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Pénale
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**International
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PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Confidential - Prosecution, Defence and VPRS only

**Prosecution's Observations on 363 Applications for Victim Participation in the
Pre-Trial Proceedings**

Source: Office of the Prosecutor

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

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Introduction

1. The Prosecution submits observations on 363 applications for victim participation, pursuant to rule 89(1) of the Rules of Procedure and Evidence ("Rules") and the Single Judge's "Decision Establishing Principles on the Victims' Application Process".¹ Based on its assessment, the Prosecution supports all applications to participate as victims in the proceedings.
2. The Prosecution notes that its assessment on the identity of the applicants relies on the summary provided by the Victims Participation and Reparation Section ("VPRS") relating to the proof of identity and kinship of applicants whose identity documentation has not been transmitted to the Prosecution. Should the Single Judge determine, based on a review of the supporting documentation, that the identity of applicants or, where applicable, kinship between the applicants and their family members has not been sufficiently established, the applicants concerned should be requested to provide further information.

Confidentiality

3. The Prosecution files its observations as "Confidential - Prosecution, Defence and VPRS only" pursuant to regulation 23 *bis* (2) of the Regulations of the Court, in accordance with the Confidential Redacted version of the filing by the VPRS.

Procedural background

4. On 28 May 2013, the Single Judge ordered the parties to submit observations on victim applications within fourteen days of their transmission by the VPRS.²

¹ ICC-01/04-02/06-67.

² *Ibid*, page 21.

5. On 13 September 2013, the Registry provided the Prosecution with 29 unredacted victim applications.³ The parties submitted their observations on 1 October 2013.⁴
6. On 8 October 2013, the Registry provided the Prosecution with 172 unredacted victim applications.⁵ The parties submitted their observations on 24 October 2013.⁶
7. On 30 October 2013, the Registry provided the Prosecution with 258 unredacted victim applications.⁷ The parties submitted their observations on 15 November 2013.⁸
8. On 22 November 2013, the Registry provided the Prosecution with 363 unredacted victim applications.⁹

Legal criteria for victim participation in the proceedings

9. The Prosecution considers that victim participation before the Court is an essential feature of the Statute and the Rules as well as an important contribution to international justice. Under the Statute, victims are actors in the administration of international justice rather than its passive subjects. Their participation is a statutory right, not a privilege bestowed on a case-by-case basis.
10. The Prosecution supports victim participation when all statutory requirements are met. Consistent with its view of the unique and necessary perspective victims lend to the proceedings, the Prosecution supports a liberal approach in permitting applicants to amend or clarify incomplete applications, if possible.

³ ICC-01/04-02/06-106-Conf-Exp.

⁴ ICC-01/04-02/06-119-Conf, ICC-01/04-02/06-118-Conf.

⁵ ICC-01/04-02/06-122-Conf-Exp.

⁶ ICC-01/04-02/06-128-Conf, ICC-01/04-02/06-127-Conf.

⁷ ICC-01/04-02/06-132-Conf-Exp.

⁸ ICC-01/04-02/06-146-Conf, ICC-01/04-02/06-143-Conf.

⁹ ICC-01/04-02/06-154-Conf-Exp.

11. According to the Appeals Chamber, a person has the right to participate as a victim in the proceedings under article 68(3) if (i) he/she qualifies as a victim pursuant to rule 85; and (ii) his/her personal interests are affected by the issues, legal or factual, raised in the proceedings at hand.¹⁰
12. With respect to the first requirement of article 68(3)—qualification as a victim under rule 85—the established jurisprudence of the Court provides that the following four criteria must be satisfied *prima facie* for victim status to be granted,¹¹ regardless of the stage of the proceedings in which the applicants wish to participate: (i) the applicant must be a natural person as set forth in rule 85(a) or an organisation or institution as set forth in rule 85(b); (ii) the applicant must have suffered harm; (iii) the crime from which the harm resulted must fall within the jurisdiction of the Court; and (iv) there must be a causal link between the crime and the harm.¹²
13. In reviewing applications, Chambers do not generally delve into the credibility of applicants’ statements or require rigorous corroboration.¹³ Rather, Chambers “assess the applicants’ statements first and foremost on the merits of their intrinsic coherence, as well as on the basis of the information otherwise available” to the Chamber.¹⁴
14. The first step in the determination of whether the applicant is a “natural person” within the meaning of rule 85 is an inquiry into whether the applicant has provided adequate proof of identity. Chambers have recognized that a balance must be achieved between the need to establish an applicant’s identity with certainty, on the one hand, and the applicant’s personal circumstances, on the

¹⁰ See, e.g., ICC-01/04-556, para. 45; ICC-01/04-01/06-1335, para. 36.

¹¹ See, e.g., ICC-02/05-01/07-58, para. 7; ICC-01/04-01/07-579, para. 67.

¹² See, e.g., ICC-01/04-556, para. 45; ICC-01/04-01/06-1335, para. 36.

¹³ See ICC-01/04-01/07-579, para. 67.

¹⁴ ICC-01/04-01/07-579, paras. 67, 132.

other. Bearing in mind that the chaotic circumstances present in a given situation may preclude applicants from obtaining or producing copies of official identity papers and to ensure that victims are not unfairly deprived of the opportunity to participate, Chambers have considered non-official identification documents or, in appropriate cases, a statement signed by two credible witnesses attesting to the identity of the applicant as being sufficient proof of identity.

