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PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF
*THE PROSECUTOR V. ALFRED YEKATOM
AND PATRICE-EDOUARD NGAÏSSONA***

Public

**With Confidential Annex A and Confidential *EX PARTE* Annex B only available to
the Registry**

**Registry's Sixth Assessment Report on Victims' Applications for Participation in
Pre-Trial Proceedings**

Source: Registry

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

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I. Introduction

1. In paragraph 41 of the Decision Establishing the Principles Applicable to Victims' Applications for Participation ("Decision"),¹ Pre-Trial Chamber II ("Chamber") established an admission system whereby the Registry should *inter alia* "classif[y] the applicants into three categories: (a) applicants who clearly qualify as victims ("Group A"); (b) applicants who clearly do not qualify as victims ("Group B"); and (c) applicants for whom the Registry could not make a clear determination for any reason ("Group C")."²
2. Additionally, the Chamber ordered the Registry to prepare "regular reports that list the applications for participation and classify them according to the three groups".³
3. The Registry hereby transmits its sixth report on 387 applications received in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona* ("Case") which includes:
 - J A brief description of the assessment criteria applied in relation to the 376 applicants who clearly, in the Registry's assessment, qualify as falling within Group A;
 - J A brief description of the assessment criteria applied in relation to the 11 applicants who, in the Registry's assessment, clearly do not qualify as victims and have been transmitted in Group B.
4. The applications falling in Group A and B have been listed in the annex A to the present submission ("Annex A") and are being transmitted separately to the Chamber, in accordance with paragraph 41(ii) of the Decision. Annex B

¹ Pre-Trial Chamber I, "Decision Establishing the Principles Applicable to Victims' Applications for Participation", 5 March 2019, ICC-01/14-01/18-141.

² Decision, para. 41(i).

³ Decision, para. 41(iii).

contains a brief description of the assessment criteria applied in relation to Group B applications.

II. Procedural History

5. On 5 March 2019, the Chamber issued the Decision, setting out *inter alia* the admission procedure for victims' participation in the Case.⁴
6. On 15 May 2019, the Victims Participation and Reparations Section ("VPRS") transmitted 15 applications categorised in Group C ("First Transmission")⁵ and submitted a first assessment report on those applications.⁶
7. On 15 May 2019, the Chamber decided to postpone the commencement of the confirmation of charges hearing in the Case until 19 September 2019.⁷
8. On 14 June 2019, the Registry transmitted 74 applications under the classification of "Group A" to the Chamber,⁸ and submitted a second assessment report on those applications.⁹
9. On 21 June 2019, the Chamber issued a decision on the merits of the applications included in the First Transmission.¹⁰

⁴ See *supra*, footnote 1.

⁵ Registry, "Registry's First Transmission of Group C Applications for Victims' Participation in Pre-Trial Proceedings", dated 14 May 2019 and notified on 15 May 2019, ICC-01/14-01/18-197.

⁶ Registry, "Registry's First Assessment Report on Applications for Victims' Participation in Pre-Trial Proceedings", dated 14 May 2019 and notified on 15 May 2019, ICC-01/14-01/18-198.

⁷ Pre-Trial Chamber II, "Decision on the 'Prosecution's Request to Postpone the Confirmation Hearing and all Related Disclosure Deadlines'", 15 May 2019, ICC-01/14-01/18-199, p. 17.

⁸ Registry, "Registry's First Transmission of Group A Applications for Victims' Participation in Pre-Trial Proceedings", 14 June 2019, ICC-01/14-01/18-222.

⁹ Registry, "Registry's Second Assessment Report on Applications for Victims' Participation in Pre-Trial Proceedings", 14 June 2019, ICC-01/14-01/18-223.

¹⁰ Pre Trial Chamber II, "Decision regarding the Registry's First Assessment Report on Applications for Victim Participation, the Registry's First Transmission of Group C Applications, the appointment of counsel for Victims of Other Crimes, and the victims' procedural position", 21 June 2019, ICC-01/14-01/18-227-Red.

