

ANNEX I

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-RoR221-04/13

Date: 18 December 2013

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Sanji Mmasenono Monageng, First Vice-President
Judge Cuno Tarfusser, Second Vice-President

Public Redacted

Decision on the application for judicial review dated 4 November 2013

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

Applicant
[REDACTED]

Legal representative
Mr. Ghislain Mabanga

REGISTRY

Registrar
Mr. Herman von Hebel

Detention Section
Mr. Harry Tjonk

The Presidency of the International Criminal Court (“Court”) has before it the application of [REDACTED] (“applicant”) for judicial review of the decision of the Registrar rejecting his complaint regarding an alleged refusal to authorize a visit to the Detention Centre (“application”).

The application is dismissed for the reasons set forth below.

I. PROCEDURAL HISTORY

1. In 2012, [REDACTED] visited [REDACTED], on a family visit funded by the Court (“funded family visit”). At that time, [REDACTED] was authorized to make a courtesy visit to certain detained witnesses at the request of [REDACTED], and on his behalf.¹
2. In May 2013, a family funded visit by [REDACTED] to [REDACTED] was again scheduled. On 2 May 2013, [REDACTED] submitted an application form on behalf of three detainees, including the applicant, requesting that [REDACTED] visit them at the Detention Centre.²
3. On 3 May 2013, the Chief Custody Officer (“CCO”) refused to give authorization for the visit of [REDACTED] to the three detainees.³ The CCO noted that “le fait qu’une exception ait été accordée alors qu’un autre témoin détenu était encore présent dans les locaux du quartier pénitentiaire ne saurait faire de cela une pratique constante à répéter aujourd’hui ou à l’avenir”, and that funded family visits “ne sauraient être étendues tant comme règle ou comme une pratique à d’autres co-détenus”.⁴ This decision was notified to [REDACTED], as the person who had made the initial request.⁵

¹ ICC-RoR221-04/13-1-Conf-Exp-Anx4, paragraph 1. It was not clear from the Impugned Decision whether the applicant was one of the detained witnesses visited. However, the applicant states that a previous visit “a eu lieu sans encombre”, suggesting that he was visited by [REDACTED] at this time. ICC-RoR221004/13-1-Conf-Exp-Anx3, paragraph 4. See also ICC-RoR221-04/13-3-Conf-Exp, paragraph 3(f), noting that the CCO “granted on an exceptional basis” authorization for [REDACTED] to visit “all the detained witnesses” in 2012.

² ICC-RoR221-04/13-1-Conf-Exp-Anx4, paragraph 2. The application form is included as ICC-RoR221-04/13-3-Conf-Exp-Anx4.

³ ICC-RoR221-04/13-3-Conf-Exp-Anx5.

⁴ ICC-RoR221-04/13-3-Conf-Exp-Anx5.

⁵ ICC-RoR221-04/13-1-Conf-Exp-Anx4, paragraph 2.

4. In August 2013, [REDACTED] received another funded family visit. On that occasion, no application was made requesting that [REDACTED] visit the applicant, by [REDACTED], [REDACTED], or the applicant.⁶
5. On 27 September 2013, the applicant submitted a complaint to the CCO of the Detention Centre, on the basis that the CCO had refused to allow [REDACTED] to visit him during her visit to The Hague.⁷ The applicant further noted that the concept of “family” differed in African and European cultures, and that [REDACTED] had visited him in prison in the DRC. The applicant therefore concluded that the acting CCO “n’a aucune considération du cadre culturel africain de la famille”.⁸
6. In a decision dated 11 October 2013, the CCO determined that the complaint of the applicant was not justified. The CCO noted that the complaint raised two questions, the first relating to the refusal itself, and the second to the scope of “family”. The CCO noted that the Regulations of the Registry provide for the conventions and procedures that surround a request for a visit to the Detention Centre, citing regulation 179 in particular. The CCO stated that in principle, the prospective visitor was required to submit an application form to request a visit. The CCO further noted that the fact that indigent detainees are exceptionally authorized to submit a request for a visit by their spouse and children in the form of funded family visits “ne saurait élargir une telle pratique au plaignant ni l’exonérer du respect des procédures”.⁹ Accordingly, the CCO concluded that the applicant lacked standing to submit his complaint. The CCO further noted that the applicant’s arguments on the scope of “family” were slight and unsubstantiated, and that insufficient evidence had been provided to show a family link between [REDACTED] and the applicant.¹⁰
7. On 14 October 2013, the applicant lodged an appeal with the Registrar regarding the decision of the CCO.¹¹ In that appeal, the applicant submitted in particular that: (i) for the refused visit,¹² [REDACTED] had duly introduced a request which conformed to the exigencies of “la norme ad hoc”; (ii) in the African context, “family” is a fluid concept that is less restrictive than its Western counterpart; (iii) the necessity of

