



Original: **English**

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

Date: **6 April 2018**

**TRIAL CHAMBER III**

**Before:** Judge Geoffrey Henderson, Presiding Judge  
Judge Chang-ho Chung  
Judge Kimberly Prost

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC**

**IN THE CASE OF**

***THE PROSECUTOR v. JEAN-PIERRE BEMBA GOMBO***

**Public Document**

**With Public Annexes 1 and 2 and Confidential *EX PARTE* Annexes 3, 4 and 5 only  
available to the Registry**

**Public redacted version of "Twenty-second report to Trial Chamber III on  
applications to participate in the proceedings", 17 February 2012,  
ICC-01/05-01/08-2132-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**

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**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** Trial Chamber III’s (“Chamber”) decisions on applications by victims to participate in the proceedings issued on 22 February 2010 (“22 February 2010 Decision”),<sup>1</sup> 30 June 2010,<sup>2</sup> 18 November 2010,<sup>3</sup> 23 December 2010,<sup>4</sup> 8 July 2011,<sup>5</sup> 25 October 2011<sup>6</sup> and 15 December 2011;<sup>7</sup>

**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 provide a *prima facie* assessment of the application’s compliance with the requirements of rule 85 of the Rules of Procedure and Evidence;<sup>8</sup>

**NOTING** that on 2 September 2011, the Chamber instructed the Registry to transmit any pending applications in batches of 200 to 350 applications on a continuing basis;<sup>9</sup>

**NOTING** article 68(3) of the Rome Statute, rule 89(1) of the Rules of Procedure and Evidence and regulations 23 *bis*, 24 *bis* (2) and 86(5) of the Regulations of the Court;

**CONSIDERING** that the present document and its annexes are filed with the status “Confidential *ex parte*, only available to the Registry”, in order to

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<sup>1</sup> ICC-01/05-01/08-699.

<sup>2</sup> ICC-01/05-01/08-807.

<sup>3</sup> ICC-01/05-01/08-1017.

<sup>4</sup> ICC-01/05-01/08-1091.

<sup>5</sup> ICC-01/05-01/08-1590.

<sup>6</sup> ICC-01/05-01/08-1862.

<sup>7</sup> ICC-01/05-01/08-2011.

<sup>8</sup> Memorandum dated 16 September 2010 from Presiding Judge to Director, Division of Court Services (“DCS”).

<sup>9</sup> Email of 2 September 2011 from Assistant Legal Officer, Trial Division, to Chief, Victims Participation and Reparations Section (“VPRS”). On 9 December 2011, the Chamber granted two additional filing dates, on 27 January and 17 February 2012, to file the remaining applications (ICC-01/05-01/08-T-200, p. 61).

sufficiently protect the identity of the applicants and their intermediaries when applicable;

**CONSIDERING** that a further 308 applications have now been processed and redacted in accordance with the guidelines established by the Chamber;<sup>10</sup>

**TRANSMITS** to the Chamber the following report on 308 applications for participation in the proceedings.

#### **A. Background and content of this report**

1. The present report covers 308 applications to participate in the proceedings.
2. Eight applications<sup>11</sup> covered in this report have been filed previously,<sup>12</sup> and were rejected by the Chamber.<sup>13</sup> Furthermore, one application<sup>14</sup> has been

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<sup>10</sup> ICC-01/05-01/08-699, para. 33.

<sup>11</sup> [REDACTED].

<sup>12</sup> ICC-01/05-01/08-954-Conf-Exp-Anx57 and ICC-01/05-01/08-954-Conf-Anx57-Red; ICC-01/05-01/08-932-Conf-Exp-Anx20, ICC-01/05-01/08-932-Conf-Anx20-Red, ICC-01/05-01/08-1381-Conf-Exp-Anx399 and ICC-01/05-01/08-1381-Conf-Anx399-Red; ICC-01/05-01/08-954-Conf-Exp-Anx114 and ICC-01/05-01/08-954-Conf-Anx114-Red; ICC-01/05-01/08-981-Conf-Exp-Anx64 and ICC-01/05-01/08-981-Conf-Anx64 -Red; ICC-01/05-01/08-1381-Conf-Exp-Anx297 and ICC-01/05-01/08-1381-Conf-Anx297-Red; ICC-01/05-01/08-1806-Conf-Exp-Anx212 and ICC-01/05-01/08-1806-Conf-Anx212-Red; ICC-01/05-01/08-1381-Conf-Exp-Anx73 and ICC-01/05-01/08-1381-Conf-Anx73-Red; ICC-01/05-01/08-1604-Conf-Exp-Anx202 and ICC-01/05-01/08-1604-Conf-Anx202 -Red.