10. On 12 July 2019, the Registry transmitted 161 applications under the classification of “Group A” to the Chamber,¹¹ and submitted a third assessment report on those applications.¹²
11. On 30 July 2019, the Registry transmitted 150 applications under the classification of “Group A” to the Chamber,¹³ and submitted a fourth assessment report on those applications.¹⁴
12. On 19 August 2019, the Registry transmitted 301 complete applications under the classification of “Group A” to the Chamber,¹⁵ eight applications under the classification of “Group C” to the Parties and the Chamber, in redacted and unredacted form, respectively,¹⁶ and a fifth assessment report on those applications.¹⁷

III. Classification

13. The annexes to the present submission are classified as confidential (with Annex B being confidential *ex parte*) in accordance with the instruction of the Chamber.¹⁸

IV. Applicable Law

14. The present report is submitted on the basis of article 68(1) and (3) of the Rome Statute, rules 85 to 89 and 92 of the Rules of Procedure and Evidence, regulation

¹¹ Registry, “Registry’s Second Transmission of Group A Applications for Victims’ Participation in Pre-Trial Proceedings”, 12 July 2019, ICC-01/14-01/18-245.

¹² Registry, “Registry’s Third Assessment Report on Applications for Victims’ Participation in Pre-Trial Proceedings”, 12 July 2019, ICC-01/14-01/18-247.

¹³ Registry, “Registry’s Third Transmission of Group A Applications for Victims’ Participation in Pre-Trial Proceedings”, 30 July 2019, ICC-01/14-01/18-258.

¹⁴ Registry, “Registry’s Fourth Assessment Report on Applications for Victims’ Participation in Pre-Trial Proceedings”, 30 July 2019, ICC-01/14-01/18-259.

¹⁵ Registry, “Registry’s Fourth Transmission of Group A Applications for Victims’ Participation in Pre-Trial Proceedings”, 19 August 2019, ICC-01/14-01/18-279.

¹⁶ Registry, “Registry’s Second Transmission of Group C Applications for Victims’ Participation in Pre-Trial Proceedings”, 19 August 2019, ICC-01/14-01/18-280.

¹⁷ Registry, “Registry’s Fifth Assessment Report on Applications for Victims’ Participation in Pre-Trial Proceedings”, 19 August 2019, ICC-01/14-01/18-281.

¹⁸ Decision, para. 41(iii).

86 of the Regulations of the Court (“RoC”), and regulations 107 to 109 of the Regulations of the Registry.

V. Submissions

Details on the Assessment Criteria and List of Applications Falling within Group A

15. Applying the criteria set out in paragraph 31 of the Decision, the VPRS has assessed each of the 376 applications transmitted under Group A as complete. In conducting its initial assessment in accordance with paragraph 38 of the Decision, the VPRS confirms that each of the 376 applicants whose applications have been transmitted in Group A have met *prima facie* the following criteria:

- i. The applicant’s identity is established;¹⁹
- ii. The applicant suffered harm;²⁰
- iii. The harm suffered is a result of an incident falling within the temporal, geographic and material scope of the Case.²¹

16. In relation to point (i), the VPRS notes that certain applications²² falling under Group A contain minor discrepancies, pertaining to *inter alia*: the applicant’s date

¹⁹ Decision, paras. 31-34. The VPRS notes that certain victims whose applications have been filed under Group A are under the age of 18 and do not have a person acting on their behalf (a/65407/19; a/65125/19; a/65181/19; a/65182/19; a/65185/19; a/65187/19; a/65205/19; a/65418/19; a/65425/19; a/65429/19; a/65894/19; a/65983/19). For those applications, the VPRS has assessed the maturity of the applicant based on the information contained in the form in accordance with the Chamber’s instruction (email from Pre Trial Chamber II to VPRS, 11 July 2019 at 11.24). This includes personal information such as current occupation, marital status, number of children and dependants contained in page three of the form which is not included in the version of the form transmitted to the Chamber and parties.