⁶ ICC-RoR221-04/13-1-Conf-Exp-Anx4, paragraph 3.

⁷ It is not clear in this complaint if the applicant is referring to [REDACTED]’s visit of May 2013 or to her visit of August 2013.

⁸ ICC-RoR221-04/13-1-Conf-Exp-Anx2.

⁹ ICC-RoR221-04/13-1-Conf-Exp-Anx2, page 2.

¹⁰ ICC-RoR221-04/13-1-Conf-Exp-Anx2, page 3.

¹¹ ICC-RoR221-04/13-1-Conf-Exp-Anx3.

¹² The applicant did not indicate the date of this refused visit. However, it is clear that he is referring to the May 2013 visit of [REDACTED], as there was no other visit during which a request for [REDACTED] to visit the detained witnesses was refused.

obtaining “le consentement de l’intéressée à rendre visite”¹³ to the applicant was not relevant in the present case, as a previous visit of [REDACTED] had taken place without incident; (iv) the rejected request was introduced by [REDACTED], and “signée par ordre sur son consentement”; (v) visits from friends and family members of detained witnesses who were present in Europe had been authorized by the Detention Centre in a previous note; and (vi) the applicant had received a visit from [REDACTED] while in detention in the Democratic Republic of the Congo (“DRC”).¹⁴ On these bases, the applicant requested that the Registrar annul the decision of the CCO and that he authorize henceforth the visits which had been authorized in the past.

8. On 28 October 2013 the Registrar rejected the application of the applicant.¹⁵
9. On 4 November 2013 the applicant appealed the decision of the Registrar to the Presidency.¹⁶
10. On 5 November 2013 the Registrar made certain observations in response to the application (“Observations”).¹⁷
11. On 9 December 2013 the Presidency requested that the Registrar provide information on whether there exists any policy or practice according to which detained persons may themselves submit applications to receive visits.¹⁸ The Presidency further requested that the Registrar clarify whether there is any policy or practice that allows detained persons to make an application to receive a visit on behalf of another detained person. Finally, the Presidency requested that the Registrar elucidate the basis on which the visit of [REDACTED] to the three detained witnesses in 2012 was authorized.
12. On 16 December 2013 the Registrar filed submissions in accordance with the Order of 9 December 2013.¹⁹

¹³ See ICC-RoR221-04/13-1-Conf-Exp-Anx2, page 3; ICC-RoR221-04/13-1-Conf-Exp-Anx3, paragraph 4.

¹⁴ ICC-RoR221-04/13-1-Conf-Exp-Anx3, paragraphs 1-6.

¹⁵ ICC-RoR221-04/13-1-Conf-Exp-Anx4.

¹⁶ ICC-RoR221-04/13-1-Conf-Exp-Anx1.

¹⁷ ICC-RoR221-04/13-1-Conf-Exp.

¹⁸ ICC-RoR221-04/13-2-Conf-Exp.

¹⁹ ICC-RoR221-04/13-3-Conf-Exp.