<sup>13</sup> ICC-01/05-01/08-1017; ICC-01/05-01/08-1091; ICC-01/05-01/08-1590; ICC-01/05-01/08-1862 and ICC-01/05-01/08-2011. Applications [REDACTED] were rejected because the only identity document submitted by the applicants was a vaccination card, a document rejected by the Chamber as proof of identity. Application [REDACTED] was initially rejected because the applicant only reported the pillage of his grandmother's belongings and he did not provide any document establishing the identity of and kinship with his deceased grandmother. Subsequently, the application was rejected because the applicant failed to indicate whether he intends to act on behalf of his deceased grandmother. Application [REDACTED] was rejected because the statement signed by two witnesses attesting the identity of the applicant was not accompanied by proof of identity of the two witnesses. With respect to application [REDACTED] the Chamber held that the discrepancy between the two different dates for the alleged events provided by the applicant undermines her credibility. Insofar as application [REDACTED] is concerned, the Chamber held that the discrepancies in the applicant's and person's acting on behalf dates of birth, as well as in the applicant's date of death undermine the intrinsic coherence of the application. Application [REDACTED] was rejected because the applicant did not specify that the alleged criminal acts occurred or at least started on CAR territory and the Chamber was not satisfied that the events fall under the geographical scope of the present case. The Chamber noted that the applicant who submitted application [REDACTED] refers to the pillage of the goods and money belonging to the group of fishermen which is led by the applicant and in the

previously filed<sup>15</sup> and deferred by the Chamber.<sup>16</sup> Following the Chamber's instructions in its 22 February 2010 Decision,<sup>17</sup> the Registry is transmitting these applications for reconsideration by the Chamber in light of information received subsequently to the relevant decision.

3. Seven applications<sup>18</sup> covered in this report were received by the Registry from the Office of Public Counsel for Victims ("OPCV") by internal memorandum on 25 October 2011 ("Memorandum").<sup>19</sup> According to the OPCV, the first five applications mentioned in the Memorandum<sup>20</sup> were received by the OPCV from the VPRS on 7 September 2011 in a sealed envelope addressed to the OPCV, and the other two applications<sup>21</sup> were received on 14 September 2011 in the OPCV postal box. Since these seven applicants<sup>22</sup> submitted their applications for participation before 16 September 2011, the Registry has included them in the twenty- second transmission of applications for participation in the proceedings.
4. The 308 applications have been filed with the Chamber on 17 February 2012. 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.

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absence of any indication that his personal belongings were also pillaged, the application for participation in the proceedings was rejected.

<sup>14</sup> [REDACTED].

<sup>15</sup> ICC-01/05-01/08-954-Conf-Exp-Anx309 and ICC-01/05-01/08-954-Conf-Anx309-Red.

<sup>16</sup> ICC-01/05-01/08-1091.

<sup>17</sup> ICC-01/05-01/08-699, para. 20.

<sup>18</sup> [REDACTED].

<sup>19</sup> CAR-Bemba-T-2011-22-PM.

<sup>20</sup> [REDACTED].

<sup>21</sup> [REDACTED].

<sup>22</sup> [REDACTED].

