

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/21

Date: 24 July 2024

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

Decision on Common Legal Representative's request for reconsideration of Trial Chamber VI's decision denying Victim a/70286/22 authorisation to participate in the proceedings

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

The Office of the Prosecutor Mr Karim A. A. Khan Ms Holo Makwaia	Counsel for the Defence Ms Jennifer Naouri Mr Dov Jacobs
Legal Representatives of Victims Ms Sarah Pellet	Legal Representatives of Applicants
Unrepresented Victims	Unrepresented Applicants for Participation/Reparations
The Office of Public Counsel for Victims	The Office of Public Counsel for the Defence
States Representatives	Amicus Curiae
REGISTRY	
Registrar Mr Osvaldo Zavala Giler	Counsel Support Section
Victims and Witnesses Unit	Detention Section
Victims Participation and Reparations Section Mr Philipp Ambach	Other

TRIAL CHAMBER VI of the International Criminal Court, in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to articles 64, 68, and 82(1)(d) of the Rome Statute (the ‘Statute’), rules 85, 86, 89-91, and 155 of the Rules of Procedure and Evidence (the ‘Rules’), and regulation 86 of the Regulations of the Court (the ‘Regulations’), issues this ‘Decision on Common Legal Representative’s request for reconsideration of Trial Chamber VI’s decision denying Victim a/70286/22 authorisation to participate in the proceedings’.

I. PROCEDURAL HISTORY

1. On 6 September 2022, the Chamber issued the Decision on the Scope of the Charges, reiterating its position adopted in the Notification Decision that the scope of the charged crimes in the present case is limited to the specific incidents listed by the Pre-Trial Chamber in paragraph 29 of the operative part of the Confirmation Decision.¹
2. On 27 September 2022, the Chamber issued an order instructing the Registry ‘to reassess all applications that it had previously classified as Group A.’²
3. On 11 October 2022, the Registry submitted the Updated Registry Assessment Report on Previously Transmitted Victim Applications for Participation in Trial Proceedings (the ‘Updated Registry Report’), in which it indicated that, of the 37 applications received thus far, 25 fell in Group A, four were classified as falling in Group C, and eight applications, including a/70286/22’s, were considered incomplete.³
4. On 8 November 2023, the Chamber issued the Second Decision Authorising Victims to Participate in the Proceedings, in which it, *inter alia*, ordered the Registry to provide an update on the status of the Incomplete Applications by 20 November 2023 at the latest.⁴

¹ Decision on the Scope of the Charges, 6 September 2022, [ICC-01/14-01/21-472](#).

² Order for the Reassessment of Victims Applications, 27 September 2022, [ICC-01/14-01/21-490](#), para. 8.

³ Updated Registry Assessment Report on Previously Transmitted Victim Applications for Participation in Trial Proceedings, 11 October 2022, [ICC-01/14-01/21-498](#).

⁴ Second Decision Authorising Victims to Participate in the Proceedings, 8 November 2023, ICC-01/14-01/21-640-Red (the ‘Second Decision on Participation’). A confidential version was filed simultaneously (ICC-01/14-01/21-640-Conf).

5. On 20 November 2023, the Registry submitted a report (the ‘Registry Report’) reassessing five applications,⁵ and transmitted the latter to the Chamber and the parties.⁶ In relation to a/70286/22, the Registry assessed him to fall into Category C on the basis that ‘[w]hile the applicant is not able to confirm whether her [sic] relative was detained in an underground cell, the Registry considers that this possibility cannot be excluded either. The applicant could therefore potentially fall within the scope of Incident (r). However, in the absence of such information, it is unable to clearly assess whether, at this stage of the proceedings, the applicant met the *prima facie* standard to qualify as a victim in the Case.’⁷

6. On 14 February 2024, the Chamber issued its ‘Third Decision Authorising Victims to Participate in the Proceedings’ (the ‘Third Decision on Participation’),⁸ in which it, *inter alia*, denied applicant a/70286/22 authorisation to participate in the present proceedings.⁹

7. On 16 April 2024, the Office of Public Counsel for Victims (the ‘OPCV’) submitted a request for reconsideration of the Chamber’s decision denying Victim a/70286/22 authorisation to participate in the proceedings (the ‘Request’).¹⁰

8. On 6 May 2024, the Defence submitted that the Request should be rejected.¹¹

II. SUBMISSIONS AND ANALYSIS

9. The OPCV frames the Request as a request for reconsideration on the grounds that the Third Decision on Participation would be ‘manifestly unsound and as its consequences

⁵ Report on the Status of Eight Incomplete Victim Applications for Participation in Trial Proceedings, 20 November 2023, [ICC-01/14-01/21-650](#), (the ‘Registry Report’).

