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**International
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Court**



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TRIAL CHAMBER VI

Before: Judge Miatta Maria Samba, Presiding Judge
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godínez

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

**Public
With Confidential Annex**

**Updated Registry Assessment Report on Previously Transmitted Victim
Applications for Participation in Trial Proceedings**

Source: Registry

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

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I. Introduction

1. On 27 September 2022, Trial Chamber VI ("Chamber") issued its "Order for the Reassessment of Victims Applications" ("Order") in which it instructed the Registry to i) reassess all victims' applications previously classified as Group A in light of the clarified scope of the charges, and ii) submit an updated assessment report, within fourteen days from the notification of the Order.¹
2. In compliance with the Order, the Registry hereby submits its report on the reassessment of 37 applications previously transmitted as Group A during the trial stage proceedings of the case of *The Prosecutor v. Mahamat Said Abdel Kani* ("Applications" and "Case").
3. The Applications are listed in the annex to the present report which also shows the result of the reassessment performed by the Registry ("Annex").

II. Procedural History

4. On 16 April 2021, Pre-Trial Chamber II ("PTC") issued its "Decision Establishing the Principles Applicable to Victims' Applications for Participation", adopting the A-B-C approach implemented in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*.²
5. On 6 October 2021, the PTC authorised 27 victims to participate in the Case and appointed OPCV Counsel to act as common legal representative for the authorised victims.³

¹ Trial Chamber VI, "Order for the Reassessment of Victims Applications", 27 September 2022, ICC-01/14-01/21-490, para. 8 and p. 5.

² Pre-Trial Chamber II, "Decision Establishing the Principles Applicable to Victims' Applications for Participation", 16 April 2021, ICC-01/14-01/21-56, para. 35. The PTC endorsed *mutatis mutandis*, the victim application procedure adopted in the Yekatom and Ngaïssona case (5 March 2019, ICC-01/14-01/18-141) ("5 March 2019 Decision" and "Victim Application Procedure") whereby the Victims Participation and Reparations Section ("VPRS") should "classify all complete applications into three categories: Group A: Applicants who clearly qualify as victims of this case; Group B: Applicants who clearly do not qualify as victims of this case; and Group C: Applicants for whom the Registry could not make a clear determination" ("A-B-C approach").

³ Pre-Trial Chamber II, "Decision on victim applications for participation in the proceedings and on legal representation of victims", 6 October 2021, ICC-01/14-01/21-199.

6. On 9 December 2021, the PTC confirmed part of the charges against Mr Said (“Confirmation of Charges Decision”),⁴ relating to crimes allegedly committed at the *Office Central de Répression du Banditisme* (“OCRB”).
7. On 21 January 2022, the Registry provided its “Update on Victim Participation” (“Update”).⁵
8. On 21 February 2022, the Chamber set the start date of trial on 26 September 2022.⁶
9. On 13 April 2022, the Chamber issued the “Decision on matters relating to the participation of victims during the trial” (“13 April 2022 Decision”),⁷ amending the pre-trial A-B-C approach in light of the expected low number of applications in the Case;⁸ it also set the “end of the Prosecution’s presentation of evidence as the deadline for the transmission of victim applications by the Registry”.⁹
10. On 6 May 2022, the Registry submitted its first assessment report¹⁰ and transmitted 20 applications classified as belonging to Group A and three applications classified as belonging to Group C.¹¹
11. On 27 May 2022, the Chamber authorised 20 victims to participate in the Case (“First Decision”).¹²

⁴ Pre-Trial Chamber II, “Public redacted version of Decision on the confirmation of charges against Mahamat Said Abdel Kani, 9 December 2021, ICC-01/14-01/21-218-Red.

⁵ Registry, “Public Redacted version of Annex II to the Registry Submissions in view of the 28 January 2022 Status Conference”, 21 January 2022, ICC-01/14-01/21-229-AnxII-Red.

⁶ Trial Chamber VI, “Decision Setting the Commencement Date of the Trial and Related Deadlines”, 21 February 2022, ICC-01/14-01/18-243.

⁷ Trial Chamber VI, “Decision on matters relating to the participation of victims during the trial”, 13 April 2022, ICC-01/14-01/21-278.

⁸ *Id.*, para. 16, in reference to the Appeals Chamber’s ‘Judgment on the appeal of Mr Mahamat Said Abdel Kani against the decision of Pre-Trial Chamber II of 16 April 2021 entitled “Decision establishing the principles applicable to victims’ applications for participation”’, ICC-01/14-01/21 OA2, 14 September 2021 and the latest edition (5th edition, 2022) of the Chambers Practice Manual which sets the ABC application process as the general default, para. 96 (albeit limiting the transmission of forms to the parties to “C” forms, *id.*, para. 96 (vi)).

⁹ 13 April 2022 Decision, paras 10-28.

¹⁰ Registry, “First Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, 6 May 2022, ICC-01/14-01/21-297.

¹¹ Registry, “First Registry Transmission of Group A and C Victim Applications for Participation in Trial Proceedings”, 6 May 2022, ICC-01/14-01/21-296.

