



Original: **French**

No.: **ICC-01/05-01/08**
Date: **12 September 2008**

PRE-TRIAL CHAMBER III

Before: Judge Fatoumata Dembele Diarra, Single Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
*THE PROSECUTOR v. JEAN-PIERRE BEMBA***

Public Document

Decision on Victim Participation

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

The Office of the Prosecutor

Fatou Bensouda, Deputy Prosecutor
Petra Knauer, Trial Lawyer

Counsel for the Defence

Nkwebe Liriss
Tardja E. Van der Spoel
Aimé Kilolo-Musamba

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Paolina Massidda

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Defence Support Section

Victims and Witnesses Unit

Simo Vaatainen

Detention Section

**Victims Participation and Reparations
Section**

Fiona McKay

Other

1. **Judge Fatoumata Dembele Diarra**, judge at the International Criminal Court (“the Court”), acting as Single Judge¹ for Pre-Trial Chamber III (“the Chamber”), recalls that the confirmation hearing in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* (has been scheduled for 4 November 2008 and that accordingly a time limit should be set for the submission of any applications from victims for participation in the proceedings.

2. The Single Judge notes articles 21(2), 43(6) and 68 of the *Rome Statute* (“the Statute”), rules 17 to 19, 85 and 89 to 93 of the *Rules of Procedure and Evidence* (“the Rules”) and regulations 80, 81 and 86 of the *Regulations of the Court*.

3. The Single Judge notes that article 68(3) of the Statute provides that “[w]here 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”.

4. The Single Judge observes that with regard to the pre-trial phase of the proceedings and more specifically the confirmation of charges, rule 92(3) of the Rules states that “[i]n order to allow victims to apply for participation in the proceedings in accordance with rule 89, the Court shall notify victims regarding its decision to hold a hearing to confirm charges pursuant to article 61. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the case in question”. With regard to this notification, rule 92(8) of the Rules provides that “[f]or notification as referred to in

¹ ICC-01/05-01/08-86.

sub-rule 3 and otherwise at the request of a Chamber, the Registrar shall take necessary measures to give adequate publicity to the proceedings. In doing so, the Registrar may seek, in accordance with Part 9, the cooperation of relevant States Parties, and seek the assistance of intergovernmental organizations”.

5. The Single Judge notes that to date the Chamber has not received any applications from victims for participation in the proceedings even though the confirmation hearing was scheduled for 4 November 2008 at the initial appearance of Mr Jean-Pierre Bemba Gombo before the Chamber on 4 July 2008,² which was more than two months ago.

6. Accordingly, she notes that any victims wishing to participate in the pre-trial proceedings have had more than two months to submit their applications, and notes that the Registry should be afforded a reasonable time limit for transmitting the victims’ applications for participation to the Prosecutor and the Defence as requisite under rule 89 of the Rules and to allow them to submit their observations.

7. In light of the upcoming confirmation hearing, the Single Judge finds it necessary, as did Pre-Trial Chamber I,³ to set a date beyond which applications for participation in the proceedings may no longer be transmitted to the Chamber by the Registry, which will enable the Chamber to rule on these applications and to leave sufficient time for any victims whose applications have been granted and their legal representatives to participate meaningfully in the hearing.

8. The Single Judge also notes that the Chamber will only be able to consider complete applications as defined by Pre-Trial Chamber I.⁴

9. With regard to the protection measures for victims requesting participation in the proceedings, the Single Judge recommends that, on submitting the applications

² ICC-01/05-01/08-T-3-FRA ET WT.

³ ICC-01/04-01/07-474, paras. 185-189.

⁴ ICC-01/04-374, para. 12.

for participation, the Victims Participation and Reparations Section, together with the Victims and Witnesses Unit, should suggest the redactions it believes may be necessary to protect the victims in question.

10. With a view to providing as soon as possible legal representation to victims applying to participate in the proceedings, the Single Judge requests the Registry to provide the victims with assistance pursuant to rule 90(2) of the Rules. Where no legal representative has been appointed by the victims, the Office of Public Counsel for Victims shall, as assigned by the Registry, act as legal representative of the victims from the time they submit their applications for participation, until a legal representative has been appointed.⁵ The Registry shall transmit to the OPCV the applications for participation in the proceedings from unrepresented victims so that the OPCV can exercise its role as legal representative, if necessary.

FOR THESE REASONS, THE SINGLE JUDGE DECIDES:

- a) that the Registry shall submit complete applications for participation in the proceedings to the Chamber no later than 3 October 2008, or no later than 30 days before the confirmation hearing in the event the hearing is postponed;
- b) that the Victims Participation and Reparations Section shall, where necessary, suggest any redactions it considers necessary for the protection of victims, on submitting the applications for participation;
- c) that the Victims and Witnesses Unit shall assist the Victims Participation and Reparations Section in determining the necessary redactions for the protection of victims;
- d) that the Registry shall assist the victims for the purpose of ensuring their legal representation, and that where no legal representative has been appointed by the victims, the Office of Public Counsel for Victims shall, as assigned by the

⁵ ICC-01/04-374.

Registry, act as legal representative of the victims from the time they submit their applications for participation.

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

_____[signed]_____
Judge Fatoumata Dembele Diarra,
Single Judge

Dated this 12 September 2008

At The Hague, The Netherlands