2 to that report (ICC-01/05-01/08-796-Conf-Exp-Anx2).

²² As set out in Public Redacted Annex B to the "Prosecution's Submission of the Document Containing the Charges as Confirmed by the Pre-Trial Chamber filed in accordance with the Chamber's Order of 7 October 2009", ICC-01/05-01/08-593, dated 4 November 2009.

²³The Registry notes that as regards Group D, Mougoumba and the surrounding area, some applications have been included in this group even though it is not clear whether in fact the alleged incident took place closer to Bangui or to the area of Mougoumba, which is situated to the South of Bangui. This is due to the similarity in the patterns of events alleged by these applicants.

²⁴ ICC-01/05-01/08-1012-Corr.

(including whether the requirements of rule 85 are demonstrated and any legal issues which are apparent), as well as summaries of the applications.

9. All *prima facie* assessments included in the current report take into account any new information collected during the investigation process, as well as each individual Report of the interview (contained in Annex 3) between the VPRS staff and the applicant during the conduct of the inquiry, in order to draw an overall conclusion on the application. Further details on the content of the individual assessments, are provided in Annex 1, including explanations of how specific issues arising in the context of the inquiry have been dealt with in the Registry's *prima facie* assessment reports.²⁵

10. In relation to each application, the Registry indicates either that:
 - (a) The application appears *prima facie* to comply with the requirements of rule 85; or
 - (b) Unclear: the Registry is not in a position to make a *prima facie* assessment without further guidance from the Chamber on specific matters that are indicated.

C. Documents transmitted by the OPCV

11. Pursuant to the Chamber's Decision²⁶, the Registry has received Additional Information from the OPCV which may be of relevance to the Chamber in determining the applications for victims' status covered by the present report.²⁷

²⁵ The Registry notes that modifications have been made to the document usually filed as Annex 1 to the Registry's Reports on applications for participation in the proceedings. Notably part "A Report of Interview with Applicant" has been added and amendments made to paragraphs 29, 49, 51, 52 and 64.

²⁶ ICC-01/05-01/08-1844-Conf. paragraph 15.

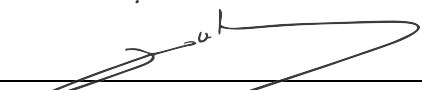
²⁷ On 21 October 2011 the OPCV provided VPRS with an additional table containing information in the Office's possession that it believed could be of assistance for the VPRS when meeting with 75 applicants in the course of the inquiry, and informed the VPRS that the Chamber is in possession of all the documents quoted in the OPCV filing ICC-01/05-01/08-1755-Conf-Exp.

12. The Registry has reviewed and taken into consideration the information transmitted by the OPCV when reviewing the applications concerned. However the Registry has ultimately conducted its own analysis and made its own assessments of the applications. The Registry's *prima facie* assessments as reflected in the reports comprising Annex 3 therefore take into account, but are not determined by, the views of the OPCV as set out in Annex 4 to the present report.

D. Protection

13. The Registry notes that the 175 applications which are the subject of this report have been transmitted in redacted form to the parties in compliance with the Chamber's order,²⁸ and in accordance with the guidelines on redactions provided in the 22 February 2010 Decision. The redacted applications have also been notified to the legal representatives of the respective applicants in compliance with the Chamber's order conveyed by email on 26 August 2010.²⁹

14. At this time no further measures of protection appear to be necessary.



Marc Dubuisson, Director, Division of Judicial Services
per delegation of the Registrar

Dated this 7 December 2017

At The Hague, The Netherlands

²⁸ Email of 16 September 2010 from the Legal Advisor, Trial Division, to the Director, Division of Court Services and the Chief, VPRS.

²⁹ Email of 26 August from the Legal Officer, Trial Chamber III to the Assistant Legal Officer, Division of Court Services.