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Date: 1 August 2014

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Geoffrey Henderson

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

PUBLIC

Public redacted version of the “First Report to the Pre-Trial Chamber on applications to participate in the proceedings” (ICC-01/04-02/06-106-Conf-Exp) dated 13 September 2013

Source: Registry

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

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Section**

Ms Fiona McKay

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the Single Judge’s Decision issued in the case of *The Prosecutor v. Bosco Ntaganda* (the “Case”), notified on 28 May 2013, establishing principles on the victims’ application process (the “Decision of 28 May”);¹

NOTING the Single Judge’s Decision issued on 26 June 2013, clarifying certain aspects of the Decision of 28 May (the Decision of 26 June”);²

NOTING article 68 (3) of the Rome Statute, rules 85 and 89 of the Rules of Procedure and Evidence (the “Rules”), and regulations 86 (5), 23 *bis* and 24 *bis* (2) of the Regulations of the Court;

CONSIDERING that the Single Judge in her Decision of 28 May provided instructions to the Registry regarding the victims’ application process and the reporting system to be implemented in the Case, including a simplified application form;

CONSIDERING that the present Report is filed with the status “Confidential and *ex parte* only available to the Prosecutor” in accordance with the Decision of 28 May which provides that the Registry’s report shall be transmitted with its two annexes without any redaction to the Prosecutor and with limited redaction of the identifying information of the applicant where necessary to the Defence;³

¹ ICC-01/04-02/06-67.

² ICC-01/04-02/06-75.

³ ICC-01/04-02/06-67, paras 29 and 37-44.

CONSIDERING that the VPRS is organizing applications received in different groups, according to criteria developed by the VPRS in accordance with the Decision of 28 May, and transmitting them on a rolling basis;⁴

CONSIDERING that among the 560 applications it has received so far,⁵ the VPRS has allocated 29 applications to one of the groups established and assessed them as complete and linked to the Case;

TRANSMITS to the Single Judge and the Prosecutor the present report on applications to participate in the Case (the “Report”) together with two annexes: (1) Annex A containing a table presenting the VPRS’s Rule 85 assessment for each individual application transmitted with the Report; and (2) Annex B containing copies of the applications transmitted.

A. Background and Content of the Report

1. To date the VPRS has received 560 applications to participate in the proceedings, and expects to receive further applications during the coming months. The VPRS will continue to assess applications received and will file them on a rolling basis in batches of 200 to 300 applications approximately every three weeks.⁶

⁴ ICC-01/04-02/06-67, paras 33-39.

⁵ This number does not include victims participating in other proceedings linked to the DRC Situation which appear to be linked to the Case and who may decide to express their wish to participate in the Case in compliance with the Decision of 26 June, para.16.

⁶ The tentative dates for the next transmissions of applications to participate in the proceedings are the following: 7 October 2013, 28 October 2013, 18 November 2013, 9 December 2013 and if necessary 10 January 2014.

2. The Registry transmits to the Single Judge the first batch of 29 applications for participation in the proceedings (the “Applications”) together with a Report thereon which includes:

- Information concerning the activities carried out in the field leading to the receipt of applications for participation in the proceedings (Part B);
- Information concerning the criteria employed for grouping the applications for participation in the proceedings received (Part C);
- Explanation of the content of Annex A of the Report (Part D);
- Explanation of the content of Annex B of the Report (Part E);
- Description of the group(s) of applications transmitted (Part F);
- VPRS’s Rule 85 assessment for the group(s) of applications transmitted (Part G).

B. Field activities leading to the receipt of applications for participation

1. Outreach and Public information

3. In accordance with the Chamber’s Decision of 28 May, and with the usual practice of the Registry, the Outreach Unit of the Public Information and Documentation Section (PIDS) conducted outreach activities in areas affected by the Case (in the Ituri province of the DRC), ahead of the deployment of activities by the VPRS, in order to prepare the ground for VPRS’ activities. Training sessions were also conducted with NGOs and individuals that would serve as intermediaries for the VPRS so as to enable victims to apply effectively to participate in the proceedings. Proper coordination at the earliest

stage was ensured within the Registry in order to make sure that messages disseminated are consistent and tailored to the public targeted.

