



Original: English

**No. ICC-01/14
Date: 7 October 2020**

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

Public

Information to the Trust Fund for 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 further specified activities in the Central African Republic’

**Decision 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 Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims
Ms Paolina Massidda

The Office of Public Counsel for the Defence
Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar
Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**
Mr Philipp Ambach

Other

PRE-TRIAL CHAMBER II of the International Criminal Court hereby issues this Information to the Trust Fund for Victims (the ‘Trust Fund’) 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 further specified activities in the Central African Republic’ (the ‘Notification’).¹

1. On 15 September 2020, the Board of Directors of the Trust Fund filed the Notification, together with its Annex I, proposing five projects and corresponding specified activities with a view to providing physical and psychological rehabilitation, as well as material support, to the victims of crimes committed in the Central African Republic (the ‘CAR’) and falling within the jurisdiction of the Court. The Trust Fund submits that the selected specified activities (i) do not pre-determine any issue to be determined by the Court; (ii) focus on injuries stemming from crimes committed in both the CAR I and CAR II situations; and (iii) do not relate to any national or international proceedings or investigations.

2. On 17 September 2020, the Chamber invited observations on the Notification from the Office of Public Counsel for the Defence (the ‘OPCD’), the Office of Public Counsel for the Victims (the ‘OPCV’) and the Prosecutor, extending the time limit for their submission to Friday, 2 October 2020.²

3. On 2 October 2020, the OPCV filed its observations on the Notification.³ The OPCV submits that ‘the activities proposed in the Notification – as detailed in its Annex – do not appear to pre-determine any issue to be ruled by the Court, nor to violate the presumption of innocence or to be prejudicial to or inconsistent with the rights of potential accused and a fair and impartial trial’. While inviting the Trust Fund to also take into account house affordability as an additional concern expressed by victims and not addressed in the Notification during the implementation of the proposed activities, the OPCV submits that they constitute a ‘comprehensive assistance programme’ that ‘complies with the criteria laid down in Regulation 50(a)(ii) of the Regulations of the Trust Fund’ and therefore requests the Chamber ‘to promptly approve the proposed activities’.

¹ Trust Fund for Victims, 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 in the Central African Republic, 15 September 2020, ICC-01/05-101 and ICC-01/14-126 with public Annex I (ICC-01/05-101-AnxI and ICC-01/14-126-AnxI).

² Email sent by Pre-Trial Chamber II at 09:38.

³ 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 further specified activities in the Central African Republic”, 2 October 2020, ICC-01/05-102 and ICC-01/14-129.

4. On the same day, the OPCD submitted its observations on the Notification.⁴ Whilst observing ‘that the proposed activities have been defined in a non-discriminatory manner’, the OPCD requests the Chamber [in particular] to (i) ‘instruct that no reference is made to any acquitted person, identified suspect/accused, group or actor identifiable in connection with situations and/or proceedings before the Court during the implementation of the proposed activities, as well as in any documents or training relating to such implementation whether already existing or forthcoming’ (the ‘OPCD First Request’); and (ii) ‘[r]emind the [Trust Fund] and its implementing partners to keep all appropriate information on beneficiaries of the proposed activities, in case it is relevant in any ongoing or future proceedings before the Court’ (the ‘OPCD Second Request’).

5. The Chamber notes that, in addition to its mandate provided for in article 79(2) of the Rome Statute (the ‘Statute’) and rules 98(1) to (4) of the Rules of Procedure and Evidence (the ‘Rules’), relating to resources collected pursuant to orders of the Court, the Trust Fund is entrusted with a further mandate to use ‘other resources [...] for the benefit of victims’ in accordance with article 79 of the Statute and rule 98(5) of the Rules. This ‘assistance mandate’ is also regulated by chapter II of the Trust Fund Regulations.

6. Pursuant to regulation 50(a)(ii) of the Trust Fund Regulations, the Chamber is vested with the power to scrutinise the activities and projects proposed by the Trust Fund under Chapter II of the Trust Fund Regulations. In so doing, the Chamber must be satisfied that the proposed activities or projects (i) are specific enough as to enable the Chamber to carry out its analysis, which excludes mere programme outlines or lists of suggested activities to potential implementing partners;⁵ and (ii) fulfil the criteria governing the Chamber’s scrutiny as laid down in regulation 50(a)(ii) of the Trust Fund Regulations, which provides, *inter alia*, that the Chamber may ‘inform the Board in writing that a specific activity or project, pursuant to rule 98, sub-rule 5 of the [Rules], would pre-determine any issue to be determined by the Court, including jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or

⁴ OPCD Observations on the TFV Regulation 50 Notifications, 2 October 2020, ICC-01/05-103 and ICC-01/14-130.

⁵ Pre-Trial Chamber II, Information to the Trust Fund for 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’, 8 April 2020, ICC-01/05-100, para. 5 *referring to* Pre-Trial Chamber II, Decision on the Submission of the Trust Fund for Victims dated 30 October 2009, 16 November 2009, ICC-01/05-30, para. 4. *See also* Pre-Trial Chamber II, *Situation in the Republic of Côte d’Ivoire*, Information to the Trust Fund for Victims on the ‘Notification par le Conseil de direction du Fonds au profit des victimes de sa conclusion en vue d’entreprendre des activités spécifiques en République de Côte d’Ivoire conformément à la règle 50(a) du Règlement du Fonds au profit des victimes’, 8 September 2020, ICC-02/11-59, para. 8.

