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**International
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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
NGAÏSSONA**

**Public
With Confidential Annex**

**Twenty-Seventh 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-seventh assessment report, on 42 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 fall in Group A.
3. The Applications are listed in the annex to the present submission ("Annex") and are being transmitted separately to the Chamber in accordance with paragraph 41(ii) of the Decision.

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).

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.⁵
5. On 21 June 2019, the PTC authorised 15 victims to participate at the confirmation hearing in the Case ("First Decision on Victims' Applications").⁶
6. On 13 September 2019, the PTC authorised an additional 1,070 victims to participate in the proceedings ("Second Decision on Victims' Applications").⁷
7. On 11 December 2019, the PTC issued a decision partially confirming the charges against the accused ("Decision on the Confirmation of Charges").⁸
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;⁹ and ii) requested the Registry to provide an update and forecast on (additional) applications by victims to participate in the proceedings.¹⁰
9. On 22 May 2020, the Registry provided its update on victim participation.¹¹
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

⁵ See *supra*, footnote 2.

⁶ 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).

⁷ 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.

⁸ 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).

⁹ Scheduling Order, para. 8 (iv).

¹⁰ *Id.*, para. 3 (I).

¹¹ 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).

transmission of victim applications by the Registry” (“16 July 2020 Decision”).¹² The start of the trial was later postponed to 16 February 2021.¹³

11. Between 19 October 2020 and 22 December 2022, the Registry transmitted 1,645 applications categorised in Group A,¹⁴ 871 applications in Group B¹⁵ and 43 applications categorised in Group C,¹⁶ together with reports thereon.¹⁷
12. Between 23 November 2020 and 13 March 2023, the Chamber issued nineteen decisions on the merits of those applications.¹⁸

¹² Trial Chamber V, “Decision Setting the Commencement Date of the Trial”, 16 July 2020, ICC-01/14-01/18-589.

¹³ Trial Chamber V, “Order Rescheduling the Commencement Date of the Trial”, 8 February 2021, ICC-01/14-01/18-875.

¹⁴ 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.

¹⁵ See last Registry, “Fifteenth Registry Transmission of Group B Applications for Victim Participation in Trial Proceedings”, 22 December 2022, ICC-01/14-01/18-1713.

¹⁶ 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.

¹⁷ See last Registry, “Twenty-Sixth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, 22 December 2022, ICC-01/14-01/18-1714.

¹⁸ 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 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; “Eighteenth Decision on Victims’ Participation in Trial Proceedings (Groups A and B)”, 20 December 2022, ICC-01/14-01/18-1708 and “Nineteenth Decision on Victims’ Participation in Trial Proceedings (Groups B and C)”, 13 March 2023, ICC-01/14-01/18-1795.

III. Classification

13. The annex to the present submission is classified as confidential in accordance with the Decision.¹⁹

IV. Applicable Law

14. 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.

V. Submissions

15. The 42 Applications presently transmitted only include new applications from victims, not already submitted at the pre-trial stage.

16. In applying the criteria set out in paragraph 31 of the Decision, the Registry has assessed each of the 42 Applications presently transmitted under Group A as complete. In conducting its assessment in accordance with paragraph 38 of the Decision, the Registry confirms that each of the 42 applications meets *prima facie* the following criteria:

- i. the applicant's identity as a natural person is established;
- ii. the applicant has suffered harm;
- iii. The harm suffered by the applicant is a result of an incident falling within the temporal, geographic and material scope of the Case.²⁰

¹⁹ 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.

²⁰ *Id.*, para. 37.

Observations in relation to criterion (i)

17. Certain Applications²¹ falling under Group A contain minor discrepancies, pertaining to *inter alia*: the date of birth of the applicant or the person acting on her/his behalf ("PAB"); an inversion of the applicant's first and last name; the spelling of the applicant or the PAB's name; or other minor inconsistencies in the information provided which appear to be the result of inadvertent errors. In these cases, the Registry took note of the PTC's instruction – as endorsed by the Chamber²² – that "a certain degree of flexibility must be shown"²³ and considered in the present assessment that the discrepancies presented in these applications "do not call into question the overall credibility of the information provided by the applicant [...]".²⁴
18. Some applicants have submitted as identification document a card delivered by relevant camp management agencies following a registration process ("Registration card"), or identification documents/cards delivered by non-governmental organisations in the context of assistance programmes ("Entitlement cards").²⁵ In accordance with paragraph 25 of the Decision, the Registry had obtained²⁶ the PTC's approval to consider such documents as sufficiently establishing the identity of applicants in the Case.

