

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-RoR56-02/25**

Date: **28 August 2025**

THE PRESIDENCY

Before:

**Judge Tomoko Akane, President
Judge Rosario Salvatore Aitala, First Vice-President
Judge Reine Alapini-Gansou, Second Vice-President**

Public

**Decision on the Application to review the decision of the Registrar denying admission of
Mr Jean-Jacques Aernout to the list of experts**

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

- | | |
|--|---|
| ☐ The Office of the Prosecutor | ☐ Counsel for the Defence |
| ☐ Legal Representatives of the Victims | ☐ Legal Representatives of the Applicants |
| ☐ Unrepresented Victims | ☐ Unrepresented Applicants
(Participation/Reparation) |
| ☐ The Office of Public Counsel for
Victims | ☐ The Office of Public Counsel for the
Defence |
| ☐ States' Representatives | ☐ Amicus Curiae |

REGISTRY

Registrar
Mr Zavala Giler, Osvaldo

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations
Section**

☒ **Other
Applicant**

The Presidency of the International Criminal Court (the ‘Court’) has before it the application of Mr Jean-Jacques Aernout (the ‘Applicant’) received by the Court on 27 July 2025 seeking judicial review of a decision issued on 17 July 2025, denying the Applicant inclusion in the list of experts created and maintained by the Registrar pursuant to regulation 44 of the Regulations of the Court (the ‘Application’).¹

The Presidency remits the matter to the Registrar for the reasons set out below.

I. PROCEDURAL HISTORY

1. On 16 June 2025, the Registry received from the Applicant a request for inclusion in the list of experts (the ‘Request for Inclusion’), together with supporting documentation.²
2. On 4 July 2025, the Registry transmitted the Applicant’s Request for Inclusion to an independent expert tasked with assessing the expertise of applicants to the list of experts.³
3. On 8 July 2025, the Registry received the assessment of the expert which suggested not retaining the Applicant’s Request for Inclusion on the basis that his fields of expertise did not fall within the mandate of the Court.⁴
4. On 17 July 2025, the Registry decided to reject the Request for Inclusion and informed the Applicant, *inter alia*, of the 15-day time limit to apply for review before the Presidency (the ‘Impugned Decision’).⁵
5. On 27 July 2025, the Registry received the present Application for judicial review pursuant to regulation 56(2) of the Regulations of the Registry (the ‘Regulations’).⁶

¹ Registry, Annex V, 29 July 2025, ICC-RoR56-02/25-1-Conf-AnxV, *annexed to* Registry, Registry Transmission of an Application for Review of the Registrar’s Decision Denying Inclusion in the List of Experts, 29 July 2025, ICC-RoR56-02/25-1 (the ‘Registry Transmission’).

² Registry Transmission, ICC-RoR56-02/25-1, para. 3; Registry, Annex I, 29 July 2025, ICC-RoR56-02/25-1-Conf-AnxI, *annexed to* Registry Transmission, ICC-RoR56-02/25-1; Registry, Annex II, 29 July 2025, ICC-RoR56-02/25-1-Conf-AnxII, *annexed to* Registry Transmission, ICC-RoR56-02/25-1.

³ Registry Transmission, ICC-RoR56-02/25-1, para. 4.

⁴ Registry Transmission, ICC-RoR56-02/25-1, para. 5; Registry, Annex III, 29 July 2025, ICC-RoR56-02/25-1-Conf-AnxIII, *annexed to* Registry Transmission, ICC-RoR56-02/25-1.

⁵ Registry, Annex IV, 29 July 2025, ICC-RoR56-02/25-1-Conf-AnxIV, *annexed to* Registry Transmission, ICC-RoR56-02/25-1.

⁶ Registry Transmission, ICC-RoR56-02/25-1, para. 9; Application, ICC-RoR56-02/25-1-Conf-AnxV.

