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Pénale
Internationale**



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Criminal
Court**

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TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
THE PROSECUTOR *v.* ALFRED YEKATOM AND PATRICE-EDOUARD
NGAISSONA**

Public

**With Confidential Annex 1, Confidential *EX PARTE* Annexes 2 and 3 only
available to the Registry and Confidential Redacted version of Annex 3**

**Twenty-Sixth Registry Assessment Report on 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 19 March 2020, Trial Chamber V ("Chamber") issued its "Order Scheduling First Status Conference" ("Scheduling Order") in which it *inter alia* endorsed the victim application procedure previously adopted by Pre-Trial Chamber II ("PTC").¹ During the pre-trial stage, the latter had instructed the Registry in its "Decision establishing the principles applicable to victims' applications for participation" of 5 March 2019 ("Decision")² to:
 - i. Classify victim applicants into three categories: (a) applicants who clearly qualify as victims ("Group A"); (b) applicants who clearly do not qualify as victims ("Group B"); and (c) applicants for whom the Registry could not make a clear determination for any reason ("Group C");³ and
 - ii. Prepare "regular reports that list the applications for participation and classify them according to the three groups".⁴
2. The Registry hereby transmits its twenty-sixth assessment report ("Twenty-Sixth Registry Assessment Report"), on 18 complete applications ("Applications") to participate in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona* ("Case"). The Registry has assessed all of these Applications to clearly fall outside of the scope of the Case (Group B).
3. The applications falling Group B are listed in annex 1 to the present submission ("Annex 1") and are being transmitted separately to the Chamber, in accordance with paragraph 41(ii) of the Decision. Annex 2 to the present submission ("Annex 2") contains a brief description of the assessment criteria

¹ Trial Chamber V, "Order Scheduling First Status Conference", 19 March 2020, ICC-01/14-01/18-459, para. 8 (iv).

² Pre-Trial Chamber II, "Decision Establishing the Principles Applicable to Victims' Applications for Participation", 5 March 2019, ICC-01/14-01/18-141.

³ *Id.*, para. 41 (i). In paragraph 41 (ii) of the Decision, the PTC ordered the Registry to transmit to the Chamber on a rolling basis and in unredacted form all complete applications and any supporting documentation in its possession. In paragraph 41 (iv) of the Decision the PTC also ordered the Registry to disclose to the Prosecution and the Defence all Group C applications, redacted as needed.

⁴ *Id.*, para. 41(iii).

applied in relation to Group B applications. Finally, Annex 3 to the present submission contain the consolidated version of an application already transmitted to the Chamber and the Parties⁵, which is transmitted in its original version and in a redacted version.

II. Procedural History

4. On 5 March 2019, the PTC issued the Decision, setting out *inter alia* the admission procedure for victims' participation in the Case.⁶
5. On 21 June 2019, the PTC authorised 15 victims to participate at the confirmation hearing in the Case ("First Decision on Victims' Applications").⁷
6. On 13 September 2019, the PTC authorised an additional 1,070 victims to participate in the proceedings ("Second Decision on Victims' Applications").⁸
7. On 11 December 2019, the PTC issued a decision partially confirming the charges against the accused ("Decision on the Confirmation of Charges").⁹
8. On 19 March 2020, the Chamber issued its Scheduling Order, in which it *inter alia*: i) endorsed the victim application procedure set out in the Decision;¹⁰ and ii) requested the Registry to provide an update and forecast on (additional) applications by victims to participate in the proceedings.¹¹

⁵ Registry, "Third Registry Transmission of Group C Applications for Victim Participation in Trial Proceedings", 27 July 2022, ICC-01/14-01/18-1529. See also Trial Chamber V, "Seventeenth Decision on Victims' Participation in Trial Proceedings (Groups A, B and C), 21 November 2022, ICC-01/14-01/18-1672-Conf, para. 22.

⁶ See *supra*, footnote 2.