15. Rule 89(3) allows submission of an application for participation by a person acting on behalf of the victim concerned with the victim's consent, or on the victim's behalf in the case of a minor or a disabled person.¹⁵
16. The second requirement of article 68(3)—that the applicant's personal interests are affected by legal or factual issues raised in the proceedings at hand—is considered separately from the victim status.¹⁶ As indicated by the Appeals Chamber, "[c]lear examples of where the personal interests of victims are affected are when their protection is in issue and in relation to proceedings for reparations."¹⁷ "An assessment will need to be made in each case as to whether the interests asserted by victims do not, in fact, fall outside their personal interests and belong instead to the role assigned to the Prosecutor".¹⁸
17. The established jurisprudence additionally requires that the harm suffered and the personal interests of the victim must be linked to the charges confirmed against the accused or, at earlier stages in the proceedings, the offences alleged in

¹⁵ Rule 89(3) provides: "An application referred to in this rule may also be made by a person acting with the consent of the victim, or a person acting on behalf of a victim, in the case of a victim who is a child or, when necessary, a victim who is disabled."

¹⁶ See, e.g., ICC-01/04-556, para. 45; ICC-01/04-101-tEN-Corr, para. 62 (indicating that "personal interests" requirement constitutes an additional criterion to be met by victims, over and above the victim status accorded them).

¹⁷ ICC-01/04-01/06-925, para. 28.

¹⁸ *Ibid.*

the warrant of arrest or summons to appear or the document containing the charges.¹⁹

18. Further, “when assessing whether an applicant has suffered harm as a result of the loss of a family member, the Court requires proof of the identity of the family member and of his or her relationship with the applicant.”²⁰

19. The Appeals Chamber has defined “harm” within the meaning of rule 85(a) as “loss, injury or damage”²¹ and explained that cognizable harm includes material, physical and psychological injuries.²² The single most important requirement isolated by the Appeals Chamber for identifying “harm” is that the loss or injury must be suffered personally by the applicant.²³ A qualifying injury may be direct or indirect, so long as it is the applicant who experiences it.²⁴ Direct victims are those whose injury or loss is the “result of the commission of a crime within the jurisdiction of the Court,” while indirect victims are “those who suffer harm as a result of the harm suffered by the direct victims.”²⁵ Indirect harm can arise, *inter alia*, where persons endure psychological suffering or material deprivation when a family member is killed as a result of the crimes for which the Suspect is called to answer.²⁶

¹⁹ ICC-01/04-01/06-1432, paras. 2, 62-65 (“For the purposes of participation in the trial proceedings, the harm alleged by a victim and the concept of personal interests under article 68(3) of the Statute must be linked with the charges confirmed against the accused.”).

²⁰ ICC-02/05-02/09-147-Red, para. 6; see also ICC-02/04-179, paras. 35-38.

²¹ ICC-01/04-01/06-1432, para. 31.

²² ICC-01/04-01/06-1432, para. 32. See also ICC-02/04-164, para. 8 (treating “‘psychological trauma’ and ‘emotional harm’ as falling within the concept of ‘mental harm’”).

²³ ICC-01/04-01/06-1432, para. 32.

²⁴ ICC-01/04-01/06-1432, paras. 32, 34-35.

²⁵ ICC-01/04-01/06-1813, para. 44.

²⁶ ICC-01/04-01/06-1813, paras. 50-51.

Factual analysis of the applications

All applicants are natural persons who suffered harm from crimes within the jurisdiction of the Court

20. All 363 applicants are natural persons acting on their own behalf,²⁷ except for applicant a/00629/13 who appears to be acting on behalf of another person.²⁸ The 362 applicants acting on their own behalf have personally suffered direct and/or indirect physical, material and/or psychological harm. Their individual accounts sufficiently establish that the harm suffered resulted from crimes falling within the jurisdiction of the Court. The underlying acts attributed to the UPC constitute one or more of the following crimes relevant to the second warrant of arrest:²⁹ attacks against a civilian population, murder, pillaging, rape, sexual slavery, and persecution.³⁰ Further, Pre-Trial Chamber II made specific findings regarding the incidents (crimes, dates and locations) common to this group of applicants.³¹

Duplicate applications

21. According to the VPRS,³² applicants a/01096/13,³³ a/01115/13,³⁴ a/01132/13³⁵ and a/01134/13³⁶ each submitted two applications. The duplicate applications have not been transmitted to the Prosecution. The Prosecution is therefore unable to compare the applications or assess any impact the different applications may have on the criteria to establish participation as a victim. The Prosecution notes,

²⁷ Even if the box “acting on behalf of a victim” was tagged in several applications, the facts described relate to the applicant him or herself.

²⁸ ICC-01/04-02/06-154-Conf-AnxB-36-Red.

²⁹ ICC-01/04-02/06-36-Red, page 36, (i), (iii), (iv), (v), (vii).

³⁰ Articles 7(1)(a), 7(1)(g)-1, 7(1)(g)-2, 7(1)(h), 8(2)(c)(i), 8(2)(e)(i), 8(2)(e)(v), 8(2)(e)(vi)-1 and 8(2)(e)(vi)-2 of the Statute.

³¹ ICC-01/04-02/06-36-Red, paras. 43, 61.

³² ICC-01/04-02/06-154-Conf-AnxA.

³³ ICC-01/04-02/06-154-Conf-AnxB-203-Red.

³⁴ ICC-01/04-02/06-154-Conf-AnxB-221-Red.

³⁵ ICC-01/04-02/06-154-Conf-AnxB-237-Red.