6. On 29 July 2025, the Registry transmitted the Application to the Presidency, attaching thereto all the above mentioned documents.⁷

II. MERITS

A. Impugned Decision

7. In the Impugned Decision, the Registry informs the Applicant that, following thorough examination, his Request for Inclusion in the list of experts is denied because the Applicant's experience is not being sought by the Court.⁸ The Impugned Decision recalls that the Applicant submitted a request to be included to the list of experts on two previous occasions, and that while the Applicant was recognised as a qualified and experienced specialist, both requests were denied because the Applicant's fields of expertise were not directly relevant to the proceedings before the Court. The Impugned Decision considers that this conclusion remains relevant in the context of the present Request for Inclusion.⁹ The Impugned Decision further informs the Applicant of the standard of review of this decision before the Presidency, and of the 15-day time limit to apply for such review.¹⁰

B. Submissions

8. The Applicant seeks judicial review of the Impugned Decision.¹¹ He submits that the Impugned Decision appears not to have properly taken into account: (i) his experience in analysis of metal fragments from weapons or explosion sites, noting in this regard that another individual who is a chemical expert was included in the list of experts;¹² (ii) that his name appears on the national list of experts registered with the French Court of Cassation; and (iii) his work experience in the field.¹³ He further submits that if the Registry considers that traditional disciplines are to be favoured over more cross-cutting fields of expertise, this could amount to irrelevant factors being taken into account.¹⁴ The Applicant also argues that a request for inclusion similar to his submitted by another person was granted whereas his Application was denied without detailed explanation,

⁷ Registry Transmission, ICC-RoR56-02/25-1.

⁸ Impugned Decision, ICC-RoR56-02/25-1-Conf-AnxIV, p. 2.

⁹ Impugned Decision, ICC-RoR56-02/25-1-Conf-AnxIV, p. 2.

¹⁰ Impugned Decision, ICC-RoR56-02/25-1-Conf-AnxIV, p. 3.

¹¹ Application, ICC-RoR56-02/25-1-Conf-AnxV, pp. 2-3.

¹² Application, ICC-RoR56-02/25-1-Conf-AnxV, p. 2.

¹³ Application, ICC-RoR56-02/25-1-Conf-AnxV, p. 3.

¹⁴ Application, ICC-RoR56-02/25-1-Conf-AnxV, pp. 2-3.

suggesting an issue of fairness, or a form of disproportionality.¹⁵ Finally, the Applicant submits that it was unreasonable for the Impugned Decision to reject his Request for Inclusion.¹⁶

C. Determination of the Presidency

9. The Presidency recalls that the judicial review of decisions of the Registrar concerns the propriety of the procedure by which the latter reached a particular decision and the outcome of that decision. It involves a consideration of whether the Registrar has: acted without jurisdiction, committed an error of law, failed to act with procedural fairness, acted in a disproportionate manner, taken into account irrelevant factors, failed to take into account relevant factors, or reached a conclusion which no reasonable person who has properly applied his or her mind to the issue could have reached.¹⁷
10. The Applicant's Request for Inclusion indicates three main areas of expertise in the fields of metallurgy, accident analysis and technical industrial fraud.¹⁸ The Presidency emphasises that the Applicant's expertise in these areas is not in question. The issue is simply whether the Impugned Decision erred in its determination that these fields of expertise are not relevant to the Court's proceedings. The Presidency will not lightly interfere with the Registrar's assessment of the relevance of a given field of expertise to the Court's proceedings.
11. The Application submits, in essence, that the Impugned Decision did not take into account a number of relevant factors in its analysis of the Applicant's expertise. As regards the purported failure to take into account the Applicant's status of expert at the French Court of Cassation, the Presidency notes that the Impugned Decision clearly

¹⁵ Application, ICC-RoR56-02/25-1-Conf-AnxV, p. 3.

¹⁶ Application, ICC-RoR56-02/25-1-Conf-AnxV, p. 3.