⁷ Pre Trial Chamber II, "Decision regarding the Registry's First Assessment Report on Applications for Victim Participation, the Registry's First Transmission of Group C Applications, the appointment of counsel for Victims of Other Crimes, and the victims' procedural position", 21 June 2019, ICC-01/14-01/18-227-Conf. A public redacted version was filed on the same day (ICC-01/14-01/18-227-Red).

⁸ Pre Trial Chamber II, "Decision regarding the Registry's Outstanding Transmissions of Applications for Victim Participation", 13 September 2019, ICC-01/14-01/18-338.

⁹ Pre Trial Chamber II, "Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona", 11 December 2019, ICC-01/14-01/18-403-Conf. A public redacted version was filed on 20 December 2019. A corrected public redacted version was filed on 14 May 2020 (ICC-01/14-01/18-403-Red-Corr).

¹⁰ Scheduling Order, para. 8 (iv).

¹¹ *Id.*, para. 3 (I).

9. On 22 May 2020, the Registry provided its update on victim participation.¹²
10. On 16 July 2020, the Chamber set the start of the trial on 9 February 2021 and the “end of the Prosecution’s presentation of evidence as the deadline for the transmission of victim applications by the Registry” (“16 July 2020 Decision”).¹³ The start of the trial was later postponed to 16 February 2021.¹⁴
11. Between 19 October 2020 and 29 November 2022, the Registry transmitted 1,645 applications categorised in Group A,¹⁵ 853 applications in Group B¹⁶ and 43 applications categorised in Group C¹⁷ together with reports thereon.¹⁸
12. Between 23 November 2020 and 20 December 2022, the Chamber issued eighteen decisions on the merits of those applications.¹⁹

¹² Registry, “Update on Victim Applications for Participation”, 8 April 2020, ICC-01/14-01/18-470-Conf-Exp-AnxIII. A confidential redacted version was filed on the same day (ICC-01/14-01/18-470-Conf-AnxIII-Red). A public redacted version was filed on 22 May 2020 (ICC-01/14-01/18-470-AnxIII-Red2).

¹³ Trial Chamber V, “Decision Setting the Commencement Date of the Trial”, 16 July 2020, ICC-01/14-01/18-589.

¹⁴ Trial Chamber V, “Order Rescheduling the Commencement Date of the Trial”, 8 February 2021, ICC-01/14-01/18-875.

¹⁵ See last Registry, “Twenty-Third Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings”, 29 November 2022, ICC-01/14-01/18-1679.

¹⁶ See last Registry, “Fourteenth Registry Transmission of Group B Applications for Victim Participation in Trial Proceedings”, 29 November 2022, ICC-01/14-01/18-1680.

¹⁷ See last Registry, “Third Registry Transmission of Group C Applications for Victim Participation in Trial Proceedings”, 27 July 2022, ICC-01/14-01/18-1529.

¹⁸ See last Registry, “Twenty-Fifth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, 29 November 2022, ICC-01/14-01/18-1678.

¹⁹ See Trial Chamber V, “Decision on Victims’ Participation in Trial Proceedings”, 23 November 2020, ICC-01/14-01/18-738 (“23 November 2020 Decision”); “Second Decision on Victims’ Participation in Trial Proceedings (Group A)”, 11 December 2020, ICC-01/14-01/18-765; “Third Decision on Victims’ Participation in Trial Proceedings (Group A)”, 29 December 2020, ICC-01/14-01/18-798; “Fourth Decision on Victims’ Participation in Trial Proceedings (Group A)”, 29 January 2021, ICC-01/14-01/18-858; “Fifth Decision on Victims’ Participation in Trial Proceedings (Group A)”, 1 April 2021, ICC-01/14-01/18-943; “Sixth Decision on Victims’ Participation in Trial Proceedings (Groups A and B)”, 4 May 2021, ICC-01/14-01/18-980; “Seventh Decision on Victims’ Participation in Trial Proceedings (Groups A and B)”, 1 June 2021, ICC-01/14-01/18-1009; “Eighth Decision on Victims’ Participation in Trial Proceedings (Group A)”, 16 June 2021, ICC-01/14-01/18-1028; “Ninth Decision on Victims’ Participation in Trial Proceedings (Groups A and B)”, 27 July 2021, ICC-01/14-01/18-1075; “Tenth Decision on Victims’ Participation in Trial Proceedings (Groups A and B)”, 24 August 2021, ICC-01/14-01/18-1092; “Eleventh Decision on Victims’ Participation in Trial Proceedings (Group C)”, 8 September 2021, ICC-01/14-01/18-1104 (“8 September 2021 Decision”); “Twelfth Decision on Victims’ Participation in Trial Proceedings (Groups A and B)”, 29 October 2021, ICC-01/14-01/18-1153; “Thirteenth Decision on Victims’ Participation in Trial Proceedings (Groups A and B)”, 19 November 2021, ICC-01/14-01/18-1180; “Fourteenth Decision on Victims’ Participation in Trial Proceedings (Groups A and B)”, 9 February 2022, ICC-01/14-01/18-1274; “Fifteenth Decision on Victims’ Participation in Trial Proceedings (Group A)”, 5 May 2022, ICC-01/14-01/18-1391; “Sixteenth

