



Original: English

**No. ICC-02/05-01/20
Date: 18 January 2021**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

**SITUATION IN DARFUR, SUDAN
IN THE CASE OF
*THE PROSECUTOR V. ALI MUHAMMAD ALI ABD-AL-RAHMAN ('ALI
KUSHAYB')***

Public

Decision establishing the principles applicable to victims' and representation during
the Confirmation Hearing

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr Julian Nicholls

Counsel for Mr Abd-Al-Rahman

Mr Cyril Laucci

Legal Representatives of Victims

Legal Representatives of Applicants

Ms Amal Clooney

Unrepresented Victims

Unrepresented Applicants

for Participation/Reparations

**The Office of Public Counsel
for Victims**

Ms Paolina Massida

**The Office of Public Counsel
for the Defence**

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

JUDGE ROSARIO SALVATORE AITALA, acting as Single Judge on behalf of Pre-Trial Chamber II of the International Criminal Court (the ‘Court’),¹ having regard to articles 57(3)(c), 67(1)(c) and (2) and 68(1) and (3) of the Rome Statute (the ‘Statute’), rules 16, and 85-93 of the Rules of Procedure and Evidence (the ‘Rules’) and regulations 79, 80, and 86 of the Regulations of the Court (the ‘Regulations’), issues this Decision establishing the principles applicable to victims’ participation and representation during the Confirmation Hearing.

I. PROCEDURAL HISTORY

1. On 27 April 2007, Pre-Trial Chamber I granted the Prosecutor’s application under article 58(7) of the Statute² and decided³ to issue a warrant of arrest against Mr Ali Muhammad Ali Abd-Al-Rahman (‘Mr Abd-Al-Rahman’) for crimes against humanity and war crimes allegedly committed in the localities of Kodoom, Bindisi, Mukjar, Arawala and their surrounding areas in Darfur, Sudan, between August 2003 and March 2004 (‘First Warrant’).⁴

2. On 16 January 2018, Pre-Trial Chamber II, in its previous composition, granted the Prosecutor’s application to amend the First Warrant pursuant to article 58(6) of the Statute,⁵ issuing a second warrant of arrest against Mr Abd-Al-Rahman for crimes against humanity and war crimes allegedly committed in the locality of Deleig and surrounding areas in Darfur, Sudan, between on or about 5 to 7 March 2004 (‘Second Warrant’).⁶

¹ Decision on the designation of a Single Judge, 9 June 2020, ICC-02-01/07-80.

² Prosecutor’s Application under Article 58 (7), 27 February 2007, ICC-02/05-55-US-Exp (public redacted version notified on the same day, [ICC-02/05-56](#)).

³ Decision on the Prosecution Application under Article 58(7) of the Statute, [ICC-02/05-01/07-1-Corr.](#)

⁴ Warrant of Arrest for Ali Kushayb, [ICC-02/05-01/07-3-Corr.](#)

⁵ Prosecution’s application pursuant to article 58(6) of the Rome Statute to amend the warrant of arrest for Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’) by adding new crimes, 3 November 2017, ICC-02/05-01/07-73-Secret-Exp (confidential redacted and public redacted versions notified on 26 June 2020, ICC-02/05-01/20-6-Conf-Red and [ICC-02/05-01/20-6-Red2](#)).

⁶ Second warrant of arrest for Ali Muhammad Ali Abd-Al-Rahman (‘Ali Kushayb’), ICC-02/05-01/07-74-Secret-Exp (public redacted version notified on 11 June 2020, [ICC-02/05-01/07-74-Red](#)).

3. On 9 June 2020, Mr Abd-Al-Rahman surrendered himself and was transferred to the Detention Centre of the Court. On 15 June 2020, as ordered by the Chamber,⁷ Mr Abd-Al-Rahman made his first appearance before the Single Judge.⁸
4. On 9 October 2020, the Registry, through the Victims Participation and Reparations Section (the 'VPRS'), submitted a request to modify the standard application form for victim participation in the present case (the 'VPRS Request').⁹
5. On 2 November 2020, the Chamber postponed the commencement of the confirmation of charges hearing to 22 February 2021.¹⁰
6. On 4 November 2020, the Chamber granted the VPRS Request.¹¹
7. On 17 November 2020, the VPRS submitted observations and recommendations on aspects related to the admission process for victims seeking to participate in the proceedings (the 'Registry Observations').¹²
8. On 19 November 2020, the Defence issued its 'Requête en vertu de la Règle 89-1 du Règlement de Procédure et de Preuve' (the 'Defence Request').¹³
9. On 26 November 2020, the Prosecutor responded to the Defence Request (the 'Prosecutor's Response').¹⁴
10. On 18 December 2020, the Chamber postponed the commencement of the confirmation of charges hearing to 24 May 2021.¹⁵

⁷ Decision on the convening of a hearing for the initial appearance of Mr Ali Kushayb, 11 June 2020, [ICC-02/05-01/07-82](#).