4. During the month of June 2013, the PIDS conducted Outreach activities in the territories of Djugu and Mahagi. Most of the localities visited had not been affected by previous cases (Lubanga or Katanga and Ngudjolo) and had had less exposure to information concerning the ICC, and in particular, victims' participation or reparation. Eight localities were visited in the territory of Djugu and interactive public sessions were held to explain, through key messages, relevant information about the Court, precise information about the scope of the Case, the role and rights of victims in proceedings, and how victims linked to the Case would be assisted to apply to participate in the proceedings if they wished to do so. At the end of the sessions, PIDS and VPRS ensured proper interaction by responding to questions and concerns raised by the participants, and these were registered with the aim of contributing towards the preparation of tailored material containing responses to frequently asked questions. In July and August 2013, PIDS continued disseminating relevant information in the territory of Mahagi, conducting face to face activities with the affected communities of the Case and interacting through the local community radio stations.
5. In July 2013, PIDS produced radio programs in French, Swahili and Lingala (the main local languages used in that region) on the participation process in the Case. These programs are distributed to all local community radios broadcasting in areas affected by the Case. To ensure interaction with these communities, the Outreach Officer based in Bunia also responds each week to questions raised by the population through interviews aired in the same languages on those radio stations.

2. Field activities of the VPRS to facilitate victims' participation

6. In the months preceding the Decision of 28 May, the VPRS began to conduct activities aimed at identifying and selecting potential intermediaries who had the capacity and willingness to assist victims in the areas affected by the Case, to supplement the network of intermediaries that the Section had previously identified in the area. An international non-governmental organization, *Avocats Sans Frontières*, which had representatives based in the country, indicated that it had decided to assist applicants and agreed that its intermediaries would take part in the training of intermediaries to be provided by the VPRS. The VPRS also conducted other activities aimed at preparing the ground for victim participation, including conveying key messages to [REDACTED] of localities concerned by the Case.⁷
7. Following the Decision of 28 May, in June 2013, a total of [REDACTED] selected intermediaries were trained to assist victims to apply to participate in the proceedings. The training sessions were divided into three modules: 1) scope of the Case, victim participation in the ICC system, the simplified application form and completeness of applications; 2) protection and security, ethical rules and confidentiality, basic interviewing skills and how to interact with victims of crimes; 3) organization of the work of the intermediaries including coordination according to locality, administrative aspects and reinforcement of the training (model questions and answers with an emphasis on the most difficult points). Each training module was accompanied by practical exercises to ascertain the level of understanding and to reduce risk.
8. Immediately following the outreach conducted by PIDS, intermediaries were informed that they could go to the areas assigned to them where victims had

⁷ The delegations came from [REDACTED] and [REDACTED] and were representative in age, gender and diversity.

been identified, with application forms for participation. VPRS staff remained in the area throughout the period the applications were being completed in order to answer questions, provide further assistance and training where required, request missing information, collect and review completed applications forms and convey them to the VPRS in The Hague, and monitor the security situation.

9. During these activities, the VPRS identified localities⁸ where, although victims wishing to participate were identified, the manner of assisting them had to be adjusted due to the high risk for victims, intermediaries and ICC personnel. These are localities where former militia of the UPC/FPLC, sympathizers of both, and supporters of Thomas Lubanga Dyilo and Bosco Ntaganda, are concentrated, who displayed a hostile attitude towards the ICC. Two intermediaries conducting activities in these localities withdrew before they could provide assistance to any victim.

C. Criteria adopted for grouping the applications

10. In accordance with the Decision of 28 May, the VPRS has grouped applications before transmitting them to the Chamber.
11. The VPRS decided to divide the applicants into two overall categories: (1) former child soldiers of the UPC/FPLC⁹ (the “UPC/FPLC child soldiers”) who are the victims of the alleged crimes identified in the Warrant of Arrest of 2006;¹⁰ and (2) the victims of attacks allegedly conducted by the UPC/FPLC (the “UPC/FPLC attacks”) who are the victims of the alleged crimes identified

⁸ Particularly the localities of [REDACTED] and [REDACTED] and, to a lesser extent [REDACTED]

⁹ Union des patriotes congolais/Forces patriotiques pour la libération du Congo (the « UPC/FPLC »)

¹⁰ ICC-01/04-02/06-2-Anx-tENG.

in the Warrant of Arrest of 2012.¹¹ The latter category was then divided into two sub-categories: (1) the events between 18 and 23 November 2002 ("Incident 1"); and (2) the events between 17 February 2003 and 2 March 2003 ("Incident 2"); and both sub-categories were further sub-divided into five sub-groups according to the location of the crimes alleged.