II. MERITS

A. Relevant parts of the Impugned Decision

13. In the Impugned Decision, dated 28 October 2013, the Registrar rejected the applicant's request to re-examine the decision of the CCO. The Registrar determined that, as [REDACTED] had not made a request to visit the applicant, it was not necessary to reach a determination on the applicant's other arguments.²⁰
14. In assessing whether the arguments submitted by the applicant called into question the decision of the CCO, the Registrar stated that he would take into account both the governing legal texts and the practice of the Detention Centre. The Registrar noted that regulation 179(1) of the Regulations of the Registry requires that all visitors submit an application to visit a detained person. To ensure that it is possible for the Registrar to authorize the visit in question, [REDACTED] would thus have had to submit a request. During her most recent visit, [REDACTED] did not apply to visit the applicant, nor did [REDACTED] make such a request in his own name. As a result, the Registrar determined that in the absence of an application from [REDACTED] on her last visit, the complaint of the applicant was materially without object and had no legitimate foundation.²¹

B. Arguments of the Applicant

15. On 4 November 2013, the applicant lodged an appeal against the Impugned Decision with the Presidency. The applicant recalled that the Detention Centre had already notified witnesses and detainees of their right to receive visits from members of their family on holiday in Europe. Furthermore, the applicant submitted that the Registrar recognised that the Detention Centre had authorized a previous visit of [REDACTED] to detainees and witnesses.²²
16. The applicant submitted that the CCO's refusal of 3 May 2013 was not founded on any legal basis.²³ Referring to the concern regarding whether the applicant himself had submitted a request, the applicant noted that it was clear that the previous visit of [REDACTED] had been authorized "sans que l'autorité Pénitentiaire et le Greffier

²⁰ ICC-RoR221-04/13-1-Conf-Exp-Anx4, page 4.

²¹ ICC-RoR221-04/13-1-Conf-Exp-Anx4, paragraph 5.

²² ICC-RoR221-04/13-1-Conf-Exp-Anx1, paragraphs 1-2.

²³ ICC-RoR221-04/13-1-Conf-Exp-Anx1, paragraph 3.

obligent le requérant au strict respect de la procédure pretextée”.²⁴ The applicant noted that when [REDACTED], in May 2013, submitted a request in the name of the three detainees, neither the Detention Centre nor the Registrar refused it on the basis that the request should have been submitted by “[l]es concernés susmentionnés comme l’exige [regulation 179(1) of the Regulations of the Registry]”.²⁵

17. The applicant further submitted that the notion of family is fluid in African culture, and signifies a large and non-restrictive community. The applicant submitted that the rigidity in the western concept of family may lead to a cultural, if not a racial, discrimination by the Court.
18. The applicant considered that in determining whether the arguments of the Registrar were well founded, it was necessary to examine regulation 180(1)(a)-(c) of the Regulations of the Registry, which outlines the criteria for granting permission for a visit to the Detention Centre. Applying these criteria, the applicant noted that (i) it was clear that no Chamber has issued an order in accordance with regulation 101 of the Regulations of the Court; (ii) the applicant had not refused to see the visitor; and (iii) neither the Registrar nor the Detention Centre authority had evoked any reasonable grounds to believe that the visit should be refused pursuant to regulation 180(1)(a)-(c). The applicant therefore requested that the Presidency annul the decision of the Registrar, and that visits be authorized without complication or delay.

C. Observations of the Registrar

19. In his observations dated 5 November 2013, the Registrar recalled that he had judged it unnecessary in the Impugned Decision to reach a determination on the varied arguments raised by the applicant, as the complaint was ill-founded. The Registrar considered that “toute décision qui a pu être communiquée par le greffe sur un refus de visite l’a été à l’égard de [REDACTED]”.²⁶ The Registrar nonetheless noted that he remained at the disposal of the Presidency to provide further information *ex parte* if the Presidency decided to take into account the grievances raised by the applicant in his various complaints.²⁷

²⁴ ICC-RoR221-04/13-1-Conf-Exp-Anx1, paragraph 4.

²⁵ ICC-RoR221-04/13-1-Conf-Exp-Anx1, paragraph 4.