⁸ Transcript of hearing of Initial Appearance, [ICC-02/05-01/20-T-001-ENG](#) ('Initial Appearance').

⁹ Registry Request for Authorization to use a Modified Standard Application Form to Facilitate Victim Participation in the Case, ICC-02/05-01/20-178-Conf. A public redacted version was filed on 2 November 2020, [ICC-02/05-01/20-178-Red](#).

¹⁰ Decision on the Prosecutor's Request for Postponement of the Confirmation Hearing and related deadlines, 2 November 2020, [ICC-02/05-01/20-196](#), p. 20.

¹¹ Decision on the Registry's Request for Authorisation to use a Modified Standard Application Form for Victim Participation, 4 November 2020, [ICC-02/05-01/20-198](#), p. 8.

¹² Registry Observations on Aspects Related to the Admission of Victims for Participation in the Proceedings, 17 November 2020, [ICC-02/05-01/20-203](#).

¹³ Requête en vertu de la Règle 89-1 du Règlement de Procédure et de Preuve, 19 November 2020, [ICC-02/05-01/20-206](#).

¹⁴ Prosecution's response to "Registry Observations on Aspects Related to the Admission of Victims for Participation in the Proceedings", 26 November 2020, [ICC-02/05-01/20-212](#).

¹⁵ Decision on the Prosecutor's Second Request to Postpone the Confirmation Hearing and Requests for Variation of Disclosure Related Time Limits, 18 December 2020, [ICC-02/05-01/20-238](#).

11. On 11 January 2021, the legal representative of potential victims requested the Chamber to clarify the temporal and geographical scope of the charges and to be provided with guidance in terms of the modalities for legal representation, including access to documents in the case file (the ‘Request for Guidance’).¹⁶ On 13 January 2021, the Defence responded to the request for clarification from the legal representative.¹⁷

II. ANALYSIS

A. Preliminary matter

12. The Single Judge notes that the Request for Guidance was filed by the legal representative of a number of individuals who have filed applications to participate in the proceedings as victims. A valid power of attorney was submitted with the Registry. The present decision sets out the applicable procedure and provides the necessary guidelines for this stage of the proceedings for any and all potential victims as well as their legal representatives.

B. Collection of Applications

13. The Single Judge considers, as previous decisions have underscored and in view of making the process of collecting victims’ applications as efficient as feasible,¹⁸ that it is essential that the VPRS assists applicants in completing their forms. This assistance is consistent with its mandate under regulation 86(9) of the Regulations and the Registry’s obligations pursuant to rule 16(1) of the Rules.

14. The Single Judge considers that, due to factors including limited resources and security concerns, it may not always be feasible for the VPRS to personally assist every applicant. The VPRS may therefore avail itself of the cooperation of persons, NGOs and international organisations acting as intermediaries between potential applicants and the Court. The VPRS is responsible for ensuring appropriate vetting and training of its intermediaries. Furthermore, the Single Judge emphasises that the

¹⁶ Request for Guidance on Modalities for Submissions relating to Applications for Victim Participation, 11 January 2021, [ICC-02/05-01/20-251](#).

¹⁷ Observations en Réponse à la Requête ICC-02/05-01/20-251, [ICC-02/05-01/20-255](#).

¹⁸ See, for instance, *Prosecutor v. Al Hassan* Pre-Trial Chamber I, “[Decision Establishing the Principles Applicable to Victims’ Applications for Participation](#)”, 24 May 2018, ICC-01/12-01/18-37-tENG, para. 38.

VPRS' must ensure that the collection process is fair and unbiased and therefore must maintain appropriate oversight over its intermediaries at all times.

C. Processing of Applications

15. It is the responsibility of the VPRS to receive and process the applications without undue delay in order to transmit them to the Chamber sufficiently in advance of the confirmation hearing. The VPRS may set a deadline for the submission of applications to ensure the timely processing of the applications before their transmission to the Chamber. As specified below, only applications that are complete and fall within the temporal, geographical and legal parameters of the present case are to be transmitted to the Chamber.