12. This grouping was made based on preliminary consultations in the field and potential conflicts of interests between the victims linked to the Warrant of Arrest of 2006 and those linked to the Warrant of Arrest of 2012, and in the interests of arriving at a system of grouping in the Case that was as simple as possible and minimised overlap (the same victims falling within more than one group). Other criteria such as the nature of the alleged crime or the harm suffered were not considered appropriate for the purpose of grouping the applications since they were likely to involve overlap between groups.¹²

13. In the view of the Registry, the proposed grouping will serve to facilitate understanding of the alleged events as presented by the Prosecutor, assist the common legal representative(s) of the victims to familiarise themselves with their clients, and facilitate interaction between the victims and the common legal representative(s) since it appears that, following the events, most of the victims returned to their villages where the crimes allegedly occurred.

14. In light of the above, seven groups have been created so far.¹³

¹¹ ICC-01/04-02/06-36-Red.

¹² The VPRS notes the option of further sub-dividing the groups so as to distinguish the victims of sexual violence. However it was concluded that it would not be appropriate to do so at this stage and could contribute to stigmatising these victims in their communities. The VPRS notes, however, that this factor is an important consideration after decisions on the status of victims are taken, to facilitate in an appropriate and comprehensive manner the participation of victims of sexual violence and allow the common legal representative to take gender-sensitive measures (article 68 (1) of the Statute, rules 16(d), 86 and 90(4) of the Rules), as well as to facilitate measures to protect the well-being of victims.

¹³ They are the following: UPC/FPLC Child soldiers, UPC/FPLC Attacks-Incident 1-Mongbwalu; UPC/FPLC Attacks-Incident 1-Sayo; UPC/FPLC Attacks-Incident 2-Lipri; UPC/FPLC Attacks-Incident

D. Explanation of the content of Annex A of the Report

15. Annex A of the Report comprises the VPRS's assessment as to whether the requirements of rule 85 of the Rules are met for each applicant in the group of applications transmitted with the present Report, in accordance with paragraph 37 of the Decision of 28 May.

16. The assessment of each applicant is presented in the form of a table composed of six columns. Each individual report sets out :

- Information enabling each application to be tracked (group name and reference number of the application);¹⁴
- Basic criteria which must be fulfilled in order for an applicant to meet the requirements of rule 85 of the Rules: (1) Completeness (relating to the victim and the person acting on behalf, where relevant);¹⁵ (2) Requirements relating to the alleged crime;¹⁶ (3) Requirements relating to the harm suffered;¹⁷
- Result of the Registry's assessment as well as any accompanying explanation or comment.¹⁸

17. The approach taken in making the assessments is explained below.

1- Completeness

18. Three issues are addressed under the heading "Application Complete": whether the personal details provided are consistent; whether the applicant

2-Bambu; UPC/FPLC Attacks-Incident 2-Kobu; and UPC/FPLC Attacks-Incident 2-Lipri-Bambu-Kobu-surrounding villages.

¹⁴ Annex A, header and column A.

¹⁵ Annex A, columns B to C.

¹⁶ Annex A, column D.

¹⁷ Annex A, column E.

¹⁸ Annex A, column F.

has provided sufficient proof of identity; and whether the application has been signed by the applicant.

19. Where there appear to be internal inconsistencies in applications, the Registry has followed the approach of the Chamber adopted in other situations.¹⁹ On this basis, the Registry has assessed as complete those applications containing only minor inconsistencies which appear merely to be a mistake made by the applicant or the person assisting in the completion of the application form, or where the reasons for an inconsistency are explained by the applicant. In those instances, it is indicated that taking into account the nature of the discrepancy, together with the overall picture provided by the applicant, the application appears to be complete. In other instances, where the discrepancy does not appear to be minor or explicable, the discrepancy is found to render the application “unclear”. All inconsistencies are recorded in the field “VPRS rule 85 assessment”. Such discrepancies may relate to any aspect of the application and not only to the formal requirements.