²⁰ *Ibid.*, paras 31, 35.

²¹ *Ibid.*, para. 37.

²² The applications with minor discrepancies include: a/65545/19; a/65003/19; a/65005/19; a/65010/19; a/65011/19; a/65013/19; a/65017/19; a/65018/19; a/65019/19; a/65022/19; a/65048/19; a/65049/19; a/65050/19; a/65056/19; a/65057/19; a/65058/19; a/65059/19; a/65075/19; a/65078/19; a/65079/19; a/65084/19; a/65086/19; a/65087/19; a/65094/19; a/65095/19; a/65098/19; a/65101/19; a/65104/19; a/65125/19; a/65132/19; a/65177/19; a/65200/19; a/65207/19; a/65253/19; a/65258/19; a/65260/19; a/65276/19; a/65280/19; a/65326/19; a/65330/19; a/65331/19; a/65335/19; a/65378/19; a/65407/19;

of birth, an inversion of the applicant's first and last name, the applicant's signature date or the spelling of the applicant's name, or other minor inconsistencies in the information provided which appear to be the result of inadvertent errors. In these cases, the VPRS took note of the Chamber's instruction that "a certain degree of flexibility must be shown"²³ and considers that the discrepancies presented in these applications "do not call into question the overall credibility of the information provided by the applicant [...]"²⁴

17. Regarding criterion (iii) *supra* (para. 15), the VPRS notes that certain applications do not explicitly state specific dates but refer to publicly known events (such as for example the resignation of former President of the Central African Republic Michel Djotodia), or provide any other sufficiently detailed contextual descriptions that date the events.²⁵ In these cases, the VPRS again applied the Chamber's instruction "to adopt a flexible approach in assessing victim

a/65421/19; a/65422/19; a/65434/19; a/65451/19; a/65469/19; a/65484/19; a/65492/19; a/65506/19; a/65528/19; a/65530/19; a/65533/19; a/65534/19; a/65538/19; a/65552/19; a/65569/19; a/65640/19; a/65645/19; a/65673/19; a/65679/19; a/65685/19; a/65695/19; a/65710/19; a/65711/19; a/65717/19; a/65740/19; a/65745/19; a/65789/19; a/65809/19; a/65829/19; a/65831/19; a/65832/19; a/65866/19; a/65878/19; a/65898/19; a/65917/19; a/65920/19; a/65928/19; a/65937/19; a/65942/19; a/65949/19; a/65951/19; a/65981/19; a/65993/19; a/65996/19; a/65999/19; a/66003/19; a/66005/19; a/66009/19; a/66028/19; a/66041/19; a/66042/19; a/66058/19; a/66067/19; a/66099/19; a/66151/19; a/66178/19; a/66185/19; a/66204/19; a/66224/19; a/66231/19; a/66244/19; a/66245/19.

²³ Decision, para. 34.