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’.

7. The Chamber notes that the proposed activities, as defined in the Notification and its Annex I, will focus on providing ‘physical and psychosocial rehabilitation, as well as material support to victims and their families’ in various localities of the CAR. The first project (TFV/CAR/2020/R1/002) aims at providing a holistic response to the needs of victims located in Bangui and its surroundings through medical assistance, psychological support and socio-economic assistance through income generating activities. The second project (TFV/CAR/2020/R1/003) serves the purpose of improving the living conditions and resilience of victims located in Bangui and surrounding locations, as well as in the prefecture of Kemo, by enabling them to access primary health care, improve their psychological condition and gain skills and capacities in conducting socio-economic activities. The third project (TFV/CAR/2020/R1/004) provides physical, psychological and socio-economic support to victims of sexual and gender-based violence and their families in Bangui and surrounding locations and in the prefecture of Ombela M’Poko. The fourth project (TFV/CAR/2020/R1/005) focusses on achieving victims’ resilience at the individual and community level in Bangui and its surroundings and the prefectures of Ouham Pende, Kemo and Ouham. Finally, the fifth project (TFV/CAR/2020/R1/006) aims at providing victims in the prefectures of Ombella M’Poko and Lobaye with medical assistance, psychological and psychosocial rehabilitation as well as material support to achieve victims’ resilience and dignity.

8. The Chamber considers that, at this stage and for the purposes of this decision, the information provided is of sufficient specificity in terms of, *inter alia*, the nature of the activities and their intended goal. Further, the Chamber notes that (i) the proposed activities and projects are all to be undertaken in relation to situations for which the Court has already initiated investigations (the CAR I and CAR II situations); and (ii) the proposed activities appear unrelated to national or international proceedings related to the CAR I and CAR II situations. The Chamber thus finds that the implementation of the proposed activities does not appear to be in contravention of the criteria set out in regulation 50(a)(ii) of the Trust Fund Regulations.

9. The Chamber emphasises that in order to neutralise any ‘risk of predetermining an issue to be determined by the Chamber and of violating the presumption of innocence as well as the principles governing a fair and impartial trial’, the proposed activities must be ‘defined

in a non-discriminatory manner, without reference to any identified suspect/accused or particular victim(s)',⁶ especially when such activities are connected to a situation in which an investigation and judicial proceedings are ongoing. Mindful of the OPCD's First Request, the Chamber finds that the proposed activities satisfy the relevant requirements as set out in regulation 50(a)(ii) of the Trust Fund Regulations provided that all references to any identified suspect/accused, group or actor identifiable in connection with situations and/or proceedings before the Court, and particular victims be omitted during their implementation, as well as in any documents relating to such implementation whether already existing or forthcoming.

10. With regard to the OPCD's Second Request, the Chamber recalls that it is crucial to the integrity and fairness of the proceedings that the Trust Fund and its implementing partners be mindful of their obligation to retain and preserve all relevant information on the beneficiaries of the proposed activities, as these may prove relevant to ongoing or future proceedings before the Court.

⁶ Pre-Trial Chamber II, Information to the Trust Fund for 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', 8 April 2020, ICC-01/05-100, para. 7 *referring to* Pre Trial Chamber II, 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 and Pre-Trial Chamber II, *Situation in Uganda*, Decision on Notification of the Trust Fund for Victims and on its Request for Leave to respond to OPCD's Observations on the Notification, 19 March 2008, ICC-02/04-126, p. 10. *See also* Pre-Trial Chamber II, *Situation in the Republic of Côte d'Ivoire*, Information to the Trust Fund for Victims on the 'Notification par le Conseil de direction du Fonds au profit des victimes de sa conclusion en vue d'entreprendre des activités spécifiques en République de Côte d'Ivoire conformément à la règle 50(a) du Règlement du Fonds au profit des victimes', 8 September 2020, ICC-02/11-59, para. 11.

FOR THESE REASONS, THE CHAMBER HEREBY

INFORMS the Board of the Trust Fund that the proposed activities described in Annex I to the Notification do not appear *per se* to pre-determine any issue to be determined by the Court, including the determination of jurisdiction and admissibility, to violate the presumption of innocence or to be prejudicial to, or inconsistent with, the rights of the accused and a fair and impartial trial, provided that they are implemented in compliance with the conditions set out in paragraphs 9 and 10 above; and

GRANTS the OPCD's First and Second Requests.

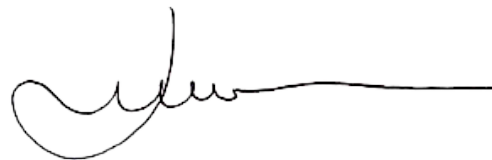
Done in both English and French, the English version being authoritative.



Judge Antoine Kesia-Mbe Mindua
Presiding Judge



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Wednesday, 7 October 2020

At The Hague, The Netherlands