12. On 13 July 2022, the Registry submitted its second assessment report¹³ and transmitted 14 applications classified as belonging to Group A and five applications classified as belonging to Group C.¹⁴
13. On 6 September 2022 the Chamber clarified that the scope of the charges in the Case is limited to the specific criminal acts listed by the PTC in paragraph 29 of the operative part of the Confirmation of Charges Decision (“6 September 2022 Decision”).¹⁵
14. On 12 September 2022, the Registry submitted its third assessment report,¹⁶ on three applications classified as Group A.
15. On 27 September 2022, the Chamber issued the Order in which it instructed the Registry “to reassess all applications that it had previously classified as Group A, including those authorised to participate in the First Decision”.¹⁷

III. Classification

16. The Annex to this report is classified as confidential in accordance with the Victim Application Procedure.¹⁸

IV. Applicable Law

17. The present transmission is submitted in accordance with article 68(1) and (3) of the Rome Statute, rules 85 to 89 and 92 of the Rules of Procedure and

¹² Trial Chamber VI, “Decision authorising 20 victims to participate in the proceedings”, 27 May 2022, ICC-01/14 01/21-331.

¹³ Registry, “Second Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, 13 July 2022, ICC-01/14-01/21-405-Conf. A public redacted version was filed on the same day (ICC-01/14-01/21-405-Red).

¹⁴ Registry, “Second Registry Transmission of Group A and C Victim Applications for Participation in Trial Proceedings”, 13 July 2022, ICC-01/14-01/21-406.

¹⁵ Trial Chamber, “Decision on the Scope of the Charges”, 6 September 2022, ICC-01/14-01/21-472, para. 25

¹⁶ Registry, “Third Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, 13 September 2022, ICC- 01/14-01/21-478.

¹⁷ Order. para. 8.

¹⁸ 13 April 2022 Decision, para. 16.

Evidence, regulation 86 of the Regulations of the Court (“RoC”), and regulations 107 to 109 of the Regulations of the Registry.

V. Submissions

18. Following the issuance of the Order, the Registry has reassessed the 37 Applications in order to determine if, in light of the clarified scope of the charges in the Case, these Applications remain in Group A or fall into Group B or C or have become incomplete.

19. Applying the criteria set out in Victim Application Procedure,¹⁹ the Registry has assessed that among the 37 Applications, 25 remain in Group A, four are assessed as falling into Group C, and eight are assessed as incomplete.

Details on the reassessment criteria applied to Applications falling within Group A

20. The Registry confirms that the harm suffered by the 25 applicants remains in category A as the harm results clearly from an incident listed in paragraph 29 of the operative part of the Confirmation of Charges Decision (“Incidents”).

21. In conducting its reassessment, the Registry used in particular the following information:

- some applicants are also witnesses whose pseudonym is specifically mentioned in the Incidents and/or in other paragraphs of the Confirmation of Charges Decision referring to those Incidents;²⁰
- the applicants’ names or identifying personal details (such as, e.g., the applicant’s profession) are provided in the Incidents; and
- the details contained in the Applications.

¹⁹ See *supra* footnote 2.

²⁰ See for instance Confirmation of Charges Decision, para 99 which refers to individuals detained at the OCRB as the result of their alleged involvement in the “ville morte” pamphlet distribution in Bangui (Incident h).

22. The Registry provides the result of its application-by-application reassessment in the Annex for the Chamber's consideration.

Issues arising from Applications where the Registry was unable to make a determination in light of the clarified scope of the Case

23. The Registry cannot clearly determinate for four Applications whether they fall within the scope of Incidents b, c, or e.²¹

24. These events specifically refer to identified individuals and/or witnesses who have been detained at the OCRB during specific time frames. The Incidents indicate that these individuals were held in captivity along with other unidentified individuals and that they suffered from similar harm:

- Incident b. explains that in June 2013, P-0481 was detained at the OCRB, under dire conditions, along with other (unidentified) detainees "perceived as BOZIZE supporters".
- Incident c. specifies that in June 2013, P-2692 was transferred to the OCRB together with (unidentified) detainees – who were blamed for being Christians. He was later put into a crowded cell for several weeks.
- Incident e. provides that in June 2013, P-0622 was arrested with (identified) colleagues and detained at the OCRB. They were further detained in a small cell which already held at least 20 other (unidentified) people. All were detained under dire conditions and mistreated.

25. The narratives of the four abovementioned Applicants match the descriptions of the above Incidents; yet, they are not specifically mentioned in the relevant paragraphs beyond the general notion of other detainees. The Registry therefore seeks clarification from the Chamber as to whether the individuals who would qualify for participation in the Case are limited to the specific

²¹ Applications a/70294/22, a/70295/22, a/70296/22 and a/70447/22.

individuals identified in Incidents b, c, and e, or may encompass other unidentified individuals whose narratives match the descriptions of the Incidents – including the four applicants hereby classified as group C.

Applications assessed as incomplete

26. The Registry is not yet able to make a clear determination with regards to eight Applications.²² The applicants concerned alleged that they have been arrested, detained and mistreated at various times between 12 April and 30 August 2013.
27. The Registry notes that these Applications may fall within Incident *lit. r* which refers to the detention of various men “at an unknown time when Mr. SAID was in control of the OCRB”, in an underground cell. However, the Registry is currently not able to conclude whether each applicant was detained in said underground cell. The Registry will therefore request additional information from these applicants in accordance with regulation 86(4) of the RoC, in order to conduct a new assessment upon receipt of said information, if applicable, and report back to the Chamber.
28. The Registry will continue to assess all applications it receives according to the criteria established by the Chamber. It will transmit all complete applications on a rolling basis in accordance with the deadlines set out in the 13 April 2022 Decision.

p.p. 

Marc Dubuisson
Director, Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 11 October 2022

At The Hague, The Netherlands

²² Applications a/70286/22, a/70448/22, a/70449/22, a/70450/22, a/70451/22, a/70452/22, a/70453/22 and a/70454/22.