20. The Registry notes that in assessing the sufficiency of proof of identity documents provided the Registry has referred to the identification documents available in the Democratic Republic of the Congo and accepted by the Single Judge.²⁰ This applies also to proof of kinship or guardianship.²¹

¹⁹ The Registry notes the practice of the Chamber in its assessment of the applications for participation, ICC-01/09-01/11-249-Conf-Anx and ICC-01/09-02/11-267-Conf-Anx. See also Trial Chamber II, ICC-01/04-01/07-1491-Red-tENG, para. 32-33, Pre-Trial Chamber I, ICC-01/04-01/10-351, paras. 27-28. Trial Chamber I, ICC-01/01-04/06-1556-Corr-Anx1, para. 89, ICC-01/04-01/06-2659-Corr-Red, paras. 28 referring to ICC-01/01-04/06-1563-Conf-AnxA2.

²⁰ Decision of 28 May, para. 30 (v), referring to ICC-01/04-02/06-53-Anx1.

²¹ Following this Chamber’s approach in the Kenya proceedings: ICC-01/09-02/11-23, para. 7. In the context of Ituri, the Registry also notes the approach taken by Trial Chamber II, ICC-01/04-01/07-1491-Red, which relied on a death certificate or evidence of family relationship produced to it, but also on any other document or information which allowed it to satisfy itself that the statements in the applications for participation are true.

21. Regarding indirect victims and deceased persons, the Registry has followed the practice of this Chamber, according to which a deceased person cannot participate through his/her relatives, but a family member of the deceased applicant could be accepted to participate, as an indirect victim, based on harm suffered as a result of the death of the said person.²²
22. In case the applicant is an organization or institution, the Registry follows the approach of the Chamber²³ by considering any document constituting the organisation or institution in accordance with the law of the relevant country, and any credible document that establishes that it has sustained direct harm to its property which is dedicated to the purposes set out in rule 85(b) of the Rules. Additionally, the person acting on behalf of the organization or institution must provide information as regards his or her legal standing to act on behalf of the organization or institution.²⁴

2- Requirements relating to the alleged crime

23. The Registry notes that at this stage of proceedings, the scope of the case is delineated by the relevant alleged crimes as defined by the Chamber's Decision on the Prosecutor's Applications for a Warrant of Arrest against Bosco Ntaganda (the "Warrant of Arrest of 2006"²⁵ and the "Warrant of Arrest of 2012"²⁶, collectively the "Warrants"). The appropriate field in the table is used to indicate whether or not the acts described by the applicant appear to

²² ICC-01/09-02/11-267, para. 47. As regards indirect victims the Registry has followed the approach of the Chamber, ICC-01/09-02/11-267, para. 69 and ICC-01/09-02/11-249, para. 55, referring to Appeals Chamber Judgment ICC-02/04-01/05-371, para.1 requiring that a proof of the identity of the direct victim as well as a proof of the link between the applicant and the direct victim be provided. See also Appeals Chamber Judgment ICC-01/04-01/06-1432, paras. 1, 32, 38 and 62.

²³ ICC-01/09-02/11-23, para. 10 referring to the jurisprudence of the Trial Chamber I in the Lubanga case, ICC-01/04-01/06-1119, para. 89.

²⁴ ICC-01/09-02/11-23, para. 10 referring to the jurisprudence of Pre Trial Chamber III in Bemba case, ICC-01/05-01/08-320, para. 53.

²⁵ ICC-01/04-02/06-2-Corr-tENG-Red.

²⁶ ICC-01/04-02/06-36-Red.

constitute crimes within the scope of the present Case. Three issues are dealt with: a) type of crime, b) geographical location and date, and c) harm suffered.

a) Type of crime(s)

24. The Registry indicates in the table which of the crimes mentioned in the Warrants might be constituted by the acts described in the application. The Registry emphasizes that in identifying these crimes, it looks solely at the alleged acts, and does not make any assessment as to the presence of the contextual elements of the crime such as would be necessary to determine whether the acts constitute a crime against humanity under the article 7 chapeau or a war crime under the article 8 chapeau.

25. The Registry draws to the attention of the Chamber that it has not included a reference in the assessment as to whether or not the alleged crime appears to be linked to the suspect named in the Warrants.²⁷

26. As regards the crime of persecution and ethnical targeting as defined by the Chamber in the Warrant of Arrest of 2012, following the approach adopted by the Chamber in the Kenya cases,²⁸ in considering whether this crime has been demonstrated, the Registry takes into account all the information provided by the applicant, including whether the applicant is identified as belonging to a non-Hema ethnic group, even where there is no explicit allegation of ethnic motivation for the crime(s) alleged.²⁹

²⁷ The Registry notes that this is not among the requirements for a complete application as set out in the Decision of 28 May (ICC-01/04-02/06-67, para. 22) and the jurisprudence of Pre-Trial Chamber II (see also ICC-01/09-02/11-267, paras. 32, 34 and ICC-01/09-01/11-249, paras. 22, 24).