²¹ The applications with minor discrepancies include: a/65001/19, a/65004/19, a/66232/19, a/66234/19, a/15408/20, a/20017/21, a/20023/21, a/20026/21, a/20034/21, a/20041/21, a/20048/21, a/20291/21, a/20312/21, a/20315/21, a/20321/21, a/20330/21, a/20346/21, a/20364/21, a/20393/21, a/40079/23, a/40538/23, a/40539/23.

²² Scheduling Order, para. 8 (iv).

²³ Decision, para. 34.

²⁴ *Ibid.*

²⁵ The Registry found that in many instances displaced applicants and/or persons acting on their behalf had lost their identification document and had difficulties to access local authorities. However, they often possessed cards delivered by UN agencies, refugee camp management agencies or NGOs in a similar role, which they used in lieu of any other type of identification (See, ICC-01/14-01/18-133-AnxI, para. 21. A sample of such documents is available in annex II to the Registry's report, see ICC-01/14-01/18-133-AnxII-Red2, pp. 78-80). The Registry further found that Registration cards and Entitlement cards were used outside of the context of internally displaced persons camps/sites for identification purposes. These applications are: a/20068/21, a/20315/21 and a/20384/21.

²⁶ Email from PTC to Registry on 2 August 2019 at 15:20, in response to an email from Registry to PTC on 1 August 2019 at 18:33. The Registry noted (i) that both documents contained similar features to the

Observations in relation to criterion (iii)

19. In identifying the crimes falling within the scope of the Case, the Registry looks solely at the alleged acts and - save in the case of alleged persecution - does not make any assessment as to the potential underlying grounds for their commission.²⁷
20. In accordance with the 23 November 2020 Decision and the 8 September 2021 Decision, the Registry categorises within Group A:
 - applicants who mention crimes committed by Anti-Balaka groups in areas neighbouring the borders of Cattin or Boeing and clearly related to the alleged attack in Bangui on 5 December 2013,²⁸ and
 - applicants who mention crimes committed by Anti-Balaka groups along the PK9-Mbaiki axis and clearly related to the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaiki axis, notably within a short distance of the villages of Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa and Mbaiki.²⁹
21. Lastly, the Registry notes that certain applications provide an erroneous date of the alleged events or do not explicitly state specific dates. However, they refer to publicly known events (such as, in Mbaiki, the evacuation of the Muslim community to Bangui by the Chadian forces³⁰ and the murder of Deputy Mayor Saleh³¹), or provide other sufficiently detailed contextual

ones considered to be valid by the PTC in the instant Case; and (ii) that many displaced victims had lost their identification documents.

²⁷ As a result, the Registry assesses within Group A applicants who have suffered harm from at least one of the crimes charged against the accused. The Registry assesses whether relevant victim applicants were "perceived as collectively responsible for, complicit with, or supportive of the Seleka" only in cases where the applicant appears to have suffered from the charged crime of persecution.

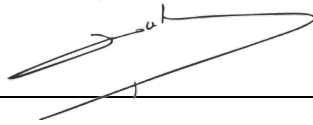
²⁸ 23 November 2020 Decision, paras 27-33 and 8 September Decision, paras 17-29.

²⁹ 8 September Decision, paras 36 and 39.

³⁰ This event occurred on or around 6 February 2014. See TCV Single Judge, "Public redacted version of Corrected version of 'Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona'", 29 June 2021, ICC-01/14-01/18-403-Corr-Red, para. 134 or also Human Rights Watch, "Central African Republic: Muslims forced to flee", 12 February 2014, at [Central African Republic: Muslims Forced to Flee | Human Rights Watch \(hrw.org\)](https://www.hrw.org/news/2014/02/12/central-african-republic-muslims-forced-to-flee).

³¹ This event occurred on 28 February 2014. See ICC-01/14-01/18-403-Red, paras. 136-137.

descriptions that date the events.³² In these cases, the Registry has applied the Chamber's instruction to assess applications "holistically by assessing their internal coherence and the overall context of the alleged acts".³³



Marc Dubuisson, Director, Division of Judicial Services

On behalf of Osvaldo Zavala Giler, Registrar

Dated this 14 June 2023

At The Hague, The Netherlands

³² These applications include: a/15403/20, a/15429/20, a/20393/21, a/40001/23, a/40002/23, a/40538/23 and a/40539/23.

³³ Email from the Chamber to the Registry of 30 July 2020 at 17:29. The Registry notes that relevant instructions were provided where applications contained discrepancies with regards to the date. The Registry respectfully submits that the same logic should apply to those instances where an applicant did not provide an exact date but where the applicant's submission clearly relates to the events described in the Decision on the Confirmation of Charges. The Registry respectfully submits that such interpretation is consistent with the guidance provided by the Chamber in the 23 November 2020 Decision.