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**No. ICC-01/14-01/18  
Date: 11 December 2020**

**TRIAL CHAMBER V**

**Before: Judge Bertram Schmitt, Presiding Judge  
Judge Péter Kovács  
Judge Chang-ho Chung**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

**IN THE CASE OF  
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD  
NGAISSONA***

**Public  
with one public annex**

**Second Decision on Victims' Participation in Trial Proceedings  
(Group A)**

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

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**TRIAL CHAMBER V** of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Article 68(3) of the Rome Statute, Rules 85 and 89 of the Rules of Procedure and Evidence (the ‘Rules’) and Regulation 86 of the Regulations of the Court, issues this ‘Second Decision on Victims’ Participation in Trial Proceedings (Group A)’.

1. On 5 March 2019, Pre-Trial Chamber II (the ‘PTC II’) set out the criteria to be met for an applicant to qualify as a victim in this case, and established a system for the transmission and admission of applications.<sup>1</sup> It held that:
  - (i) the Registry should classify victim applicants into three categories, namely (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’); and prepare ‘regular reports that list the applications for participation and classify them according to the three groups’; and
  - (ii) ‘barring a clear, material error in the Registry’s assessment of Groups A and B’, it would ‘ratify the Registry’s assessment of the Group A and B applications’.<sup>2</sup>
2. On 19 March 2020, the Chamber confirmed that the victim application procedure adopted by PTC II would remain in place.<sup>3</sup>
3. On 8 April 2020, in line with the Chamber’s direction,<sup>4</sup> the Registry provided an update on victims’ applications.<sup>5</sup> It noted, *inter alia*, that it was carrying out a comprehensive review of all received applications for participation in order to assess whether the crimes suffered by the victims admitted to participate in the

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<sup>1</sup> Decision Establishing the Principles Applicable to Victims’ Applications for Participation, ICC-01/14-01/18-141 (the ‘5 March 2019 Decision’), paras 29-41.

<sup>2</sup> 5 March 2019 Decision, ICC-01/14-01/18-141, para. 41 (ix).

<sup>3</sup> Order Scheduling First Status Conference, ICC-01/14-01/18-459, para. 8 (iv).

<sup>4</sup> Order Scheduling First Status Conference, ICC-01/14-01/18-459, para. 3 (I).

<sup>5</sup> Annex III to the Registry Submissions in View of the upcoming Status Conference, ICC-01/14-01/18-470-Conf-Exp-AnxIII, confidential *ex parte*, only available to the Registry (public redacted version notified on 22 May 2020, ICC-01/14-01/18-470-AnxIII-Red2) (the ‘Update on Victim Applications for Participation’).

confirmation of charges hearing still remained within the scope of the case following the decision on the confirmation of charges.<sup>6</sup>

4. On 30 November 2020, the Registry transmitted to the Chamber 100 Group A victims' applications (the 'Applications')<sup>7</sup> and filed an accompanying assessment report,<sup>8</sup> containing a brief description of the criteria applied in its assessment of the Applications and several related observations.
5. The Registry notes, *inter alia*, that, pursuant to the Chamber's 'Decision on Victims' Participation in Trial Proceedings',<sup>9</sup> it categorised under Group A applicants who (i) describe crimes committed by Anti-Balaka groups in areas neighbouring the borders of Cattin or Boeing, and (ii) clearly relate those crimes to the alleged Anti-Balaka attack in Bangui on 5 December 2013.<sup>10</sup> The Registry further notes that some of the Applications seemingly provide an erroneous date for the alleged events or do not explicitly state a specific date, and that in assessing these applications, it followed the Chamber's instruction to evaluate applications 'holistically by assessing their internal coherence and the overall context of the alleged acts'.<sup>11</sup>
6. The Chamber recalls the applicable law set out in its previous decision on victims' participation<sup>12</sup> and the consistent jurisprudence of the Court on Rule 85 of the Rules, as set out by PTC II.<sup>13</sup>
7. All applications were individually assessed by the Registry, which determined that the applicants meet, on a *prima facie* basis, the requirements of Rule 85(a) of the Rules for the granting of victim status.<sup>14</sup>

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<sup>6</sup> Update on Victim Applications for Participation, ICC-01/14-01/18-470-AnxIII-Red2, para. 6.

<sup>7</sup> Registry's First Transmission of Group A Applications for Victims' Participation in Trial Proceedings, ICC-01/14-01/18-746 (with 100 confidential *ex parte* annexes, only available to the Registry).

<sup>8</sup> Second Registry Assessment Report on Victims Applications for Participation in Trial Proceedings, ICC-01/14-01/18-747 (the 'Second Registry Report').

<sup>9</sup> Decision on Victims' Participation in Trial Proceedings, 23 November 2020, ICC-01/14-01/18-738 (the 'First Decision on Victim Participation'), paras 27-33.

<sup>10</sup> Second Registry Report, ICC-01/14-01/18-747, para. 22.

<sup>11</sup> Second Registry Report, ICC-01/14-01/18-747, para. 23 *referring to* email from the Chamber to the Registry, 30 July 2020, at 17:29.

<sup>12</sup> First Decision on Victim Participation, ICC-01/14-01/18-738, paras 11-12.

<sup>13</sup> 5 March 2019 Decision, ICC-01/14-01/18-141, paras 21, 31-36.

<sup>14</sup> See Second Registry Report, ICC-01/14-01/18-747, para. 18.

8. The Chamber has not identified any clear, material error in the Registry's assessment and therefore authorises the participation as victims of the 100 applicants whose applications were transmitted under Group A.
9. The Chamber considers that it would benefit from regular updates on the victims admitted to participate in the proceedings. For this purpose, the Chamber directs the Registry to update the Chamber, every four months, on the following issues: (i) the number of participating victims; (ii) the number of victims represented by each team of Common Legal Representatives of Victims (the 'CLRVs'); (iii) the recent activities of the CLRVs in their respective victims' communities; and (iv) any views and/or concerns expressed by the participating victims to the CLRVs, including regarding the victims' ability to follow the proceedings from their respective communities. The Registry is instructed to liaise with the CLRVs to collect the above-mentioned information.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**DECIDES** to admit the 100 applicants listed in the annex to the present decision as participating victims for the purpose of the trial proceedings; and

**DIRECTS** the Registry to report on the victims admitted to participate in the proceedings, every four months from the notification of the present decision, as set out in paragraph 9 of the present decision.

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

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| <br><hr style="width: 25%; margin: 0 auto;"/> <p><b>Judge Péter Kovács</b></p> | <br><hr style="width: 25%; margin: 0 auto;"/> <p><b>Judge Bertram Schmitt</b><br/> <b>Presiding Judge</b></p> | <br><hr style="width: 25%; margin: 0 auto;"/> <p><b>Judge Chang-ho Chung</b></p> |
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Dated 11 December 2020

At The Hague, The Netherlands