16. In line with the use of the modified electronic victim application forms,¹⁹ the Single Judge considers that an application is complete if it contains the following information, supported by documentation, when applicable:

- the identity of the applicant;
- the date of the alleged crime(s);
- the location of the alleged crime(s);
- a description of the harm allegedly suffered as a result of the commission of the crime(s) allegedly committed by the suspect(s);
- proof of identity by a photo/scan of an identification document which is available in Sudan and accepted by the Single Judge as described below;
- where the application is made by a person acting on behalf of a legally competent adult, proof of the express consent of the victim;
- where the application is made by a person acting on behalf of a child or an incapacitated person, proof of family relationship or legal guardianship or, in the latter case proof of legal guardianship.

¹⁹ Decision on the Registry's Request for Authorisation to use a Modified Standard Application Form for Victim Participation, 4 November 2020, [ICC-02/05-01/20-198](#).

17. The Single Judge recalls that persons seeking authorisation to participate in the proceedings must show that they are victims within the definition of rule 85 of the Rules as specified in the present decision. An applicant can qualify as a victim in the case, when it is established *prima facie*:²⁰ (i) his or her identity; (ii) the harm suffered; and (iii) the causal link between the harm suffered and one or more of the crimes allegedly committed during an incident falling within the temporal, geographic and material parameters of the case, as defined in the document containing the charges. Pending the submission of the document containing the charges, which is due to be filed on 29 March 2021, persons who wish to apply for participation in the proceedings as victims should refer to the alleged conduct as described in the charges contained in the warrants of arrest, which are provisional in nature.

18. As to establishing the identity of the applicant, the Single Judge notes that the instability in Darfur has had a direct impact on access to identification documentation, especially for potential applicants.²¹ The VPRS has anticipated that potential applicants from Darfur may not have, or may no longer have valid official identification documents and may face difficulties to obtain such documents on short notice.²²

19. In light of these challenges, the Single Judge endorses the flexible approach already adopted by Pre-Trial and Trial Chambers in other cases with respect to the documentary requirements for participation.²³ Therefore, where it is not possible for

²⁰ See Pre-Trial Chamber I, *Prosecutor v. Al Hassan*, “[Decision Establishing the Principles Applicable to Victims’ Applications for Participation](#)”, 24 May 2018, ICC-01/12-01/18-37-tENG, para. 48; Trial Chamber II, *Prosecutor v. Katanga and Ngudjolo*, “[Grounds for the Decision on the 345 Applications for Participation in the Proceedings Submitted by Victims](#)”, 23 September 2009, ICC-01/04-01/07-1491-Red-tENG, para. 57.

²¹ Registry Report on Proof of Identity Documents Available to Victims of the Case, [ICC-02/05-01/20-211](#), para. 11.

²² Registry Observations on Aspects Related to the Admission of Victims for Participation in the Proceedings’, 17 November 2020, [ICC-02/05-01/20-203](#).

²³ Pre-Trial Chamber II, *Prosecutor v. Yekatom and Ngaïssona*, “[Decision Establishing the Principles Applicable to Victims’ Applications for Participation](#)”, 5 March 2019, ICC-01/14-01/18-141, para. 25; Pre-Trial Chamber I, *Prosecutor v. Al Hassan*, “[Decision Establishing the Principles Applicable to Victims’ Applications for Participation](#)”, 24 May 2018, ICC-01/12-01/18-37-tENG, para. 31; See, for instance, Trial Chamber I, *Prosecutor v. Thomas Lubanga Dyilo*, “[Decision on Victims’ Participation](#)”, 18 January 2008, ICC-01/04-01/06-1119, para. 88; Pre-Trial Chamber I, *Prosecutor v. Al Hassan* Pre-Trial Chamber I, “[Decision Establishing the Principles Applicable to Victims’ Applications for Participation](#)”, 24 May 2018, ICC-01/12-01/18-37-tENG, para. 49.

an applicant to obtain or provide the required standard forms of identification, the use of any of the following forms of identification is authorised:

- Sworn statements or letters where applicants provide a brief explanation of why a national identity card is not available to them;
- Signed declarations from two witnesses who provide their own national identity cards;
- Signed declaration from a community chief or elder together with the chief's or elder's national identity card.

20. The Single Judge instructs the VPRS to make an initial assessment of the applications received on the basis of the above guidelines as soon as possible. In line with the practice established in previous cases, the VPRS is instructed to raise before the Single Judge any issues regarding the collection and processing of the applications as soon as they arise in order to allow for immediate resolution.