13. Between 26 November and 2 December 2022, the Common Legal Representatives of the Victims (“CLRV”) confirmed that they agreed with the Registry’s preliminary assessment concerning the 15 applications of their clients categorised as Group B.²⁰

14. On 16 December 2022, the Registry received additional information by way of email, concerning one application transmitted as Group C, and deferred by the Chamber.

III. Classification

15. The annexes to the present submission are classified respectively as confidential (Annex 1), confidential redacted (Annex 3) and confidential *ex parte*, only available to the Registry (Annexes 2 and 3), in accordance with the Decision²¹

IV. Applicable Law

16. 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 Evidence, regulation 86 of the Regulations of the Court, and regulations 107 to 109 of the Regulations of the Registry.

Decision on Victims’ Participation in Trial Proceedings (Group A)”, 26 July 2022, ICC-01/14-01/18-1526 (“Sixteenth Decision”); “Seventeenth Decision on Victims’ Participation in Trial Proceedings (Groups A, B and C), 21 November 2022, ICC-01/14-01/18-1672; and “Eighteenth Decision on Victims’ Participation in Trial Proceedings (Groups A and B), 20 December 2022, ICC-01/14-01/18-1708.

²⁰ Email from Me Dangabo to Registry on 26 November 2022 at 15:13; email from Me Massidda to Registry on 30 November 2022 at 10:24 and email from Me Fall and Rabesandratana to Registry on 2 December 2022 at 16:11. The Registry notes that three additional applications not represented by any lawyer have been added to the list of Group B applications concerned by the present report and related transmission filing.

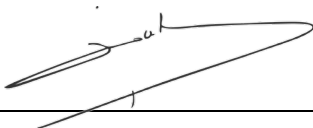
²¹ Decision, paras 41(iii) for the lists of applications to be addressed to the Chamber, parties and if applicable to the legal representatives of participating victims, and para. 41(vi) for the assessment reports containing the reasons for rejecting applications in Group B to be provided exclusively to the Chamber.

V. Submissions

17. The Registry submits for the consideration of the Chamber, in Annex 3 , the supplementary information received concerning one application transmitted as Group C and deferred by the Chamber.²²

Details on the Assessment Criteria and List of Applications Falling within Group B

18. Applying the criteria set out in paragraph 31 of the Decision, the Registry has assessed each of the 18 Applications transmitted under Group B as complete.
19. In conducting its *prima facie* assessment in accordance with paragraph 38 of the Decision, the Registry has concluded that the persons whose applications have been transmitted under Group B clearly do not qualify as victims in the Case because the harm alleged has resulted from the indication of perpetrators and events falling outside the territorial, temporal, and/or material parameters of the Case.
20. Pursuant to paragraph 41(vi) of the Decision, the Registry has provided an assessment report for the Chamber in Annex 2 setting out the specific reasons for rejecting the applications, in order to assist the Chamber to take a decision on such applications.



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

Dated this 22 December 2022

At The Hague, The Netherlands

²² See *supra*, footnote 5.