²⁸ See the Registry First report on applications to participate in the proceedings, ICC-01/09-01/11-93-Conf-Exp-Anx2, para. 6.

²⁹ The VPRS relies on the general principle established by the Appeals Chamber and recalled by the Single Judge in the pre-trial proceedings relating to Kenya, to the effect that the Single Judge will analyse victims' applications on a case-by-case basis, taking into account the general circumstances of the events as described by the applicants as well as the intrinsic coherence of the applications

27. Regarding the crime of intentionally directing attacks against a civilian population, in light of article 8(2)(e)(i) of the Statute and following the approach of Pre-Trial Chamber II,³⁰ the Registry has considered that this crime is demonstrated where the events described by the applicant fall within the context of an attack against a civilian population, such as destruction of property or attacks against the person, even if the applicant does not explicitly state that an attack took place, as long as the acts alleged by the applicant occurred at the time and in the location of one of the attacks alleged by the Prosecutor in the Warrant of Arrest of 2012 .

28. Where there is doubt as to whether the acts described could constitute one of the crimes in the Case, this issue is indicated in the field “VPRS rule 85 assessment”, and the result of the initial rule 85 assessment is given as “unclear”.

b) Geographical location and date which delimit the scope of the Case

29. The assessment indicates whether it appears from the application that the alleged crime occurred within the specific locations in Ituri, Province Orientale of the Democratic Republic of the Congo, defined in the Warrants.³¹ The assessment also indicates whether or not the alleged crime is said to have occurred between the dates which delimit the scope of the Case. In making the assessments, the Registry considers that an applicant has sufficiently demonstrated that the events took place within the relevant time period if he

themselves (ICC-01/09-01/11-249, para. 38), (see also ICC-02/04-101, para. 15, and ICC-01/04-505, paras. 29-30, ICC-02/11-01/11-138, para. 21).

³⁰ Pre-Trial Chamber II, ICC-02/04-101, para. 15, ICC-01/09-01/11-249, para. 49; see also Pre-Trial Chamber I, ICC-01/04-505, paras. 28-30; ICC-01/04-01/07-717, para. 266-270, 277, ICC-01/04-01/10-465-Red, para. 142, 144.

³¹ In particular, in case of doubt whether a village could be considered as a “surrounding village” of Lipri, Bambu or Kobu as required in the Warrant of Arrest of 2012, the Registry will indicate this issue in its assessment.

or she indicates the relevant military operations or provides another description that indicates the date of the events, even if he or she does not explicitly state specific dates.

c) Requirements relating to the harm suffered

30. The assessment indicates the type of harm³² that is alleged to have been suffered by the applicant.³³ Only personal harm, direct or indirect, which appears to be the result of one or more of the crimes contained in the charges, is included.³⁴ Harm is categorized by the Registry as follows:

- Material harm: including the loss or destruction of property, loss of income or other form of economic loss, including medical costs;
- Physical harm: physical injuries, including when brought about by psychological trauma (for instance, where stress has caused heart conditions or miscarriage);
- Psychological harm: including mental illness, emotional, moral or other form of psychological suffering;
- Substantial impairment of fundamental rights: including for example the loss of educational opportunities, or social stigmatization.³⁵

³² Regarding the wording of type of harm(s), in its generic information system, the VPRS applies the terms used by the Appeals Chamber: material, physical and psychological harm (ICC-01/04-01/06-1432, para. 32) which appear to have the same meaning as the wording used by the Chamber in the Decision of 28 May: economic loss, physical and emotional harm.

³³ Following the approach taken by the Chamber in the proceedings relating to Kenya, the harm alleged by applicants is included in the assessment. However, in accordance with the approach taken by the Chamber in the proceedings relating to Kenya, the standard of causation between the crime and the harm is assessed on a case-by-case basis in light of all the circumstances of the events as described in the application (ICC-01/09-02/11-267, para. 66).