²⁶ ICC-RoR221-04-13-1-Conf-Exp, page 3.

²⁷ ICC-RoR221-04-13-1-Conf-Exp, pages 3.

D. Submissions of the Registrar

20. In response to the Presidency's Order of 9 December 2013, the Registrar provided further information regarding whether detained persons may themselves submit applications to receive visits. The Registrar also clarified whether detained persons may make an application to receive a visit on behalf of another detained person. Finally, the Registrar elucidated the basis on which the visit of [REDACTED] to the three detained witnesses in 2012 was authorized.²⁸
21. With respect to the question of whether detained persons may themselves submit applications to receive visits, the Registrar began by considering regulation 179(1) of the Regulations of the Registry. Pursuant to this regulation, all visitors must apply to the Registrar for permission to visit a detained person. The Registrar elaborated that, "[s]pecifically, visitors must first apply to the Registrar for approval prior to their arrival by submitting the approved standard application form."²⁹
22. The Registrar explained that there exists an exception to this rule, which applies "only in the specific context of funded family visits."³⁰ As articulated in sub-section 6.6 of the House Rules for Detained Persons, "[i]t is required that a detained person, who together with his family qualifies for a funded family visit, shall complete and submit the family visit application form for the approval of the Registrar".³¹
23. The Registrar emphasized, however, that this practice, "whereby detained persons receiving family visits funded by the Court [...] submit such application on behalf of their spouse/family does not open such option to those who are receiving family visits without the Court's financial assistance."³² For detained persons receiving family visits without the Court's financial assistance, the Registrar stated that regulation 179(1) of the Regulations of the Registry "applies unequivocally."³³
24. With respect to the question of whether detained persons may make an application to receive a visit on behalf of another detained person, the Registrar clarified that neither

²⁸ ICC-RoR221-04/13-3-Conf-Exp.

²⁹ ICC-RoR221-04/13-3-Conf-Exp, paragraph 1(a). The Registrar appended a copy of this standard application form to the submissions filed in accordance with the Presidency's Order of 9 December 2013. ICC-RoR221-04/13-3-Conf-Exp-Anx2.

³⁰ ICC-RoR221-04/13-3-Conf-Exp, paragraph 1(b).

³¹ The Registrar appended this portion of the House Rules for Detained Persons to the submissions filed in accordance with the Presidency's Order of 9 December 2013. ICC-RoR221-04/13-3-Conf-Exp-Anx2. The Registrar explained that at the time that [REDACTED] arrived at the Detention Centre, "the House Rules for Detained Persons were not yet finalised." Therefore, the Registry "decided to organise and fund a family visit for him and he was requested to submit a request on behalf of [REDACTED]." This practice was subsequently adopted by the House Rules for Detained Persons. ICC-RoR221-04/13-3-Conf-Exp, paragraphs 1(b)-(c).

³² ICC-RoR221-04/13-3-Conf-Exp, paragraph 1(c).

³³ ICC-RoR221-04/13-3-Conf-Exp, paragraph 1(c).

the Regulations of the Registry nor “the policies and rules of the Detention Centre or at the Detention Centre” permit “a detained person to request/submit an application for visit on behalf of another detained person.”³⁴

25. Finally, the Registrar elucidated the basis on which the visit of [REDACTED] to the three detained witnesses in 2012 was authorized. The Registrar indicated that on 16 August 2012, [REDACTED], on behalf of [REDACTED], requested a visit between [REDACTED] and the detained witness [REDACTED]. The CCO granted authorization “on an exceptional basis” for [REDACTED] to visit all the detained witnesses.³⁵
26. The Registrar further clarified the circumstances surrounding [REDACTED]’s visit to [REDACTED] in May 2013. The Registrar indicated that on 2 May 2013, [REDACTED] requested a visit between [REDACTED] and three detained witnesses, including the applicant. On 3 May 2013 the CCO denied this request. In denying this request, the CCO indicated that the exception granted in August 2012 was not “une pratique constante à répéter aujourd’hui ou à l’avenir.”³⁶ The Registrar confirmed that the one-time granted permission did not create a practice or a policy, and should not be construed as a general right for [REDACTED] or any other detained person to submit visit applications outside the limited scope of funded family visits.³⁷
27. As for [REDACTED]’s visit to [REDACTED] in July 2013, the Registrar indicated that “no application form was submitted by [REDACTED] to meet [the applicant].”³⁸