D. Procedure for the Admission of Applicants

1. The Registry Proposal

21. In the Registry Observations, the VPRS proposes an admission process informed by the approaches adopted in the *Ntaganda*, *Al Hassan* and *Yekatom and Ngaïssona* cases. In essence, this approach consists of dividing all complete applications into three categories:

Group A: Applicants who clearly qualify as victims of this case;

Group B: Applicants who clearly do not qualify as victims of this case;

Group C: Applicants for whom the VPRS could not make a clear determination for any reason.

22. According to the Registry Observations, the VPRS would only transmit complete applications to the Chamber on a rolling basis. The Chamber would then certify the Registry's proposed decision for Group A and B applicants, barring clear material error in the VPRS's assessment. Applications falling into Group C would

²³ Pre-Trial Chamber II, *Prosecutor v. Yekatom and Ngaïssona*, "[Decision Establishing the Principles Applicable to Victims' Applications for Participation](#)", 5 March 2019, ICC-01/14-01/18-141, para 38; Pre-Trial Chamber II, *Prosecutor v. Ntaganda*, "[Victims Participation Decision](#)", 28 May 2013, ICC-01/04-02/06-67 para. 32.

be transmitted to the parties (with redactions where necessary) for their observations. After receiving the parties' observations, if any, the Chamber would then rule on each individual application. Significantly, the parties would not receive applications falling into Groups A or B.

2. *The Defence Request*

23. The Defence requests the Single Judge to: (1) reject *in limine* the Registry's Observations because they were filed too late, or (2) reject the Registry's proposed admission procedure. Furthermore, the Defence requests the Single Judge to order the transmission of all victim applications, with the necessary redactions, in accordance with rule 89(1) of the Rules, as well as their publication.²⁴

24. With regard to the first request, the Single Judge notes that no specific deadline had been imposed on the Registry. In light of the postponement of the confirmation hearing to 24 May 2021, the Single Judge considers that it would be artificial to reject the Registry's Observations on the basis of their alleged tardiness.

25. As to the compatibility of the proposed admission procedure with rule 89(1) of the Rules and the Chambers Practice Manual, the Single Judge recalls the finding of Trial Chamber VI in the *Ntaganda* case:

It must be noted that the parties' right to reply to victim applications set out in Rule 89(1) of the Rules is not absolute. Rule 89(1) provides that the transmission of victim applications to the parties, and their right to reply thereto, is "[s]ubject to the provisions in the Statute, in particular article 68, paragraph 1 [...]". In this regard, the Chamber notes: (i) the Court's obligation under Article 68(1) of the Statute to protect the safety, physical and psychological well-being, dignity and privacy of victims; (ii) the right of the accused to not have measures adopted which are prejudicial to or inconsistent with his/her right to be tried with undue delay, as required by Articles 67(l)(c) and 68(1) and (3) of the Statute; and (iii) the Chamber's general obligation under Article 64(2) of the Statute to ensure the fair and expeditious conduct of the proceedings.²⁵

26. Furthermore, the Single Judge considers that rule 89(1) of the Rules must be interpreted in light of rule 89(4) of the Rules, which allows for the Chamber to consider the applications in such a manner as to ensure the effectiveness of the

²⁴ Defence Request, [ICC-02/05-01/20-206](#).

²⁵ Trial Chamber VI, *Prosecutor v. Bosco Ntaganda*, "[Decision on victims' participation in trial proceedings](#)", 6 February 2015, ICC-01/04-02/06-449, para. 29.

proceedings. It is for the Chamber to organise the application and admission process in light of the circumstances of the case. The relevant provisions, including rule 89(1) of the Rules, allow for different approaches as appropriate.²⁶

27. Bearing in mind past practice and experience, the Single Judge does not consider that the benefit of receiving submissions in relation to each individual application warrants the considerable cost and time implications this would involve. Indeed, experience has shown that application forms often have to be heavily redacted before being disclosed. This a very time-consuming process. Moreover, extensive redactions often make it all but impossible for the parties to make meaningful submissions in relation to particular applicants.²⁷

28. In the present case, bearing in mind the security concerns involved and the potentially high number of applications, the Single Judge therefore deems it appropriate to follow a more streamlined approach.