³⁶ ICC-01/04-02/06-154-Conf-AnxB-239-Red.

however, that the discrepancies that were flagged by the VPRS appear to be minor.

Person acting on behalf of another person

22. Applicant a/00629/13³⁷ appears to be acting on behalf of or with the consent of another person. As the appropriate box is not filled out in the application, the Prosecution does not have access to documentation permitting it to assess whether the victim is a disabled adult or an adult who gave his consent for another person to act on his behalf. Should this issue remain insufficiently supported based on material available to the Single Judge, the applicant concerned should be requested to provide further information.

Indirect harm suffered from murder of extended family members

23. Applicants a/00161/13³⁸ and a/01246/13³⁹ have suffered indirect harm as a result of the murder of members of their extended family (uncles). These applicants have provided letters from local authorities that confirm their kinship with the deceased persons. In addition, their claims for either financial support or compensation for mental suffering sufficiently demonstrate personal harm. The Prosecution considers that personal harm has been sufficiently established.

Dates of the crimes

24. Some applicants refer to “the end of November 2002” rather than stating exact dates in relation to crimes suffered during the UPC attack on Mongbwalu of 18-23 November 2002. The Prosecution submits that the description of the facts and of the perpetrators sufficiently establishes that the crimes alleged occurred during

³⁷ ICC-01/04-02/06-154-Conf-AnxB-36-Red.

³⁸ ICC-01/04-02/06-154-Conf-AnxB-7-Red.

³⁹ ICC-01/04-02/06-154-Conf-AnxB-335-Red.

the attack on Mongbwalu and surrounding areas within the temporal scope of the case.

25. The Prosecution notes that a significant number of applicants suffered harm during the UPC attacks on Lipri, Bambu, Kobu and surrounding villages with reference to various dates: in the beginning of 2003, in February 2003, between January and February 2003 or between February and March 2003. They also refer to operation “*Shika na mukono*”. According to the Prosecution’s information, this term was used by the UPC to designate the UPC attacks on Lipri, Bambu, Kobu and surrounding villages during the period of 17 February to 2 March 2003.⁴⁰ On this basis, the Prosecution submits that it has been sufficiently established that the crimes alleged occurred within the relevant time frame of the charges.

26. The Prosecution notes that applicant a/00554/13⁴¹ indicates two different dates for the events in the victim application. Taking into account the nature of the discrepancies and the overall account provided by the applicant, the Prosecution is of the view that this may be the result of an inadvertent error in the filing of the application.

Locations of the crimes

27. Some applicants refer to locations of crimes other than Mongbwalu, Lipri, Bambu and Kobu. The VPRS was able to confirm that some of these locations are the villages surrounding these places. Moreover, for all of the locations, applicants have themselves specified that the villages are close to Mongbwalu, Lipri, Bambu or Kobu. Concerning, the Lipri, Bambu and Kobu incidents, most of the applicants further add that the crimes occurred during the operation “*shika na mukono*”.

⁴⁰ See ICC-01/04-02/06-119-Conf, para. 18.

⁴¹ ICC-01/04-02/06-154-Conf-AnxB-26-Red.

28. According to the Prosecution's independent information, the locations at which the following applicants suffered harm are indeed close to Lipri, Bambu, Kobu or Mongbwalu: a/01116/13,⁴² a/01159/13,⁴³ a/01188/13,⁴⁴ a/01192/13,⁴⁵ and a/01206/13⁴⁶ (close to Lipri); a/01057/13,⁴⁷ a/01261/13,⁴⁸ a/01159/13,⁴⁹ a/01094/13,⁵⁰ a/01171/13,⁵¹ a/01213/13,⁵² a/01220/13,⁵³ a/01245/13,⁵⁴ a/01253/13,⁵⁵ a/01256/13,⁵⁶ a/01264/13,⁵⁷ a/01269/13⁵⁸ and a/00546/13⁵⁹ (close to Kobu or Bambu); a/00546/13⁶⁰ and a/00770/13⁶¹ (close to Mongbwalu).

29. The Prosecution submits that all applicants have sufficiently established the locations of the crimes.

Proof of identity and kinship

30. The applications all bear the signature or thumbprint of the applicants. The identification documents have not been transmitted to the Prosecution. As such, the Prosecution has only had access to the analysis of completeness and sufficiency done by the VPRS.⁶² According to the VPRS's report, almost all

⁴² ICC-01/04-02/06-154-Conf-AnxB-222-Red.

⁴³ ICC-01/04-02/06-154-Conf-AnxB-263-Red.

⁴⁴ ICC-01/04-02/06-154-Conf-AnxB-287-Red.

⁴⁵ ICC-01/04-02/06-154-Conf-AnxB-291-Red.

⁴⁶ ICC-01/04-02/06-154-Conf-AnxB-301-Red.

⁴⁷ ICC-01/04-02/06-154-Conf-AnxB-186-Red.

⁴⁸ ICC-01/04-02/06-154-Conf-AnxB-349-Red.

⁴⁹ ICC-01/04-02/06-154-Conf-AnxB-263-Red.

⁵⁰ ICC-01/04-02/06-154-Conf-AnxB-201-Red.

⁵¹ ICC-01/04-02/06-154-Conf-AnxB-271-Red.

⁵² ICC-01/04-02/06-154-Conf-AnxB-307-Red.

⁵³ ICC-01/04-02/06-154-Conf-AnxB-314-Red.

⁵⁴ ICC-01/04-02/06-154-Conf-AnxB-334-Red.