E. Determination of the Presidency

28. It is recalled 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,

³⁴ ICC-RoR221-04/13-3-Conf-Exp, paragraph 2(e).

³⁵ Specifically, the Registrar stated that the CCO granted authorization for [REDACTED] “to visit all the detained witnesses as requested in the application form”, implying that [REDACTED] later revised his original request, which sought permission for [REDACTED] to visit only [REDACTED], to seek permission for [REDACTED] to visit all the detained witnesses. ICC-RoR221-04/13-3-Conf-Exp, paragraph 3(f).

³⁶ ICC-RoR221-04/13-3-Conf-Exp-Anx5.

³⁷ ICC-RoR221-04/13-3-Conf-Exp, paragraph 3(g).

³⁸ ICC-RoR221-04/13-3-Conf-Exp, paragraph 3(h). The Registrar indicated in the Impugned Decision that this visit took place in August, not July, 2013. ICC-RoR221-04/13-1-Conf-Exp-Anx4, paragraph 3.

failed to take into account relevant factors, or reached a conclusion which no sensible person who has properly applied his or her mind to the issue could have reached.³⁹

29. The present request for judicial review concerns the validity of a decision to refuse to authorize a visit by [REDACTED] to the applicant.
30. The Presidency notes at the outset that two incidents are referred to in the facts of this case. The first incident occurred in May 2013, when [REDACTED] submitted an application to authorize a visit by [REDACTED] to three detainees, including the applicant. That request was refused on 3 May 2013. In the second incident, [REDACTED] visited [REDACTED] in August 2013. On that occasion, no application requesting that [REDACTED] visit the applicant was submitted by [REDACTED] or by the applicant.
31. The Presidency notes that as no application to authorize a visit by [REDACTED] to the applicant was made in relation to [REDACTED]'s visit in August 2013, no refusal was issued in relation to this visit, and there exists no decision of the CCO to dispute. Accordingly, the Presidency focuses its attention on the refusal dated 3 May 2013 issued by the CCO in relation to the request for authorization for a visit of [REDACTED] to the applicant.
32. In assessing whether the Registrar has properly reached his conclusions in the Impugned Decision, the Presidency considers it appropriate to examine the relevant provisions of the Regulations of the Court and the Regulations of the Registry that govern the authorization of visits to detained persons within the Detention Centre.
33. Regulation 100(1) of the Regulations of the Court provides that "[a] detained person shall be entitled to receive visits". In accordance with Regulation 100(3), the relevant conditions for visits shall be set out in the Regulations of the Registry.
34. Those relevant conditions are provided in regulations 177-185 of the Regulations of the Registry.⁴⁰ Regulation 179 sets out the procedures governing applications for visits. Regulation 179(1) provides that "[a]ll visitors, other than counsel, diplomatic or

³⁹ The standard of judicial review was defined by the Presidency in its decision of 20 December 2005, ICC-Pres-RoC72-02-5, paragraph 16, and supplemented in its decision of 27 November 2006, ICC-01/04-01/06-731-Conf, paragraph 24. See also the decision of the Presidency of 10 July 2008, ICC-Pres-RoC72-01-8-10, paragraph 20.