29. The Defence claims that the proposed admission procedure violates Mr Abd-Al-Rahman's right to a fair trial and that it must have an opportunity to respond to all applications - not only those of Group C. The Defence argues that it must be able to verify whether or not the Registry's assessment is correct; that it needs access to the applications as they might contain relevant information, including potentially exonerating elements; and that the proposed admission procedure would be contrary to the interests of the victims as it would deprive their participation of any meaning.

30. The first Defence argument is rejected. The principle set out in rule 89(1) of the Rules pertains to the process for allowing victims to present their views and concerns, not to the procedure aimed at the participation in the proceedings through a legal representative.²⁸ The victim application process under consideration has the sole purpose to determine which persons are entitled to be represented as victims in the confirmation proceedings. Should victims admitted to the proceedings wish to present views and concerns, the Defence will be provided with a copy of their

²⁶ Trial Chamber VI, *Prosecutor v. Bosco Ntaganda*, "[Decision on victims' participation in trial proceedings](#)", 6 February 2015, ICC-01/04-02/06-449, para. 37.

²⁷ Trial Chamber V, *The Prosecutor v. Muthaura and Kenyatta*, "[Decision on victims' representation and participation](#)", 3 October 2012, ICC-01/09-02/11-498, paras 29- 38.

²⁸ Pre-Trial Chamber I, *Situation in the Democratic Republic of Congo*, "[Decision on the Requests of the OPCD on the Production of Relevant Supporting Documentation Pursuant to Regulation 86\(2\) \(e\) of the Regulations of the Court and on the Disclosure of Exculpatory Materials by the Prosecutor](#)", 7 December 2007, ICC-01/04-417, para. 5.

applications and sufficient time to make observations. Accordingly, the Single Judge considers that the Defence would not be unduly prejudiced by not receiving all individual applications.

31. The Defence's argument that it needs to review all applications because they might contain relevant information, including potentially exonerating elements has no merits. The factual statements made by the applicants in the application forms do not constitute evidence, neither against nor in favour of the accused and cannot be relied upon outside of the limited scope of the admission process. As mentioned, the application for participation of victims is only aimed at allowing the Chamber to evaluate if a person qualifies as a potential victim of one or more of the crimes charged in this case. The Chamber's evaluation is limited to ascertaining whether or not applicants have demonstrated that the conditions established by rule 85 of the Rules are met *prima facie* on the basis of their intrinsic coherence, as well as of other available information.²⁹

32. The Defence submission that the Registry's proposed admission procedure is contrary to the interests of the victims because it deprives their participation of any meaning is misplaced. It is the Chamber's, not the Defence's, responsibility to safeguard the victims' interests in the proceedings.

33. Based on the above considerations, the Single Judge concludes that the Defence is not entitled to automatically receive all victim application forms and rejects the request to make them all publicly available in the case record.

²⁹ Pre-Trial Chamber I, *Situation in the Democratic Republic of Congo*, "[Decision on the Requests of the OPCD on the Production of Relevant Supporting Documentation Pursuant to Regulation 86\(2\) \(e\) of the Regulations of the Court and on the Disclosure of Exculpatory Materials by the Prosecutor](#)", 7 December 2007, ICC-01/04-417, para. 8; Pre-Trial Chamber II, *Situation in Uganda*, "[Decision on victims' applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06](#)", 10 August 2007, ICC-02/04-101, para. 15

3. *Applicable procedure*

34. Bearing in mind the above and the Registry's Observations,³⁰ the Single Judge hereby establishes the following method for the transmission and admission of applications:

- The VPRS shall receive the victim applications and assess them against the criteria laid down in rule 85 of the Rules and paragraph 17 above. On this basis, the VPRS shall classify all complete applications into three categories:

Group A: Applicants who clearly qualify as victims of this case.

Group B: Applicants who clearly do not qualify as victims of this case.

Group C: Applicants for whom the Registry could not make a clear determination.
- The VPRS transmits to the Chamber, on a rolling basis and in unredacted form, all complete applications as soon as possible after the document containing the charges has been filed. For those applications which the Registry determines to fall into Group B, the Registry shall transmit only applications which refer to crimes allegedly committed in 2003-2004 in Western Darfur. Applications referring only to crimes that were allegedly committed outside this temporal and geographical scope must not be transmitted to the Chamber.
- Each transmission is to be accompanied by a report, which categorises the applications into the aforementioned three groups. These reports are notified to the Chamber, the parties, and to the legal representatives chosen to represent the victims authorised to participate. For applications falling in Groups A or B, the reports need not include application-by-application justification but must explain the criteria and methodology applied. For applications

³⁰ Registry Observations, [ICC-02/05-01/20-203](#), para. 7.

falling in Group C, the VPRS report shall clearly highlight the issue(s) arising from each application and explain why the Registry was unable to make a determination in light of the document containing the charges.

