

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-01/05**

ICC-01/14

Date: **15 September 2020**

PRE-TRIAL CHAMBER II

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

SITUATION IN CENTRAL AFRICAN REPUBLIC I and II

Public

Avec une annexe publique

Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake further specified activities in the Central African Republic

Source: The Trust Fund for Victims

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

The Office of the Prosecutor

Ms Fatou Bensouda

Counsel for the Defence

Legal Representative of Victims

The Office of Public Counsel for the Defence

Mr Xavier-Jean Keita

The Office of Public Counsel for Victims

Ms Paolina Massidda

States Representatives

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims Participation and Reparations Section

Mr Philipp Ambach

Other

I. BACKGROUND AND PROCEDURAL HISTORY

1. In accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims (“TFV Regulations” and “Trust Fund”, respectively), the Board of Directors of the Trust Fund (“Board”) shall notify the relevant Chamber before undertaking specified activities it considers necessary to provide physical and psychological rehabilitation or material support for the benefit of victims and their families under its assistance mandate.

2. During its Sixth Annual Meeting held on June 2009, the Board concluded that there was a need to undertake specified activities it considered necessary to provide physical and psychological rehabilitation as well as material support for the benefit of victims and their families under the Trust Fund’s assistance mandate.

3. On 30 October 2009, the Trust Fund informed Pre-Trial Chamber II (“the Chamber”) of its intention to undertake activities in the Central African Republic (“CAR”).¹ The projects envisioned targeted specifically vulnerable victims with critical needs who have suffered from sexual violence.

4. On 16 November 2009, the Chamber issued a decision (“Decision of 16 November 2009”)² stating that the programme outline and the list of suggested activities to potential implementing partners contained in the Trust Fund’s submission did not represent a notification within the meaning of regulation 50 (a) of the Regulations which requires the Board’s conclusion to undertake specified activities.³ The Chamber also requested the Board to formally notify it, after completion of the selection of specific activities and projects, as well as all related necessary information.⁴

5. On 11 October 2012, the Board formally notified the Chamber, in accordance with regulation 50 (a) and the Decision of 16 November 2009.⁵ In particular, the Board provided the

¹ Notification from the Board of Directors of the Trust Fund for Victims in accordance with Regulation 50 of the Regulations of the Trust Fund for Victims, With one public annex, 30 October 2009, [ICC-01/05-29](#).

² Decision on the Submission of the Trust Fund for Victims dated 30 October 2009, 16 November 2009, [ICC-01/05-30](#).

³ [Decision of 16 November 2009](#), para. 4.

⁴ [Decision of 16 November 2009](#), disposition.

⁵ Notification by the Board of Directors in accordance with Regulation 50 (a) of the Regulations of the Trust Fund for Victims to undertake activities in the Central African Republic, 11 October 2012, [ICC-01/05-39](#).

Chamber with all necessary information regarding the six specific projects proposed for implementation as well as the related activities.

6. On 23 October 2012, the Chamber considered that the information regarding the six specific projects proposed for implementation as well as the related activities “is of sufficient specificity”.⁶ The Chamber also considered that “the proposed projects or activities do not appear to pre-determine any issue to be determined by the Court, including jurisdiction or admissibility”.⁷ Therefore, the Chamber did not object to the implementation of the specified activities.

7. In March 2013, the Trust Fund was close to launching the assistance mandate programme in CAR focused on vulnerable victims with critical needs who have suffered from sexual violence, but activities were suspended and eventually cancelled due to the security situation. The Trust Fund continuously monitored the situation in order to determine the appropriate moment to launch a programme in CAR.

8. On 12 June 2018, the Board decided that it considers it necessary to provide physical or psychological rehabilitation or material support for the benefit of victims and their families in the situation of the Central African Republic (“CAR I situation”), pursuant to regulation 50 (a) (i) of the TFV Regulations.

9. In its decision, the Board instructed the Trust Fund’s Secretariat (“Secretariat”) to urgently undertake an updated victim harm and needs assessment.

10. The Secretariat implemented the above-mentioned instructions between June 2018 and September 2019.

11. Based on information collected during the needs assessment and meetings held with stakeholders, civil society organisations and government officials, the Secretariat developed a programmatic framework for a pilot program to assist the most vulnerable victims prioritizing

⁶ Decision on the "Notification by the Board of Directors in accordance with Regulation 50 (a) of the regulations of the Trust Fund for Victims to undertake activities in the Central African Republic", 23 October 2012, [ICC-01/05-41](#), para. 9.