⁴⁰ The Presidency notes that on 4 December 2013 a broad series of amendments to the Regulations of the Registry were approved. Those amendments entered into force on 5 December 2013. At the time of the events in question, however, a previous version of the Regulations of the Registry were in force. That previous version entered into force on 25 September 2009. In light of regulation 4(4) of the Regulations of the Registry (common to the version currently in force and the version in force at the time of the events in question), "[a]mendments to these Regulations shall not be prejudicial to the rights of [...] participants in the proceedings". Accordingly, the Presidency has decided as a matter of fairness to refer hereafter to the Regulations that were in force at the time of the events that are the subject of the present application, and that were the subject of the Registrar's decision of 28 October 2013.

consular representatives, representatives of the independent inspecting authority, or officers of the Court, shall first apply to the Registrar for permission to visit a detained person”, and that the Registrar “shall give specific attention to visits by family of the detained persons”. Regulation 179(2) provides, *inter alia*, that “[o]ther than in exceptional circumstances, the application shall be made in writing [...] using the approved standard form”.

35. Regulation 180 lays out the criteria for granting permission for a visit. Regulation 180(1) provides that permission for visits of individuals other than counsel, diplomatic or consular representatives, representatives of the independent inspecting authority and officers of the Court, “shall be granted”, unless (i) an order of the Chamber has been issued in accordance with regulation 101 of the Regulations of the Court; (ii) the detained person has refused to see the person in question; or (iii) the Registrar or the Chief Custody Officer has reasonable grounds to believe that a detained witness may be attempting one of a range of prohibited actions laid out in regulation 180(1)(a)-(c).⁴¹ Regulation 180(2) provides that when permission is granted, the Registrar “shall issue a permit and shall inform the Chief Custody Officer”. Regulation 180(3) provides that “[b]oth the detained person and the visitor shall be notified in writing by the Registry of any request for permission to visit which is denied”, and that “[r]easons for such refusal shall be provided”. Regulation 180(4) provides that a detained person “whose visits have been denied may file a complaint”, in accordance with the complaints procedure set out in regulations 217-222.
36. It is clear from the provisions outlined above that the Regulations of the Registry provide a framework whereby applications to visit a detained person must be made by the prospective visitor, in accordance with the procedures outlined in regulation 179(2). There is a presumption that such visits will be granted, in accordance with regulation 180(1), unless certain conditions outlined in the chapeau to regulation 180(1) and in sub-regulations (1)(a)-(c) are met. This presumption is in line with the general principle, expressed in regulation 100 of the Regulations of the Court, that “a detained person shall be entitled to receive visits”.

⁴¹ In particular, if the Registrar or the Chief Custody Officer has reasonable grounds to believe that “(a) A detained person may be attempting to: (i) Arrange an escape; (ii) Interfere with or intimidate a witness; (iii) Interfere with the administration of justice; or (iv) Otherwise disturb the maintenance of the security and good order of the Detention Centre; (b) The visit jeopardises public safety or the rights or freedom of any person; or (c) The purpose of the visit is to obtain information which may be subsequently reported in the media”.

37. In addition to this general practice, an exceptional procedure applies in the specific case of funded family visits.⁴² In such cases, sub-section 6.6 of the House Rules for Detained Persons provides that “a detained person [...] shall complete and submit the family visit application form for the approval of the Registrar at least two months prior to the first day of the commencement of the requested visit”.⁴³
38. In the present case, the Presidency accepts that an application was made by [REDACTED] on 2 May 2013, requesting that [REDACTED] visit three detained persons, including the applicant.⁴⁴ This application was made in the context of a funded family visit by [REDACTED] to [REDACTED]. [REDACTED] was therefore entitled to make an application for [REDACTED] to visit him in the Detention Centre in accordance with sub-section 6.6 of the House Rules for Detained Persons.
39. Under the visitation policy as elucidated by the Registrar, [REDACTED] was not however entitled to make an application on behalf of the applicant and others. As was clarified in the Registrar’s submissions of 16 December 2013, “there is no policy or practice in the Regulations of the Registry, in the policies and rules of the Detention Centre or at the Detention Centre that allows a detained person to request/submit an application for visit [*sic*] on behalf of another detained person”.⁴⁵
40. As the Registrar himself notes, however, [REDACTED] was allowed to visit detained witnesses in custody during a funded family visit to the Court to visit [REDACTED] in 2012.⁴⁶ This visit was requested by [REDACTED].⁴⁷ The Presidency accepts the submissions of the Registrar that this exceptional situation does not constitute a policy that the staff of the Detention Centre are required to follow in the future. As was clearly stated by the CCO in his rejection of [REDACTED]’s request that [REDACTED] visit the detained witnesses dated 3 May 2013, “le fait qu’une exception ait été accordée alors qu’un autre témoin détenu était encore présent dans les locaux du quartier pénitentiaire ne saurait faire de cela une pratique constante à répéter aujourd’hui ou à l’avenir”.⁴⁸ The Presidency accordingly finds that the Registrar and the CCO need not approve future requests that do not conform to the

