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No.: **ICC-01/05**
Date: **11 October 2012**

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova
Judge Hans-Peter Kaul
Judge Cuno Tarfusser

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

Public Document

**Notification by the Board of Directors in accordance with Regulation 50 a) of the
Regulations of the Trust Fund for Victims to undertake activities
in the Central African Republic**

Source: Trust Fund for Victims

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

The Office of the Prosecutor
Ms Fatou Bensouda

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**
Paolina Massida

**The Office of Public Counsel for the
Defence**
Mr Xavier-Jean Keïta

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Ms. Silvana Arbia
Deputy Registrar
Mr. Didier Preira

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**
Ms. Fiona McKay

Other
Mr. Pieter de Baan, Trust Fund for
Victims Secretariat

I. BACKGROUND

1. In accordance with Regulation 50 (a) of the Regulations of the Trust Fund for Victims (hereafter “the Regulations”), the Board of Directors of the Trust Fund for Victims (hereafter “the Board”) shall notify the relevant Chamber before undertaking specified activities it considers necessary to provide physical or psychological rehabilitation or material support for the benefit of victims and their families.
2. The Board has concluded the need for activities to be undertaken for the benefit of victims and their families on the territory of the Central African Republic (hereafter “CAR”). It hereby files the present notification for consideration by the relevant Pre-Trial Chamber, Pre-Trial Chamber II.
3. The filing contains as public annexes the *Call for Expression of Interest Call for Expressions of Interest for Supporting the Rehabilitation of Victim Survivors of Sexual and Gender-Based Violence (SGBV) in the Central African Republic*, that has been open from May 6 to August 5, 2011 , (hereafter “the EOI”) (Annex I), the application form for organisations who wished to apply for the EOI (Annex II), and a list of selected specified activities based on this process and as approved by the Board (Annex III).

Procedural history

4. During its Sixth Annual Meeting held on 3 June 2009, the Board concluded that there was a need for Trust Fund activities using voluntary contributions to be undertaken for the assistance of the victims of crimes within the jurisdiction of the Court in the CAR.

5. Accordingly, on 30 October 2009, the Trust Fund for Victims (hereafter “the Trust Fund”) informed the Pre-Trial Chamber II of its intention to undertake activities in the CAR.¹ In its submission to Pre-Trial Chamber II, the Trust Fund explained that its projects will target in particular victims and their families who have suffered from sexual violence, having identified this category as a vulnerable group with critical needs. The Trust Fund also proposed to launch a public tender to solicit suitable project proposals to ensure an open and transparent process.

6. In reply, Pre-Trial Chamber II issued a decision, dated 16 November 2009,² clarifying that the programme outline and the list of suggested activities to potential implementing partners contained in the Trust Fund’s submission did not represent a notification within the meaning of Regulation 50 (a) of the Regulations which requires the Board’s conclusion to undertake *specified activities*.³ Furthermore, the Pre-Trial Chamber asked the Board to formally notify the Pre-Trial Chamber of the specified activities proposed, once a selection of specific activities and projects has been made, and to provide all related necessary information.

7. In response to the decision of Pre-Trial Chamber II of 16 November 2009, the Board hereby notifies the Pre-Trial Chamber in accordance with Regulation 50 a) of the Regulation of the Trust Fund that the Board has selected and approved the specific activities and projects proposed for implementation the CAR. Furthermore, it hereby includes all necessary related information.

¹ Pre-Trial Chamber II, *Notification from the Board of Directors of the Trust Fund for Victims in accordance with Regulation 50 of the regulations of the Trust Fund for Victims*; ICC-01/05-29 and ICC-01/05-29-Anx of 30 October 2009

² Pre-Trial Chamber II, *Decision on the Submission of the Trust Fund for Victims dated 30 October 2009*, ICC-01/05-30 of 16 November 2009

³ Pre-Trial Chamber II, *Decision on the Submission of the Trust Fund for Victims dated 30 October 2009*, ICC-01/05-30 (16 November 2009) 4.

Process related to the Call for Expression of Interest (EOI)

8. The Trust Fund for Victims, for the benefit for its contributors, its implementing partners and, and of course, the victims benefitting from its assistance programme, strives to be highly transparent in its work. Accordingly, together with the relevant sections of the Court, including the procurement unit, and in line with the ICC's procurement process and the Court's Financial Regulations and Rules, it has developed a public procurement process for applicant review and project evaluation and selection. This new approach has been developed and applied for the first time to select the specific activities that are the subject of this notification.