⁵⁵ ICC-01/04-02/06-154-Conf-AnxB-341-Red.

⁵⁶ ICC-01/04-02/06-154-Conf-AnxB-344-Red.

⁵⁷ ICC-01/04-02/06-154-Conf-AnxB-352-Red.

⁵⁸ ICC-01/04-02/06-154-Conf-AnxB-357-Red.

⁵⁹ ICC-01/04-02/06-154-Conf-AnxB-20-Red.

⁶⁰ ICC-01/04-02/06-154-Conf-AnxB-20-Red.

⁶¹ ICC-01/04-02/06-154-Conf-AnxB-50-Red.

⁶² ICC-01/04-02/06-154-Conf-AnxA.

applicants have provided voting cards or identity cards as proof of identity and some provide an additional letter from local authorities as proof of identity and kinship. Applicants a/00906/13,⁶³ a/01070/13,⁶⁴ a/01071/13,⁶⁵ a/01088/13,⁶⁶ a/01094/13,⁶⁷ a/01095/13,⁶⁸ a/01097/13,⁶⁹ a/01099/13,⁷⁰ a/01103/13,⁷¹ a/01104/13,⁷² a/01111/13,⁷³ a/01123/13,⁷⁴ a/01124/13,⁷⁵ a/01125/13,⁷⁶ a/01126/13,⁷⁷ a/01130/13,⁷⁸ a/01131/13,⁷⁹ a/01133/13,⁸⁰ a/01139/13,⁸¹ a/01147/13,⁸² a/01148/13,⁸³ a/01149/13,⁸⁴ a/01153/13,⁸⁵ a/01164/13,⁸⁶ a/01166/13,⁸⁷ a/01177/13,⁸⁸ a/01197/13,⁸⁹ a/01209/13,⁹⁰ a/01215/13,⁹¹ a/01218/13,⁹² a/01222/13,⁹³ a/01224/13,⁹⁴ a/01225/13,⁹⁵ a/01226/13,⁹⁶

⁶³ ICC-01/04-02/06-154-Conf-AnxB-172-Red.

⁶⁴ ICC-01/04-02/06-154-Conf-AnxB-188-Red.

⁶⁵ ICC-01/04-02/06-154-Conf-AnxB-189-Red.

⁶⁶ ICC-01/04-02/06-154-Conf-AnxB-196-Red.

⁶⁷ ICC-01/04-02/06-154-Conf-AnxB-201-Red.

⁶⁸ ICC-01/04-02/06-154-Conf-AnxB-202-Red.

⁶⁹ ICC-01/04-02/06-154-Conf-AnxB-204-Red.

⁷⁰ ICC-01/04-02/06-154-Conf-AnxB-206-Red.

⁷¹ ICC-01/04-02/06-154-Conf-AnxB-210-Red.

⁷² ICC-01/04-02/06-154-Conf-AnxB-211-Red.

⁷³ ICC-01/04-02/06-154-Conf-AnxB-217-Red.

⁷⁴ ICC-01/04-02/06-154-Conf-AnxB-228-Red.

⁷⁵ ICC-01/04-02/06-154-Conf-AnxB-229-Red.

⁷⁶ ICC-01/04-02/06-154-Conf-AnxB-230-Red.

⁷⁷ ICC-01/04-02/06-154-Conf-AnxB-231-Red.

⁷⁸ ICC-01/04-02/06-154-Conf-AnxB-235-Red.

⁷⁹ ICC-01/04-02/06-154-Conf-AnxB-236-Red.

⁸⁰ ICC-01/04-02/06-154-Conf-AnxB-238-Red.

⁸¹ ICC-01/04-02/06-154-Conf-AnxB-243-Red.

⁸² ICC-01/04-02/06-154-Conf-AnxB-251-Red.

⁸³ ICC-01/04-02/06-154-Conf-AnxB-252-Red.

⁸⁴ ICC-01/04-02/06-154-Conf-AnxB-253-Red.

⁸⁵ ICC-01/04-02/06-154-Conf-AnxB-257-Red.

⁸⁶ ICC-01/04-02/06-154-Conf-AnxB-268-Red.

⁸⁷ ICC-01/04-02/06-154-Conf-AnxB-270-Red.

⁸⁸ ICC-01/04-02/06-154-Conf-AnxB-277-Red.

⁸⁹ ICC-01/04-02/06-154-Conf-AnxB-295-Red.

⁹⁰ ICC-01/04-02/06-154-Conf-AnxB-303-Red.

⁹¹ ICC-01/04-02/06-154-Conf-AnxB-309-Red.

⁹² ICC-01/04-02/06-154-Conf-AnxB-312-Red.

⁹³ ICC-01/04-02/06-154-Conf-AnxB-316-Red.

⁹⁴ ICC-01/04-02/06-154-Conf-AnxB-318-Red.

⁹⁵ ICC-01/04-02/06-154-Conf-AnxB-319-Red.