¹⁷ The standard of judicial review was defined by the Presidency in its [Decision on the Application to Review the Registrar's Decision Denying the Admission of Mr Ernest Midagu Bahati to the list of Counsel](#), 20 December 2005, ICC-RoC72-02/05 (the 'Decision of 20 December 2005'), para. 16; and supplemented in its Decision on the application to review the decision of the Registrar denying [REDACTED] privileged visits with Mr Lubanga Dyilo, under regulation 221 of the Regulations of the Registry, 27 November 2006, ICC-01/04-01/06-731-Conf, para. 24. See also Presidency, [Reasons for the 'Decision on the "Application for Review of Decision of the Registrar's Division of Victims and Counsel dated 2 January 2008 not to Admit Prof. Dr. Sluiter to the List of Counsel"'](#), 10 July 2008, ICC-RoC72-01/08-10, para. 20; Presidency, [Decision on the application to review the decision of the Registrar denying the admission of Ms Magdalena Ayoade to the list of experts](#), 6 August 2009, ICC-RoR56-01/09-2 (the 'Decision of 6 August 2009'), para. 11.

¹⁸ Registry, Annex I, 29 July 2025, ICC-RoR56-02/25-1-Conf-AnxI, pp. 3-6.

communicates that the reason for his non-inclusion in the list of experts is the lack of relevance of his field of expertise and inclusion on a national list of experts obviously has no bearing on the issue of the relevance of his expertise to this Court. Regarding the argument that a similar request for inclusion submitted by another person has been granted, the Presidency considers that such comparisons are of limited relevance as each request for inclusion in the list of experts needs to be assessed on its own merits based on the information in the application. These arguments are therefore dismissed.

12. The Presidency, however, sees merit in the Applicant's argument that the Registrar may have failed to consider the Applicant's experience in analysis of metal fragments from weapons or explosion sites. While the fields of metallurgy, accident analysis and technical fraud in industrial environments are not listed as areas of expertise relevant to the Court on the Court's website, the Applicant explains in his Request for Inclusion why he considers that his experience in analysis of metal fragments is of relevance to the Court's proceedings. He notes that this expertise allows him, for example, to identify or exclude the manufacturing origin of metal objects from arms, ammunition or equipment found on a crime scene with a view to identifying the manufacturer or supply chains and assisting in identifying those responsible for acts of destruction or violence perpetrated in conflict zones.¹⁹ The Impugned Decision informs the Applicant that his expertise is not presently sought by the Court but it is unclear from the Impugned Decision whether due consideration has been given to the aforementioned explanation provided in the Request for Inclusion. The Presidency emphasises that it is not its role to make an assessment as to whether the Applicant's expertise is relevant to the Court's proceedings, but notes simply that the Impugned Decision provides no indication as to whether or how the Applicant's submissions concerning such relevance were taken into account.
13. The Presidency has previously held that providing a detailed reasoning is of particular importance in circumstances where an applicant appears to have some degree of competence of potential relevance to the Court, in order to enable the applicant to properly understand the precise reasons for the refusal and exercise his right to review. The reasons given by the Registrar must enable an applicant for inclusion in the list of experts to: clearly understand the factual and legal basis upon which the decision has been taken and assess whether he or she has any ground to apply for review of the adverse

¹⁹ Registry, Annex I, 29 July 2025, ICC-RoR56-02/25-1-Conf-AnxI, pp. 4-5.

decision.²⁰ In the present case the Presidency finds that the reasons provided in the Impugned Decision were insufficient to enable the Applicant to fully understand the factual basis for the refusal.

14. In light of this, the matter is being remitted to the Registrar to issue a fully reasoned decision on the Request for Inclusion. This will enable the Applicant to clearly understand the factual and legal basis upon which the decision has been taken and to assess whether he has any ground to apply for review.

THE PRESIDENCY HEREBY

REMITS the matter to the Registrar for the issuance of a fully reasoned decision.

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



Judge Tomoko Akane
President



Judge Rosario Salvatore Aitala
First Vice-President



Judge Reine Alapini-Gansou
Second Vice-President

Dated this 28 August 2025

At The Hague, The Netherlands

²⁰ See e.g. Decision of 6 August 2009, ICC-RoR56-01/09-2, para. 13; Decision of 20 December 2005, ICC-Pres-RoC72-02-05, paras 18-19.