9. In particular, in coordination with the relevant units within the Registry, the Trust Fund for Victims developed an open tender process in the form of a call for expression of interest to solicit project proposals to render assistance in support of Sexual and Gender Based Violence (SGVB) victim survivors in the CAR. This call for expression of interest (annex I) was published on 6 May 2011. Interested parties were given three months, until August 5, 2011 to prepare and submit their application of interest.

10. All interested parties were instructed to fill out an application form (see Annex II), which contained detailed instructions as to the supporting material required for a submission.

11. The Procurement Unit of the Registry received 19 applications expressing an interest in the programme. All applications were reviewed thoroughly and only complete applications that complied with the prescribed requirements were approved for technical review committee. The first stage of the technical review process resulted in a shortlist of nine applicant organisations that were

invited to develop and submit a full project proposal in response to the needs assessment.

12. The nine applicant organisations participated in a proposal development workshop hosted by the Trust Fund in Bangui from 9-11 February 2012. Following the proposal development workshop organisations were given several weeks to complete their application proposal and submit a full project proposal application.
13. All nine applicant organisations then submitted full project proposals which the Technical Review Committee evaluated and scored. Of the nine complete applicant proposals, six obtained a positive ranking and proceeded to the final stage of technical review. Accordingly, the Trust Fund sent out letters to these six organisations seeking further clarification and/or elaboration of various aspects of their proposed projects. The six applicant organisations were given two weeks to revise and amend their proposals in response to the particular issues outlined in their letter.
14. The six organisations submitted their revised project proposal applications and the technical review committee evaluated their revised submissions. The six applicant organisations submitted their revised proposals; and the technical review committee evaluated the submissions and recommended to the Board that all six applicants be approved under the program.
15. Finally, on 10 October 2012, the Board of Directors of the Trust Fund after thoroughly considering the applications approved the selected proposals, as contained in Annex III.

16. The procurement process developed by the relevant sections of the Registry for the CAR Trust Fund programme was the first of its kind. This new approach was developed and applied for the first time in the CAR to select the specific activities that are the subject of this notification. To ensure an open and transparent tendering process, the relevant sections of the Registry placed importance on the wide dissemination of the Expression of Interest (EOI).

II. FOCUS ON CRIMES OF SEXUAL AND GENDER BASED VIOLENCE

17. The activities that the Trust Fund intends to undertake in the CAR will benefit victims of sexual and gender based crimes (hereafter “SGBV crimes”).

18. The Trust Fund recalls that when the former Prosecutor announced the opening of an investigation in the CAR on 22 May 2007, he stated that his preliminary analysis of alleged crimes had revealed a pattern of massive rapes and other acts of sexual violence, appearing to have been a central feature of the conflict. This high reported number of victims of rape – at least 600 victims identified in a very short period of five months, bearing in mind that the real numbers are likely higher as such acts are customarily underreported – has made the CAR situation the first ICC investigation in which allegations of sexual crimes outnumber alleged killings.

19. Furthermore, victims have described aggravating aspects of cruelty such as rapes committed by multiple perpetrators, in front of third persons like family members, with sometimes relatives forced to participate. They reported instances of rape of elderly women, young girls and men. The social impact appears devastating with many victims stigmatized. Many of the victims were subsequently shunned by their families and communities, which made them

extremely vulnerable, and created special pressing needs.⁴ Sexual violence in the CAR has also been documented by a large number of international organisations and NGOs.⁵

20. As stated in the Trust Fund's submission to the Pre-Trial Chamber of 30 October 2009, the Trust Fund conducted a needs assessment in February 2009 in the Central African Republic in order to assess the physical and psychological rehabilitation and material support needs of the victims of crimes and their families within the jurisdiction of the Court as defined by the Regulation 50 (a) (i) of the Regulations of the TFV. The findings of this assessment led the Board of Directors to prioritize assistance to victims of SGBV crimes because these victims, in the assessment of the Trust Fund, lack adequate access to assistance.

21. In the assessment of the Trust Fund this situation remains unchanged to date. Moreover, funding for assistance for victims of SGBV crimes through the international community remains insufficient to satisfy the existing substantial needs of these most vulnerable victims.