⁹⁶ ICC-01/04-02/06-154-Conf-AnxB-320-Red.

a/01228/13,⁹⁷ a/01229/13,⁹⁸ a/01233/13,⁹⁹ a/01242/13,¹⁰⁰ a/01254/13,¹⁰¹ a/01260/13,¹⁰² a/01261/13,¹⁰³ a/01262/13,¹⁰⁴ a/01268/13¹⁰⁵ and a/01276/13¹⁰⁶ only provide a letter from local authorities. Applicant a/00791/13¹⁰⁷ only provides an *attestation*, applicant a/00824/13¹⁰⁸ provides an *attestation* and a letter from local authorities and applicant a/00841/13¹⁰⁹ provides a **REDACTE** *identity card* and a letter of local authority. All identification documents provided are of the type listed in the Registry's report on proof of identity documents available in the DRC and considered by the Single Judge as sufficient proof of an applicant's identity.¹¹⁰

31. In its report, the VPRS noted several inconsistencies between the application forms and the documents submitted as proof of identity and/or kinship.¹¹¹ For instance, there are slight variations in: (i) the spelling of the names of applicants a/00151/13,¹¹² a/00552/13,¹¹³ a/00561/13,¹¹⁴ a/00760/13,¹¹⁵ a/00762/13,¹¹⁶ a/00776/13,¹¹⁷ a/00822/13,¹¹⁸ a/00842/13,¹¹⁹ a/00850/13,¹²⁰ a/00857/13,¹²¹ a/00861/13,¹²² a/00863/13,¹²³

⁹⁷ ICC-01/04-02/06-154-Conf-AnxB-322-Red.

⁹⁸ ICC-01/04-02/06-154-Conf-AnxB-323-Red.

⁹⁹ ICC-01/04-02/06-154-Conf-AnxB-327-Red.

¹⁰⁰ ICC-01/04-02/06-154-Conf-AnxB-333-Red.

¹⁰¹ ICC-01/04-02/06-154-Conf-AnxB-342-Red.

¹⁰² ICC-01/04-02/06-154-Conf-AnxB-348-Red.

¹⁰³ ICC-01/04-02/06-154-Conf-AnxB-349-Red.

¹⁰⁴ ICC-01/04-02/06-154-Conf-AnxB-350-Red.

¹⁰⁵ ICC-01/04-02/06-154-Conf-AnxB-356-Red.

¹⁰⁶ ICC-01/04-02/06-154-Conf-AnxB-360-Red.

¹⁰⁷ ICC-01/04-02/06-154-Conf-AnxB-64-Red.

¹⁰⁸ ICC-01/04-02/06-154-Conf-AnxB-95-Red.

¹⁰⁹ ICC-01/04-02/06-154-Conf-AnxB-111-Red.

¹¹⁰ ICC-01/04-02/06-67, para. 30, point (V) referring to ICC-01/04-02/06-53-Anx1.

¹¹¹ ICC-01/04-02/06-154-Conf-AnxA.

¹¹² ICC-01/04-02/06-154-Conf-AnxB-6-Red.

¹¹³ ICC-01/04-02/06-154-Conf-AnxB-24-Red.

¹¹⁴ ICC-01/04-02/06-154-Conf-AnxB-29-Red.

¹¹⁵ ICC-01/04-02/06-154-Conf-AnxB-40-Red.

¹¹⁶ ICC-01/04-02/06-154-Conf-AnxB-42-Red.

¹¹⁷ ICC-01/04-02/06-154-Conf-AnxB-55-Red.

¹¹⁸ ICC-01/04-02/06-154-Conf-AnxB-93-Red.

¹¹⁹ ICC-01/04-02/06-154-Conf-AnxB-112-Red.

¹²⁰ ICC-01/04-02/06-154-Conf-AnxB-119-Red.

¹²¹ ICC-01/04-02/06-154-Conf-AnxB-126-Red.

¹²² ICC-01/04-02/06-154-Conf-AnxB-130-Red.

a/00889/13,¹²⁴ a/00903/13,¹²⁵ a/01091/13,¹²⁶ a/01150/13,¹²⁷ a/01160/13,¹²⁸ a/01171/13,¹²⁹ a/01175/13,¹³⁰ a/01211/13,¹³¹ a/01214/13,¹³² a/01236/13¹³³ and a/01237/13¹³⁴; (ii) the spelling of the names of family members of applicants a/00147/13,¹³⁵ a/00151/13,¹³⁶ a/00551/13,¹³⁷ a/00816/13,¹³⁸ a/00822/13,¹³⁹ a/00856/13,¹⁴⁰ a/00882/13,¹⁴¹ a/01089/13,¹⁴² a/01098/13,¹⁴³ a/01109/13,¹⁴⁴ a/01113/13,¹⁴⁵ a/01114/13,¹⁴⁶ a/01137/13,¹⁴⁷ a/01141/13,¹⁴⁸ a/01143/13,¹⁴⁹ a/01149/13,¹⁵⁰ a/01151/13,¹⁵¹ a/01154/13,¹⁵² a/01159/13,¹⁵³ a/01198/13,¹⁵⁴ a/01231/13,¹⁵⁵ a/01236/13¹⁵⁶ and a/01238/13¹⁵⁷; and (iii) the date of birth of applicants a/00567/13,¹⁵⁸ a/00801/13,¹⁵⁹ a/00807/13,¹⁶⁰ a/00822/13,¹⁶¹ a/00854/13,¹⁶²

¹²³ ICC-01/04-02/06-154-Conf-AnxB-132-Red.

¹²⁴ ICC-01/04-02/06-154-Conf-AnxB-156-Red.

¹²⁵ ICC-01/04-02/06-154-Conf-AnxB-169-Red.

¹²⁶ ICC-01/04-02/06-154-Conf-AnxB-198-Red.

¹²⁷ ICC-01/04-02/06-154-Conf-AnxB-254-Red.

¹²⁸ ICC-01/04-02/06-154-Conf-AnxB-264-Red.

¹²⁹ ICC-01/04-02/06-154-Conf-AnxB-271-Red.