⁴² ICC-RoR221-04/13-3-Conf-Exp, paragraph 1(b).

⁴³ ICC- RoR221-04/13-3-Conf-Exp-Anx1.

⁴⁴ The relevant request is annexed to the Registrar’s Submissions of 16 December 2013. ICC-RoR221-04/13-3-Conf-Exp-Anx4. The Presidency notes that the applicant provides contradictory information regarding this request, stating in one instance that it was submitted by [REDACTED], and in another that it was submitted by [REDACTED]. See ICC-RoR221-04/13-1-Conf-Exp-Anx3, paragraph 1, and ICC-RoR221-04/13-1-Conf-Anx1, paragraph 4. Although the signature on the request form is not legible, the Presidency accepts the Registrar’s submissions that the request was submitted by [REDACTED].

⁴⁵ ICC-RoR221-04/13-3-Conf-Exp, paragraph 2(e).

⁴⁶ ICC-RoR221-04/13-1-Conf-Exp-Anx4, paragraph 1.

⁴⁷ ICC-RoR221-04/13-1-Conf-Exp-Anx4, paragraph 1.

⁴⁸ ICC-RoR221-04/13-3-Conf-Exp-Anx5.

requirements of regulations 179-180 of the Regulations of the Registry, or, where applicable, sub-section 6.6 of the House Rules for Detained Persons. It is recalled that sub-section 6.6 is only applicable in the context of funded family visits.

41. Given that the Presidency has previously determined that the applicant is not entitled to funded family visits,⁴⁹ any visit to the applicant must be authorised in accordance with the procedure outlined in regulation 179 of the Regulations of the Registry. In the incident of May 2013, the requirements of regulation 179(1) were not met as no application to visit the applicant was made by the proposed visitor, [REDACTED]. The application is accordingly dismissed.

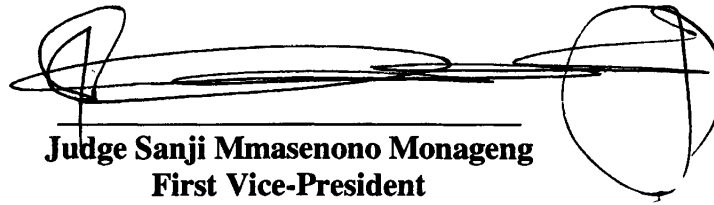
III. CLASSIFICATION

42. The Presidency notes that all documents in the instant Application have been filed confidentially and *ex parte*. The Presidency considers that, *prima facie*, there is no reason to retain the confidential *ex parte* classification of this decision and the related documents in the file, subject to ensuring the redaction of any information which may identify the applicant or [REDACTED].
43. If there is any factual and/or legal basis for retaining the confidential *ex parte* classification of this decision or that of any of its related documents, or if there is any specific information requiring redaction before publication, the applicant and the Registrar are each ordered to inform the Presidency thereof by 5 pm on Thursday 16 January 2014. The Presidency will thereafter rule on whether the classification should be maintained and, if necessary, the need for any redactions.

The Application is dismissed.

⁴⁹ See ICC-RoR221-04/12-4-Red, paragraph 30.

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



Judge Sanji Mmasenono Monageng
First Vice-President

Dated this 18 December 2013

At The Hague, The Netherlands