- For Groups A and B, the Chamber will review the Registry's recommendations. Barring the detection of clear and material errors in the VPRS's assessment, the Chamber will certify the Registry's assessment by way of a formal decision.
- All Group C applications are transmitted to the parties for observations. When redactions are necessary, the VPRS is authorised to remove all identifying information in accordance with article 68(1) of the Statute.
- After receiving the parties' observations, the Chamber will assess the Group C applications individually and determine whether the victims concerned shall be admitted to participate or not.
- In order to streamline the application process, the Registry may decide to impose a deadline for applicants who want to be represented during the confirmation hearing. The Chamber expects to receive a final list of applicants falling in Group C and the accompanying report no later than 30 days before the commencement of the confirmation hearing. The Prosecutor and the Defence shall have 10 days thereafter to make submissions.
- The final list of Group A and B applications and accompanying reports must be transmitted to the Chamber no later than 15 days before the commencement of the confirmation hearing.

E. Legal Representation

35. With regard to the legal representation of the victims, the Single Judge notes that rule 90(1) of the Rules provides that "[a] victim shall be free to choose a legal representative". While victims are allowed to select a legal representative of their choice, this right is subject to important practical, financial, and logistical constraints. In particular, where there are a high number of victims participating in

a case, it is not feasible to have separate legal representation for each individual participating in the proceedings.³¹ Accordingly, under certain circumstances, the Chamber may request the victims or a particular group of victims to choose a common legal representative, pursuant to rule 90(2) of the Rules; with the Registry's assistance, where necessary. If the victims are not able to reach an agreement on a common legal representative, the Chamber may instruct the Registry to select one or more common legal representatives in accordance with rule 90(3) of the Rules and regulation 79 of the Regulations.

36. Bearing in mind how important the choice for suitable and qualified legal representation for the victims is, it is crucial that the selection process of one or more common legal representatives takes place under the best possible circumstances. The Single Judge is cognisant that, in light of the timelines for the application process outlined above and the practical limitations faced by the Registry, it is unlikely that it will be possible for the VPRS to conduct the necessary consultations with all the victims, once they have been authorised to participate, and to identify suitable common legal representatives in time for the commencement of the confirmation hearing. Moreover, any appointment of common legal representatives at this stage of the proceedings is necessarily provisional, given that it is uncertain whether all charges against the suspect will be confirmed, if any.

37. For these reasons, the Single Judge believes that it would be premature for the Chamber to set in motion the formal selection process for one or more common legal representatives. Instead, the Single Judge considers that it is more appropriate to appoint the OPCV to represent the collective interests of the victims during the confirmation hearing. This arrangement is temporary and does not extend beyond the confirmation proceedings. If the OPCV concludes that there are insurmountable conflicts of interest between different victim groups, it shall inform the Chamber forthwith.

³¹ Trial Chamber II, *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, “[Order on the organisation of common legal representation of victims](#)”, 22 July 2009, ICC-01/04-01/07-1328, para. 11 (footnote omitted).

38. A decision on the modalities for participation in the confirmation proceedings, including rights to access material in the case file and permission to file submissions, will be rendered in due course.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

INSTRUCTS the VPRS to collect the applications for participation in the proceedings, if necessary with the assistance of intermediaries, in accordance with paragraphs 13-14 of the present decision;

INSTRUCTS the VPRS to hold, as soon as possible, training sessions for intermediaries as described in paragraph 14 of the present decision;

APPROVES the use of alternative forms of identification as described in paragraph 19 of the present decision;

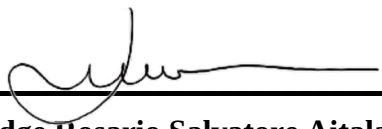
REJECTS the Defence Request;

INSTRUCTS the VPRS to commence the assessment of the applications for participation received in accordance with the instructions set out in paragraph 34 of the present decision as soon as possible;

INSTRUCTS the Prosecutor and the Defence to submit any observations they may have on the Group C applications for participation of victims within 10 days of receiving them;

APPOINTS the OPCV as common legal representative for the purposes of the confirmation proceedings.

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


Judge Rosario Salvatore Aitala
Single Judge

Dated this Monday, 18 January 2021

At The Hague, Netherlands