¹³⁰ ICC-01/04-02/06-154-Conf-AnxB-275-Red.

¹³¹ ICC-01/04-02/06-154-Conf-AnxB-305-Red.

¹³² ICC-01/04-02/06-154-Conf-AnxB-308-Red.

¹³³ ICC-01/04-02/06-154-Conf-AnxB-330-Red.

¹³⁴ ICC-01/04-02/06-154-Conf-AnxB-331-Red.

¹³⁵ ICC-01/04-02/06-154-Conf-AnxB-5-Red.

¹³⁶ ICC-01/04-02/06-154-Conf-AnxB-6-Red.

¹³⁷ ICC-01/04-02/06-154-Conf-AnxB-23-Red.

¹³⁸ ICC-01/04-02/06-154-Conf-AnxB-87-Red.

¹³⁹ ICC-01/04-02/06-154-Conf-AnxB-93-Red.

¹⁴⁰ ICC-01/04-02/06-154-Conf-AnxB-125-Red.

¹⁴¹ ICC-01/04-02/06-154-Conf-AnxB-150-Red.

¹⁴² ICC-01/04-02/06-154-Conf-AnxB-197-Red.

¹⁴³ ICC-01/04-02/06-154-Conf-AnxB-205-Red.

¹⁴⁴ ICC-01/04-02/06-154-Conf-AnxB-215-Red.

¹⁴⁵ ICC-01/04-02/06-154-Conf-AnxB-219-Red.

¹⁴⁶ ICC-01/04-02/06-154-Conf-AnxB-220-Red.

¹⁴⁷ ICC-01/04-02/06-154-Conf-AnxB-241-Red.

¹⁴⁸ ICC-01/04-02/06-154-Conf-AnxB-245-Red.

¹⁴⁹ ICC-01/04-02/06-154-Conf-AnxB-247-Red.

¹⁵⁰ ICC-01/04-02/06-154-Conf-AnxB-253-Red.

¹⁵¹ ICC-01/04-02/06-154-Conf-AnxB-255-Red.

¹⁵² ICC-01/04-02/06-154-Conf-AnxB-258-Red.

¹⁵³ ICC-01/04-02/06-154-Conf-AnxB-263-Red.

¹⁵⁴ ICC-01/04-02/06-154-Conf-AnxB-296-Red.

¹⁵⁵ ICC-01/04-02/06-154-Conf-AnxB-325-Red.

¹⁵⁶ ICC-01/04-02/06-154-Conf-AnxB-330-Red.

¹⁵⁷ ICC-01/04-02/06-154-Conf-AnxB-332-Red.

¹⁵⁸ ICC-01/04-02/06-154-Conf-AnxB-31-Red.

a/00875/13,¹⁶³ a/01072/13,¹⁶⁴ a/01127/13,¹⁶⁵ a/01151/13,¹⁶⁶ a/01174/13,¹⁶⁷ a/01179/13,¹⁶⁸ a/01196/13,¹⁶⁹ a/01215/13¹⁷⁰ and a/01267/13.¹⁷¹ The Prosecution does not oppose the VPRS's conclusion that these are minor discrepancies caused by transcription or copying errors and that the identity and kinship are sufficiently established for these applicants.

32. The VPRS also noted miscellaneous missing administrative data in the application forms or in the letters from local authorities submitted by applicants a/00161/13,¹⁷² a/00188/13,¹⁷³ a/00522/13,¹⁷⁴ a/00555/13,¹⁷⁵ a/00769/13,¹⁷⁶ a/00776/13,¹⁷⁷ a/00777/13,¹⁷⁸ a/00780/13,¹⁷⁹ a/00790/13,¹⁸⁰ a/00795/13,¹⁸¹ a/00797/13,¹⁸² a/00808/13,¹⁸³ a/00830/13,¹⁸⁴ a/00831/13,¹⁸⁵ a/00832/13,¹⁸⁶ a/00856/13,¹⁸⁷ a/00859/13,¹⁸⁸ a/00866/13,¹⁸⁹

¹⁵⁹ ICC-01/04-02/06-154-Conf-AnxB-73-Red.
¹⁶⁰ ICC-01/04-02/06-154-Conf-AnxB-79-Red.
¹⁶¹ ICC-01/04-02/06-154-Conf-AnxB-93-Red.
¹⁶² ICC-01/04-02/06-154-Conf-AnxB-123-Red.
¹⁶³ ICC-01/04-02/06-154-Conf-AnxB-144-Red.
¹⁶⁴ ICC-01/04-02/06-154-Conf-AnxB-190-Red.
¹⁶⁵ ICC-01/04-02/06-154-Conf-AnxB-232-Red.
¹⁶⁶ ICC-01/04-02/06-154-Conf-AnxB-255-Red.
¹⁶⁷ ICC-01/04-02/06-154-Conf-AnxB-274-Red.
¹⁶⁸ ICC-01/04-02/06-154-Conf-AnxB-279-Red.
¹⁶⁹ ICC-01/04-02/06-154-Conf-AnxB-294-Red.
¹⁷⁰ ICC-01/04-02/06-154-Conf-AnxB-309-Red.
¹⁷¹ ICC-01/04-02/06-154-Conf-AnxB-355-Red.
¹⁷² ICC-01/04-02/06-154-Conf-AnxB-7-Red.
¹⁷³ ICC-01/04-02/06-154-Conf-AnxB-11-Red.
¹⁷⁴ ICC-01/04-02/06-154-Conf-AnxB-17-Red.
¹⁷⁵ ICC-01/04-02/06-154-Conf-AnxB-27-Red.
¹⁷⁶ ICC-01/04-02/06-154-Conf-AnxB-49-Red.
¹⁷⁷ ICC-01/04-02/06-154-Conf-AnxB-55-Red.
¹⁷⁸ ICC-01/04-02/06-154-Conf-AnxB-56-Red.
¹⁷⁹ ICC-01/04-02/06-154-Conf-AnxB-58-Red.
¹⁸⁰ ICC-01/04-02/06-154-Conf-AnxB-63-Red.
¹⁸¹ ICC-01/04-02/06-154-Conf-AnxB-67-Red.
¹⁸² ICC-01/04-02/06-154-Conf-AnxB-69-Red.
¹⁸³ ICC-01/04-02/06-154-Conf-AnxB-80-Red.
¹⁸⁴ ICC-01/04-02/06-154-Conf-AnxB-100-Red.
¹⁸⁵ ICC-01/04-02/06-154-Conf-AnxB-101-Red.
¹⁸⁶ ICC-01/04-02/06-154-Conf-AnxB-102-Red.
¹⁸⁷ ICC-01/04-02/06-154-Conf-AnxB-125-Red.
¹⁸⁸ ICC-01/04-02/06-154-Conf-AnxB-128-Red.
¹⁸⁹ ICC-01/04-02/06-154-Conf-AnxB-135-Red.