⁷ Decision on the "Notification by the Board of Directors in accordance with Regulation 50 (a) of the regulations of the Trust Fund for Victims to undertake activities in the Central African Republic", 23 October 2012, [ICC-01/05-41](#), para. 10.

HIV+ victims and survivors of sexual violence in the context of the CAR I situation. In parallel, the Secretariat also developed a fully-fledged programme requiring a formal solicitation procedure. The framework was submitted to the Board for approval on 26 July 2019.

12. In their meeting of August 2019, the Board approved the programmatic framework for the Trust Fund's pilot assistance programme to be implemented pending the outcome of the fully fledged tender procedure for the TFV's comprehensive assistance programme in CAR.

13. On 25 February 2020, the TFV notified Pre-Trial Chamber II of its intention to undertake activities related to its pilot programme in the Central African Republic, and to notify it in due course about the specified activities it would intend to undertake within the fully fledge assistance programme in CAR⁸.

14. On 8 April 2020, having considered the observations from the OPCD and the OPCV⁹, Pre-Trial Chamber II informed the TFV that the proposed activities do not appear per se to pre-determine any issue to be determined by the Court, provided that they are implemented in compliance with certain conditions.

15. Between 13 February 2019 and 12 May 2020, the TFV, with the support of the Court's Procurement Unit, conducted a competitive and transparent bidding process to select partners for the implementation of its Holistic Assistance Programme for physical rehabilitation, psychological rehabilitation and socio-economic support to victims and their family members in CAR.

16. The bidding process was conducted in two phases consisting of a call for Expressions of Interest followed by a Request for Proposal. At the end of this process, the TFV selected 5 project

⁸ Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake specified activities in the Central African Republic, 25 February 2020, [ICC-01/05-97](#).

⁹ Public Redacted Version of "OPCD Observations on the Notification under Regulation 50 of the Regulations of the Trust Fund for Victims" (1 April 2020; ICC-01/05-98-Conf), 03 April 2020, [ICC-01/05-98-Red](#); Observations on behalf of victims on the "Notification by the Board of Directors in accordance with regulation 50 (a) of the Regulations of the Trust Fund for Victims of its conclusion to undertake specified activities in the Central African Republic, 02 April 2020, [ICC-01/05-99](#).

proposals from 5 organizations that had achieved a score above or equal to the minimum score required at the end of the technical evaluation of the proposals for grant award recommendation.

17. On 12 May 2020, the technical evaluation report was communicated to the Procurement Unit. On 4 June 2020, the Procurement Review Committee (“PRC”) evaluated the results of the RFP procurement process. It issued its approval of the process on 25 June 2020. The Registrar accepted the PRC recommendation and affixed his signature on 29 June 2020 to the PRC report.

18. The Board of Directors decided that there is a need to extend the selected projects for physical and psychological rehabilitation and material support also to the victims who have (also) suffered harm due to crimes committed in the situation in the Central African Republic (“CAR II”). Accordingly, the specific activities will address the relevant harm of all victims of crimes falling within the jurisdiction of the Court in the Central African Republic.

II. NOTIFICATION OF PROPOSED SPECIFIED ACTIVITIES

19. The proposed specified activities for the programme are set out in Annex I to this filing. It describes five projects aiming to provide physical and psychological rehabilitation, as well as material support to the victims and their families in CAR.

III. NON DETERMINATION OF ANY ISSUES BEFORE THE COURT

20. Regulation 50 (a) (ii) of the TFV Regulations establishes that the Trust Fund shall be considered to be seized when, following the notification by the Trust Fund, the relevant Chamber of the Court “has responded and has not, [...] informed the Board in writing that a specific activity or project [...] would pre-determine any issue to be determined by the Court, including the determination of the jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or violate the presumption of innocence pursuant to article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial”.

21. The Trust Fund respectfully submits to the Chamber that the selected specified activities do not pre-determine any issue to be determined by the Court as provided for in regulation 50 (a) (ii) of the TFV Regulations. The specific activities focus on injuries stemming from crimes

committed in the CAR I and II situation in general and are not designed to relate in any way to national or international proceedings or investigations.

FOR THE FOREGOING REASONS

Considering the necessity to provide physical and psychological rehabilitation and material support for the benefit of victims and their families in CAR in the form of the specified activities set out in detail in Annex I, the Board of Directors respectfully submits this notification pursuant to Regulation 50 (a) of the Regulations of the Trust Fund for Victims.



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

Dated this 15 September 2020

At The Hague, The Netherlands