⁶ Third Registry Transmission of Group C Victim Applications for Participation in Trial Proceedings, 20 November 2023, [ICC-01/14-01/21-651](#).

⁷ Registry Report, [ICC-01/14-01/21-650](#), para. 20.

⁸ Third Decision Authorising Victims to Participate in the Proceedings”, 14 February 2024, [ICC-01/14-01/21-695-Red](#) (the “Third Decision on Participation”), para. 20. A confidential version was filed simultaneously (ICC-01/14-01/21-695-Conf).

⁹ Third Decision on Participation, [ICC-01/14-01/21-695-Red](#), para. 20.

¹⁰ Common Legal Representative’s request for reconsideration of Trial Chamber VI’s decision denying Victim a/70286/22 authorisation to participate in the proceedings, 16 April 2024, [ICC-01/14-01/21-744-Red](#) (the ‘Request’). A confidential *ex parte* and confidential redacted version were filed simultaneously (ICC-01/14-01/21-744-Conf-Exp; ICC-01/14-01/21-744-Conf-Red). A confidential lesser redacted version was filed on 23 April 2024 (ICC-01/14-01/21-744-Conf-Red2).

¹¹ Version publique expurgée de « Réponse de la Défense à la « Confidential lesser redacted version of the “Common Legal Representative’s request for reconsideration of Trial Chamber VI’s decision denying Victime a/70286/22 autorisation to participate in the proceedings” » (ICC-01/14-01/21-744-Conf-Red2) » (ICC-01/14-01/21-755-Conf), 10 May 2024, [ICC-01/14-01/21-755-Red](#). A confidential version was filed on 6 May 2024 (ICC-01/14-01/21-755-Conf).

are manifestly unsatisfactory, not only of Victim a/70286/22 specifically, but also for victims seeking to participate in proceedings before this Court more broadly.’¹²

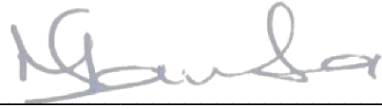
10. At the outset, the Chamber will not entertain the OPCV’s broad challenge to the Chamber’s approach towards victims’ participation in this case. Leaving aside the question of whether the applicant even has standing to bring a request for reconsideration in these proceedings, the Chamber stated in the Third Decision on Participation that its decision rejecting a/70286/22’s application was without prejudice to the applicant providing further information.¹³ The only question that must therefore be resolved is whether the new information obtained by the OPCV alters the Chamber’s view concerning a/70286/22’s application to participate. In this regard, the Chamber considers that the information that a/70286/22’s brother may indeed have died as stated in a/70286/22’s application does not change the fact that the timing of a/70286/22’s brother’s detention at the OCRB does not overlap with any of the charged Incidents and that there is nothing to indicate that he was detained in the underground cell.

11. As regards the possibility that a/70286/22’s brother may fall under Incident (r), the Chamber notes that there is no information as to where a/70286/22’s brother was detained at the OCRB. It is thus possible that he was detained in the underground cell. However, the mere possibility that a/70286/22’s brother may have been detained in the underground cell is insufficient to allow a/70286/22 to participate. The Chamber cannot permit participation in these proceedings purely on the basis of speculation. This is without prejudice to the applicant providing further information in this regard.

¹² Request, [ICC-01/14-01/21-744-Red](#), para. 21.

¹³ Third Decision on Participation, [ICC-01/14-01/21-695-Red](#), para. 21.

FOR THESE REASONS, THE CHAMBER HEREBY
REJECTS the Request.

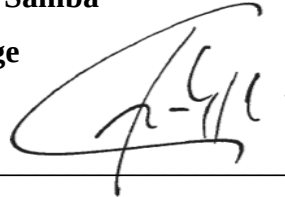


Judge Miatta Maria Samba

Presiding Judge



Judge María del Socorro Flores Liera



Judge Sergio Gerardo Ugalde Godínez

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

Dated 24 July 2024

At The Hague, The Netherlands