³⁴ In the pre-trial proceedings relating to Kenya, the Single Judge found that applicants may be admitted to participate in case they suffered harm: (i) as a result of the harm suffered by the direct victim; or (ii) whilst intervening to help direct victims of the case or to prevent the latter from becoming victims because of the commission of these crimes (ICC-01/09-01/11-249, para. 54, ICC-01/09-02/11-267, para. 68).

³⁵ Or other harm which might be categorised as a substantial impairment of a fundamental right, in line with the approach of Trial Chamber I in the case of *The Prosecutor v Thomas Lubanga Dyilo*, ICC-01/04-01/06-1119, para. 92; in relation to case of social stigmatization, see the approach taken in the

VPRS Assessment

31. The assessment indicates the Registry's conclusion as to whether or not the application appears to meet the requirements of rule 85. For each application, the Registry indicates one of the following initial assessments:

- (a) "YES": It appears to the Registry that the application complies with the requirements of rule 85; or
- (b) "NO": It appears to the Registry that the application does not comply with the requirements of rule 85; or
- (c) "UNCLEAR": Compliance with rule 85 is unclear, as the Registry is not in a position to make an initial assessment without further guidance from the Chamber on specific matters which are indicated.

32. The latter category covers applications which appear to the Registry to raise legal or factual questions not already settled by the Chamber, and which may affect whether or not the application meets all the requirements of rule 85. Where this is the case an explanation of the issue that appears to the Registry to require the Chamber's determination or, where relevant, the approach which the Registry has taken in relation to those issues based on the jurisprudence of the Chamber, is set out under "VPRS rule 85 assessment".

case of *The Prosecutor v Bahar Idriss Abu Garda*, ICC-02/05-02/09-147, paras 25, 33 and 43. See also, Appeals Chamber Judgment, ICC-01/04-01/06-1432. To date, the Registry has taken a cautious approach to suggesting which forms of loss or damage may be sufficient to constitute a "substantial impairment" of a "fundamental right", in particular because neither concept has been subject to judicial elaboration. However drawing guidance from Trial Chamber I, the Registry has indicated a "substantial impairment of fundamental rights" where alleged crimes that appear to have interfered with children's rights to education and a family life or with the fundamental rights to liberty and security of the person, or the associated right of persons deprived of their liberty to be treated humanely. Forms of loss or damage which might suffice to constitute this form of harm may include loss of freedom of movement due to unlawful detention, a child's loss of educational opportunities, and internal or international displacement, where any of the latter occurs for a substantial period of time (ICC-01/04-101, paras. 143 and 147; ICC-01/04-177, para. 9 and 10; ICC-02/05-02/09-121, para. 9; ICC-02/05-02/09-147).

E. Explanation of the content of Annex B of the Report

33. In accordance with paragraph 37 of the Decision of 28 May, Annex B constitutes copies of complete applications, including a proof of identity of those applicants who did not object to their identity being disclosed. Applications are to be made using the simplified application form annexed to the Decision, and any additional information that might be submitted together with the form will not be filed but will be stored by the VPRS.

34. Paragraph 42 of the Decision of 28 May provides that the VPRS will make limited redactions of identifying information of applicants in its report, in Annex A or Annex B, whenever a need for protection is detected by the VPRS or where an applicant expresses the wish that his or her identity not be disclosed. All applicants were asked, when completing an application, to indicate whether they have reason to be concerned about their security as a result of their interaction with the Court. Some applicants among the present group indicate that they do have such concerns. For the following reasons, even where applicants have not indicated specific security concerns in their applications, the Registry recommends that at this early stage a cautious approach should be taken.

35. First, the prevailing security situation in the region remains volatile. In April 2013, the VPRS conducted consultations in [REDACTED] with individuals representing populations directly affected by the Case including potential applicants, intermediaries, [REDACTED] [REDACTED] and [REDACTED] of the affected communities. One of the aims of these consultations was to assess the prevailing political and security context in Ituri, in order to prepare the ground to facilitate victim participation in the Case. Those met were asked what risks were foreseen for participating victims and for people assisting victims. The input received was that

participation of victims living in certain localities loyal to Bosco Ntaganda and Thomas Lubanga could give rise to fear of retaliation, since former UPC militants are concentrated there and the population is hostile to the ICC. This is the case, for instance, in Lipri and [REDACTED]. The weekly security updates provided by the Registry's Field Security Unit during 2013 have consistently indicated a moderate threat level for the Ituri region.