22. Accordingly and as set out in more detail in the EOI, the TFV continues to consider it important to target victims of SGBV crimes as a key step in

⁴ Background note on the opening by the Prosecutor of an investigation in CAR, 22 May 2007, ICC-OTP-BN-20070522-220-A_EN, p. 2, available here: http://www.icc-cpi.int/NR/rdonlyres/B46B366B-51D1-4B7E-803A-079D0EE71F2F/277298/ICCOTPNB20070522220_A_EN2.pdf ; Statement of the Office of the Prosecutor on the opening of an investigation in the Central African Republic, 22 May 2007, available here: <http://www.icc-cpi.int/menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/reports%20and%20state%20ments/statement/prosecutor%20opens%20investigation%20in%20the%20central%20african%20republic?lan=en-GB> .

⁵ UNSC 'Report of the Secretary-General on children and armed conflict in the Central African Republic' (3 February 2009) S/2009/66; OCHA 'Consolidated Appeal for the Central African Republic 2008' (10 December 2007); Humanitarian and Development Partnership Team Central African Republic, Working Group: Gender and Gender based Violence (Draft, 21 mars 2007); FIDH, 'République Centrafricaine: oubliées, stigmatisées: la double peine des victimes de crimes internationaux, (Octobre 2006); UNFPA 'Violences sexuelles en situation de conflit: identifier et faire parler les victimes en RCA', International Symposium on Sexual Violence in Conflict and beyond (Brussels, 21-23 June 2006); Amnesty International, 'République Centrafricaine: cinq mois de guerre contre les femmes' (Novembre 2004).

achieving its mandate in the CAR. At its annual meeting in March 2011, the Board of Directors of the Trust Fund instructed the Secretariat to proceed with an open tendering process in the form of the EOI.

23. The fact that Trust Fund focuses on supporting victims of SGBV crimes at the present stage will not, however, preclude it at a later stage to re-assess the needs of victims. Should such a re-assessment make it appropriate and necessary, the Trust Fund may then decide to come back to the esteemed Pre-Trial Chamber to notify it of planned activities to offer assistance to victims of other forms of crime in CAR.

III. PROPOSED SPECIFIED ACTIVITIES

24. The proposed specified victim assistance activities are set out in Annex III of this filing.

VI. NON DETERMINATION OF ANY ISSUES BEFORE THE COURT

25. Article 50 (a) (ii) of the Regulations requires that following the notification by the Trust Fund, the relevant Chamber of the Court has responded and *“has not, within a period of 45 days of receiving such notification, informed the Board in writing that a specific activity or project, pursuant to rule 98, sub-rule 5 of the Rules of Procedure and Evidence, would pre-determine any issue to be determined by the Court, including the determination of jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or violate the presumption of innocence pursuant to article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.”*

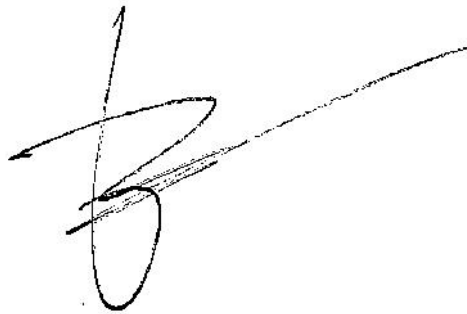
26. The Trust Fund respectfully submits to the Pre-Trial Chamber that the selected the specified activities it intends to undertake in the CAR will not pre-determine any issue to be determined by the Court in the sense of Regulation 50 (a) of the Regulations.
27. The specified activities will focus on crimes committed in the situation of the CAR in general and are unrelated to national proceedings; to proceedings concerning the investigation of the Court in the CAR situation; or to any cases arising out of such investigation⁶.
28. In accordance with the jurisprudence of the Pre-Trial Chamber II in the Uganda Situation, the Trust Fund has defined the specified activities in general and non-discriminatory terms, without reference to any identified alleged perpetrator, specific crime, or location⁷.

⁶ See jurisprudence of Pre-Trial Chamber I in the situation of the Democratic Republic of the Congo setting out these criteria, ICC-01/04-492 11 April 2008 at p. 9

⁷ Pre-Trial Chamber II, ICC-02/04-126 (19 March 2008), p. 5

FOR THE FOREGOING REASONS

The Board of Directors, considering it necessary to provide physical and/or psychological rehabilitation and/or material support for the benefit of victims and their families in the Central African Republic in form of the specified activities set out in detail in Annex III respectfully submits this notification pursuant to Regulation 50 a) of the Regulations of the Trust Fund to Pre-Trial Chamber II.



Pieter W.I. de Baan
Executive Director of the Secretariat of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 11 October, 2012

At The Hague, The Netherlands