5. All the applications that are the subject of this report appear to the Registry to be linked to the charges in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*.<sup>23</sup>
6. In accordance with the 22 February 2010 Decision,<sup>24</sup> the Registry is only filing the applications that appear to be complete, as assessed by reference to the relevant legal texts and jurisprudence.
7. The Registry is aware of the possibility that an applicant may introduce more than one application for participation in the proceedings and that such instances are normally discovered and dealt with in the usual course of processing by the Registry. The Registry would like to draw to the Chamber's attention the fact that, due to the large number of applications for participation in the proceedings being received from the field and processed within short delays at this time, no automatic check for duplicate applications is currently being performed prior to the filing of applications, so the Registry is not in a position to be certain that there are no applications in this category. Nevertheless, the Registry would like to inform the Chamber that checks for duplicates will be carried out at a later stage and should the Registry discover such applications at any point, it will bring the situation to the Chamber's attention without delay and withdraw registration numbers as appropriate.
8. This report provides an overview of the applications transmitted, while the following documents are provided as annexes:
  - **Annex 1:** Explanation of the contents of the individual assessment reports which constitute Annex 3;
  - **Annex 2:** Map showing the geographical areas used to group applications;

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<sup>23</sup> As determined by reference to 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 ("Document Containing the Charges").

<sup>24</sup> ICC-01/05-01/08-699, para. 35.

- **Annex 3:** Reports under regulation 86(5) of the Regulations of the Court, providing the Registry's assessment of each application (as explained in Annex 1);
  - **Annex 4:** Memoranda sent by the OPCV to the VPRS in relation to individual applications;
  - **Annex 5:** Index showing applications filed with this report by geographical area A to D.
9. As described in its previous reports,<sup>25</sup> the Registry has categorized applications according to the geographical locations at which crimes are alleged by the applicants to have been committed.<sup>26</sup> 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 5. This annex divides the applications according to their groups (groups A to D) based on the geographical area of the alleged events.<sup>27</sup> 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).<sup>28</sup> As a consequence, none of the applications has been allocated to this group.

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

10. 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 of the Rules of Procedure and Evidence. The reports,

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<sup>25</sup> Notably the Registry's Report on applications to participate in the proceedings (ICC-01/05-01/08-653-Conf-Exp, para. 8); Second report to Trial Chamber III on applications to participate in the proceedings (ICC-01/05-01/08-796-Conf-Exp, paras. 6 to 8) and annex 2 to that report (ICC-01/05-01/08-796-Conf-Exp-Anx2).

<sup>26</sup> As set out in the Document Containing the Charges (see *supra* footnote 15).

<sup>27</sup> The 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.

<sup>28</sup> ICC-01/05-01/08-1012-Corr.

which constitute Annex 3, show the individual results of these assessments, and the reasons for them (including whether the requirements of rule 85 of the Rules of Procedure and Evidence are fulfilled and any legal issues which are apparent), as well as summaries of the applications.

11. For applications completed with the assistance of intermediary 1 or intermediary 2 which are covered by this report, and for which the VPRS has re-interviewed the applicant, the *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 between the VPRS staff and the applicant during the conduct of the inquiry, in order to draw an overall conclusion on the application.<sup>29</sup>

12. 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) The application is 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. Protection

13. The Registry notes that the 308 applications which are the subject of this report have been transmitted in redacted form to the parties and the respective legal representative in compliance with the Chamber's order of 16 September 2010,<sup>30</sup> and in accordance with the guidelines on redactions provided in the 22 February 2010 Decision.

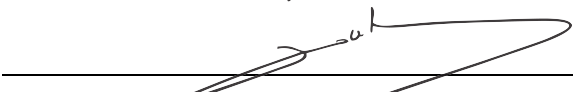
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<sup>29</sup> Please refer to Annex 1 of the Tenth and Seventeenth reports to the trial Chamber on applications to participate in the proceedings (respectively, ICC-01/05-01/08-1561 and ICC-01/05-01/08-1959) for further explanations on the content of the individual assessments, 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.

<sup>30</sup> Email of 16 September 2010 from the Legal Advisor, Trial Division, to Director, DCS and Chief, VPRS.



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

  
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Marc Dubuisson, Director, Division of Judicial Services  
*per* delegation of Herman von Hebel, Registrar

Dated this 6 April 2018

At The Hague, The Netherlands