a/00868/13,¹⁹⁰ a/00869/13,¹⁹¹ a/00880/13,¹⁹² a/00897/13,¹⁹³ a/00898/13,¹⁹⁴ a/01049/13,¹⁹⁵
a/01050/13,¹⁹⁶ a/01087/13,¹⁹⁷ a/01089/13,¹⁹⁸ a/01091/13,¹⁹⁹ a/01092/13,²⁰⁰ a/01093/13,²⁰¹
a/01094/13,²⁰² a/01095/13,²⁰³ a/01096/13,²⁰⁴ a/01098/13,²⁰⁵ a/01100/13,²⁰⁶ a/01101/13,²⁰⁷
a/01105/13,²⁰⁸ a/01108/13,²⁰⁹ a/01111/13,²¹⁰ a/01112/13,²¹¹ a/01113/13,²¹² a/01114/13,²¹³
a/01115/13,²¹⁴ a/01118/13,²¹⁵ a/01120/13,²¹⁶ a/01122/13,²¹⁷ a/01123/13,²¹⁸ a/01124/13,²¹⁹
a/01125/13,²²⁰ a/01126/13,²²¹ a/01127/13,²²² a/01128/13,²²³ a/01129/13,²²⁴ a/01130/13,²²⁵
a/01131/13,²²⁶ a/01132/13,²²⁷ a/01133/13,²²⁸ a/01134/13,²²⁹ a/01139/13,²³⁰ a/01141/13,²³¹

¹⁹⁰ ICC-01/04-02/06-154-Conf-AnxB-137-Red.

¹⁹¹ ICC-01/04-02/06-154-Conf-AnxB-138-Red.

¹⁹² ICC-01/04-02/06-154-Conf-AnxB-148-Red.

¹⁹³ ICC-01/04-02/06-154-Conf-AnxB-163-Red.

¹⁹⁴ ICC-01/04-02/06-154-Conf-AnxB-164-Red.

¹⁹⁵ ICC-01/04-02/06-154-Conf-AnxB-183-Red.

¹⁹⁶ ICC-01/04-02/06-154-Conf-AnxB-184-Red.

¹⁹⁷ ICC-01/04-02/06-154-Conf-AnxB-195-Red.

¹⁹⁸ ICC-01/04-02/06-154-Conf-AnxB-197-Red.

¹⁹⁹ ICC-01/04-02/06-154-Conf-AnxB-198-Red.

²⁰⁰ ICC-01/04-02/06-154-Conf-AnxB-199-Red.

²⁰¹ ICC-01/04-02/06-154-Conf-AnxB-200-Red.

²⁰² ICC-01/04-02/06-154-Conf-AnxB-201-Red.

²⁰³ ICC-01/04-02/06-154-Conf-AnxB-202-Red.

²⁰⁴ ICC-01/04-02/06-154-Conf-AnxB-203-Red.

²⁰⁵ ICC-01/04-02/06-154-Conf-AnxB-205-Red.

²⁰⁶ ICC-01/04-02/06-154-Conf-AnxB-207-Red.

²⁰⁷ ICC-01/04-02/06-154-Conf-AnxB-208-Red.

²⁰⁸ ICC-01/04-02/06-154-Conf-AnxB-212-Red.

²⁰⁹ ICC-01/04-02/06-154-Conf-AnxB-214-Red.

²¹⁰ ICC-01/04-02/06-154-Conf-AnxB-217-Red.

²¹¹ ICC-01/04-02/06-154-Conf-AnxB-218-Red.

²¹² ICC-01/04-02/06-154-Conf-AnxB-219-Red.

²¹³ ICC-01/04-02/06-154-Conf-AnxB-220-Red.

²¹⁴ ICC-01/04-02/06-154-Conf-AnxB-221-Red.

²¹⁵ ICC-01/04-02/06-154-Conf-AnxB-224-Red.

²¹⁶ ICC-01/04-02/06-154-Conf-AnxB-225-Red.

²¹⁷ ICC-01/04-02/06-154-Conf-AnxB-227-Red.