²⁴ *Id.*

²⁵ These applications include: a/65545/19; a/65019/19; a/65027/19; a/65079/19; a/65095/19; a/65098/19; a/65100/19; a/65125/19; a/65127/19; a/65132/19; a/65200/19; a/65207/19; a/65208/19; a/65260/19; a/65267/19; a/65276/19; a/65277/19; a/65278/19; a/65280/19; a/65282/19; a/65287/19; a/65292/19; a/65312/19; a/65323/19; a/65326/19; a/65328/19; a/65330/19; a/65331/19; a/65335/19; a/65363/19; a/65367/19; a/65379/19; a/65380/19; a/65400/19; a/65410/19; a/65492/19; a/65512/19; a/65522/19; a/65523/19; a/65526/19; a/65528/19; a/65530/19; a/65533/19; a/65538/19; a/65543/19; a/65549/19; a/65552/19; a/65569/19; a/65580/19; a/65581/19; a/65586/19; a/65587/19; a/65588/19; a/65593/19; a/65612/19; a/65645/19; a/65695/19; a/65710/19; a/65711/19; a/65717/19; a/65727/19; a/65740/19; a/65751/19; a/65759/19; a/65763/19; a/65768/19; a/65780/19; a/65784/19; a/65794/19; a/65803/19; a/65812/19; a/65817/19; a/65829/19; a/65831/19; a/65839/19; a/65860/19; a/65894/19; a/65897/19; a/65898/19; a/65899/19; a/65901/19; a/65906/19; a/65907/19; a/65913/19; a/65914/19; a/65917/19; a/65918/19; a/65920/19; a/65923/19; a/65924/19; a/65928/19; a/65930/19; a/65931/19; a/65936/19; a/65942/19; a/65944/19; a/65951/19; a/65952/19; a/65955/19; a/65959/19; a/65980/19; a/65995/19; a/65996/19; a/65998/19; a/66010/19; a/66013/19; a/66017/19; a/66028/19; a/66041/19; a/66084/19; a/66094/19; a/66106/19; a/66107/19; a/66108/19; a/66111/19; a/66133/19; a/66244/19; a/66245/19.

applications with regard to the temporal and territorial scope of the present case at this stage of the proceedings”.²⁶

Description of Assessment Criteria and List of Applications Falling within Group B

18. Applying the criteria set out in paragraph 31 of the Decision, the VPRS has assessed each of the 11 applications transmitted under Group B as complete. In conducting its *prima facie* assessment in accordance with paragraph 38 of the Decision, the VPRS has concluded that the persons whose applications have been transmitted under Group B clearly do not qualify as victims in the Case because the harm alleged has resulted from an incident falling outside:

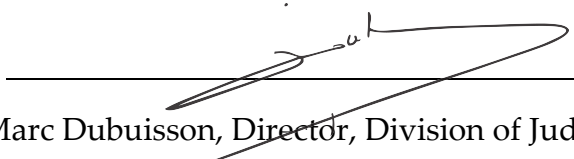
-) The temporal parameters of the Case;
-) The geographic parameters of the Case; and/or
-) The material parameters of the Case.

19. Pursuant to paragraph 41(vi) of the Decision, the VPRS has provided an assessment report for the Chamber in Annex B setting out the specific reasons for rejecting the applications, in order to allow the Chamber to take a final decision on such applications if necessary.

20. Noting the deadlines set out in the Decision, the present report and related transmission filing will constitute the VPRS’s final report and transmission of

²⁶ Pre Trial Chamber II, “Decision regarding the Registry’s First Assessment Report on Applications for Victim Participation, the Registry’s First Transmission of Group C Applications, the appointment of counsel for Victims of Other Crimes, and the victims’ procedural position”, 21 June 2019, ICC-01/14-01/18-227-Red, para. 24. Accordingly, the Registry has considered as falling within Group A “applications that are internally coherent, clearly relate to the events described in the Warrants of Arrest and/or, where appropriate, the information in other victim applications, and clearly establish that the alleged perpetrators were part of the Anti-Balaka.”

Group A and B applications prior to the confirmation of charges hearing unless the hearing is postponed.²⁷



Marc Dubuisson, Director, Division of Judicial Services,
on behalf of Peter Lewis, Registrar

Dated this 4 September 2019

At The Hague, The Netherlands

²⁷ Pursuant to paragraph 41(vii) of the Decision, all Group A and B applications must be transmitted to the Chamber “no later than 15 days before the date of commencement of the confirmation hearing.” The VPRS notes that in addition to the complete applications transmitted to the Chamber, it has to date received approximately 150 incomplete applications for which supplementary information is being requested. Should the confirmation hearing be rescheduled, the VPRS would use this additional time to try to complete the remaining incomplete application forms. Otherwise, relevant forms will be transmitted at a later date as appropriate.