36. Second, at the time when victims submit an application, taking account that they were assisted by local intermediaries, do not have experience of judicial proceedings, and have not yet been advised by a lawyer, in the Registry's experience, they may not be aware of the implications of their identities being disclosed to the parties to the proceedings, and are not able to accurately assess threats to their security. Third, the non-disclosure of the identity of the applicants appears to the Registry to be, at the application stage, the only available protection measure.

37. In light of the above, the Registry recommends that the identities of the victims in this group not be disclosed to the Defence at the application stage,³⁶ and that the matter of disclosure be considered at a later stage in relation to those that are accepted as victim participants by the Chamber, after a legal representative has been appointed and has had the opportunity to advise the victims and take instructions on this matter. Unless the Chamber decides otherwise, therefore, the Registry will transmit redacted versions of all applications to the Defence.

³⁶ The Single Judge decided, in paragraph 44 of the Decision of 28 May that no redactions should be made to the report and annexes to be transmitted to the Prosecutor.

F. Description of the group(s) of applications transmitted

38. The VPRS is transmitting with the present Report 29 applications which have been allocated to the group UPC/FPLC Attacks-Incident 2-Lipri.³⁷

39. The group is composed of 29 natural persons (19 males, 10 females), who supported their application with a copy of a voting card and/or letter of a local authority. 27 members of the group belong to a non-hema community.³⁸ The members of the group alleged that their village, Lipri, was attacked by the armed group of the UPC or by the soldiers of Bosco Ntaganda, during the period between 17 February 2003 and 2 March 2003, or at the beginning of March 2003, or instead of precise dates the applicants mention that the events occurred during the Chikana Namukono military operation.³⁹ The members of the group allege that during the attack, several crimes were committed including murder, pillage, destruction of property, mutilation and forced displacement. As regards the crime of persecution, one applicant mentions specifically that the attack occurred during an ethnical conflict. 23 members of group allege that their relatives were killed during the attack, and provide documents in support of this allegation. All members of the group allege that they suffered harm, including physical, moral, material harm or loss of education, as a result of the crime(s) committed.

G. VPRS Rule 85 assessment for the group (s) of applications transmitted

Group UPC/FPLC Attacks-Incident 2-Lipri

³⁷ The Registry notes that further applications relating to the same group might in the future.

³⁸ 26 applicants are from the Lendu community, 1 applicant is from the [REDACTED] community, 2 applicants did not mention their ethnical group.

³⁹ 22 applicants did not mention the dates of the events but referred to the "Shika Na Mukono" attack.

Based on its assessment of each of the 29 applications transmitted in the group UPC/FPLC Attacks-Incident 2-Lipri, the VPRS is of the view that applicants a/00094/13, a/00095/13, a/00096/13, a/00097/13, a/00098/13, a/00104/13, a/00105/13, a/00107/13, a/00108/13, a/00109/13, a/00110/13, a/00111/13, a/00112/13, a/00116/13, a/00117/13, a/00118/13, a/00119/13, a/00120/13, a/00122/13, a/00123/13, a/00124/13, a/00125/13, a/00126/13, a/00127/13, a/00128/13, a/00129/13, a/00130/13, a/00133/13 and a/00134/13 are natural persons, that their identities appear to be duly established, that the event(s) described in their applications for participation constitute(s) one or more crimes within the jurisdiction of the Court with which the suspect is charged, namely attack against the civilian population, murder, pillage and persecution by way of attack against civilians, murder and pillage,⁴⁰ by the UPC/FPLC forces between 17 February 2003 and 2 March 2003 in Lipri (Ituri District, Province Orientale of the Democratic Republic of the Congo) and that all the applicants have suffered harm, including physical, moral, material or other harm which might be categorised as a substantial impairment of a fundamental right, as a result of the crime(s) with which the suspect is charged which fall under articles 7(1)(a), 7(1)(h), 8(2)(c)(i), 8(2)(e)(i), 8(2)(e)(v) of the Statute.



Marc Dubuisson, Director DCS

per delegation of Mr Herman von Hebel, Registrar

Dated this 1 August 2014

At The Hague, The Netherlands

⁴⁰ The Registry notes that among the 29 applications, none describe events which constitute the crime of rape or sexual slavery falling under articles 7 (1)(g) and 8 (2)(e)(vi) of the Statute.