²¹⁸ ICC-01/04-02/06-154-Conf-AnxB-228-Red.

²¹⁹ ICC-01/04-02/06-154-Conf-AnxB-229-Red.

²²⁰ ICC-01/04-02/06-154-Conf-AnxB-230-Red.

²²¹ ICC-01/04-02/06-154-Conf-AnxB-231-Red.

²²² ICC-01/04-02/06-154-Conf-AnxB-232-Red.

²²³ ICC-01/04-02/06-154-Conf-AnxB-233-Red.

²²⁴ ICC-01/04-02/06-154-Conf-AnxB-234-Red.

²²⁵ ICC-01/04-02/06-154-Conf-AnxB-235-Red.

²²⁶ ICC-01/04-02/06-154-Conf-AnxB-236-Red.

²²⁷ ICC-01/04-02/06-154-Conf-AnxB-237-Red.

a/01143/13,²³² a/01147/13,²³³ a/01161/13,²³⁴ a/01163/13,²³⁵ a/01164/13,²³⁶ a/01166/13,²³⁷
a/01171/13,²³⁸ a/01177/13,²³⁹ a/01178/13,²⁴⁰ a/01179/13,²⁴¹ a/01187/13,²⁴² a/01190/13,²⁴³
a/01191/13,²⁴⁴ a/01192/13,²⁴⁵ a/01194/13,²⁴⁶ a/01195/13,²⁴⁷ a/01219/13,²⁴⁸ a/01223/13,²⁴⁹
a/01225/13,²⁵⁰ a/01227/13,²⁵¹ a/01228/13,²⁵² a/01229/13,²⁵³ a/01232/13,²⁵⁴ a/01233/13,²⁵⁵
a/01234/13,²⁵⁶ a/01235/13,²⁵⁷ a/01236/13,²⁵⁸ a/01237/13²⁵⁹ and a/01252/13.²⁶⁰ Given
that the Prosecution does not have access to the supporting documentation, it
defers to the Single Judge's determination on the consistency of such
documentation with the information provided in the application forms and on
the impact of the missing data on the applications. The Prosecution submits that
should the absence of certain data require further clarification, the applicants

²²⁸ ICC-01/04-02/06-154-Conf-AnxB-238-Red.

²²⁹ ICC-01/04-02/06-154-Conf-AnxB-239-Red.

²³⁰ ICC-01/04-02/06-154-Conf-AnxB-243-Red.

²³¹ ICC-01/04-02/06-154-Conf-AnxB-245-Red.

²³² ICC-01/04-02/06-154-Conf-AnxB-247-Red.

²³³ ICC-01/04-02/06-154-Conf-AnxB-251-Red.

²³⁴ ICC-01/04-02/06-154-Conf-AnxB-265-Red.

²³⁵ ICC-01/04-02/06-154-Conf-AnxB-267-Red.

²³⁶ ICC-01/04-02/06-154-Conf-AnxB-268-Red.

²³⁷ ICC-01/04-02/06-154-Conf-AnxB-270-Red.

²³⁸ ICC-01/04-02/06-154-Conf-AnxB-271-Red.

²³⁹ ICC-01/04-02/06-154-Conf-AnxB-277-Red.

²⁴⁰ ICC-01/04-02/06-154-Conf-AnxB-278-Red.

²⁴¹ ICC-01/04-02/06-154-Conf-AnxB-279-Red.

²⁴² ICC-01/04-02/06-154-Conf-AnxB-286-Red.

²⁴³ ICC-01/04-02/06-154-Conf-AnxB-289-Red.

²⁴⁴ ICC-01/04-02/06-154-Conf-AnxB-290-Red.

²⁴⁵ ICC-01/04-02/06-154-Conf-AnxB-291-Red.

²⁴⁶ ICC-01/04-02/06-154-Conf-AnxB-292-Red.

²⁴⁷ ICC-01/04-02/06-154-Conf-AnxB-293-Red.

²⁴⁸ ICC-01/04-02/06-154-Conf-AnxB-313-Red.

²⁴⁹ ICC-01/04-02/06-154-Conf-AnxB-317-Red.

²⁵⁰ ICC-01/04-02/06-154-Conf-AnxB-319-Red.

²⁵¹ ICC-01/04-02/06-154-Conf-AnxB-321-Red.

²⁵² ICC-01/04-02/06-154-Conf-AnxB-322-Red.

²⁵³ ICC-01/04-02/06-154-Conf-AnxB-323-Red.

²⁵⁴ ICC-01/04-02/06-154-Conf-AnxB-326-Red.

²⁵⁵ ICC-01/04-02/06-154-Conf-AnxB-327-Red.

²⁵⁶ ICC-01/04-02/06-154-Conf-AnxB-328-Red.

²⁵⁷ ICC-01/04-02/06-154-Conf-AnxB-329-Red.

²⁵⁸ ICC-01/04-02/06-154-Conf-AnxB-330-Red.

²⁵⁹ ICC-01/04-02/06-154-Conf-AnxB-331-Red.

²⁶⁰ ICC-01/04-02/06-154-Conf-AnxB-340-Red.

should be requested to submit further information in order to establish their identity and kinship.

Conclusion

33. The Prosecution submits that all 363 applicants meet the requirements under article 68(3) to participate as victims in the pre-trial proceedings in this case, provided that the Single Judge is satisfied that the attached identity documentation sufficiently proves their identity and kinship.



Fatou Bensouda, Prosecutor

Dated this 9th Day of December 2013
At The Hague, the Netherlands