

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/14-01/21 OA2

Date: 9 June 2021

**THE APPEALS CHAMBER**

**Before:** Judge Gocha Lordkipanidze, Presiding  
Judge Piotr Hofmański  
Judge Luz del Carmen Ibáñez Carranza  
Judge Marc Perrin de Brichambaut  
Judge Solomy Balungi Bossa

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

**IN THE CASE OF  
*THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

**Public**

**Registry Request for Leave to Submit Observations in the Defence Appeal  
Against Decision ICC-01/14-01/21-56**

**Source:** The Registrar

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

**The Office of the Prosecutor**

Ms Fatou Bensouda

Ms Helen Brady

**Counsel for the Defence**

Ms Jennifer Naouri

Mr Dov Jacobs

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

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

**States' Representatives**

**Amicus Curiae**

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**REGISTRY**

**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other**

## I. Introduction

1. The Registry respectfully requests leave to submit observations in the Defence's appeal against the "Decision establishing the principles applicable to victims' applications for participation"<sup>1</sup> issued by the Single Judge of Pre-Trial Chamber II in the case of *The Prosecutor v. Mahamat Said Abdel Kani* ("Decision", "Single Judge" and "Case", respectively).
2. The Registry presents this request on the basis of Regulation 24*bis* of the Regulations of the Court. It considers that the subject matter of the present appeal has an immediate bearing on key Registry processes established for the proper discharge of its functions, in particular its mandate to facilitate victims' participation before the Court. The Registry therefore respectfully requests to submit some brief observations on the matter, mindful of its neutral role in the proceedings.

## II. Procedural History

3. On 26 February 2021, the Registry submitted observations and recommendations on aspects related to the admission process for victims seeking to participate in the proceedings ("Admission Process") in the Case.<sup>2</sup>
4. On 16 April 2021, the Single Judge issued the Decision, adopting an Admission Process whereby the Registry would only transmit to the parties those victims applications for which it could not make a clear determination.<sup>3</sup>
5. On 26 April 2021, the Defence filed its request for leave to appeal the Decision ("Defence Request").<sup>4</sup>

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<sup>1</sup> Pre-Trial Chamber II, "Decision establishing the principles applicable to victims' applications for participation", 16 April 2021, ICC-01/14-01/21-56.

<sup>2</sup> Registry, "Registry Submissions on Aspects Related to the Participation of Victims in the Proceedings Registry Submissions on Aspects Related to the Participation of Victims in the Proceedings", 26 February 2021, ICC-01/14-01/21-25.

<sup>3</sup> See *supra*, footnote 1.

6. On 21 May 2021, the Single Judge granted the Defence Request on the question whether the Decision contradicts rule 89(1) of the Rules of Procedure and Evidence ("Rules").<sup>5</sup>
7. On 3 June 2021, the Defence filed its document in support of the appeal.<sup>6</sup>
8. On 7 June 2021, the Office of Public Counsel for Victims ("OPCV") requested to appear before the Appeals Chamber pursuant to regulation 81(4)(b) of the Regulations of the Court ("OPCV Request").<sup>7</sup>
9. On 8 June 2021, the Defence replied to the OPCV Request.<sup>8</sup>

### III. Submission

10. The admission process of victim applications adopted in the Case by the Single Judge has been applied by the Registry as a standard practice in proceedings since 2018 per order of different Chambers across four cases.<sup>9</sup> Mindful of its neutral role in the proceedings, the Registry intends to provide the Chamber with its considerations on the admission process; this includes relevant legal and judicial determinations, alongside case-specific security considerations, that have led the Registry to consistently recommend this process to the Chambers. It wishes in particular to highlight the efficiency of this admission system which enhances

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<sup>4</sup> Defence, "Demande d'autorisation d'interjeter appel de la 'Decision establishing the principles applicable to victims' applications for participation (ICC-01/14-01/21-56)'" , 26 April 2021, ICC-01/14-01/21-63.

<sup>5</sup> Pre-Trial Chamber II, "Decision on the Defence's request for leave to appeal the 'Decision establishing the principles applicable to victims' applications for participation", 21 May 2021, ICC-01/14-01/21-79, para. 21, p. 8.

<sup>6</sup> Defense, "Mémoire d'appel de la Défense au soutien de son appel contre la 'Decision establishing the principles applicable to victims' applications for participation' (ICC-01/14-01/21-56) du Juge Unique rendue le 16 avril 2021", 3 June 2021, ICC-01/14-01/21-88..

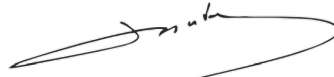
<sup>7</sup> OPCV, "Request to appear before the Appeals Chamber pursuant to regulation 81(4)(b) of the Regulations of the Court", 7 June 2021, ICC-01/14-01/21-90.

<sup>8</sup> Defence, version publique expurgée de la " Réponse de la Défense à la 'Request to appear before the Appeals Chamber pursuant to regulation 81(4)(b) of the Regulations of the Court' (ICC-01/14-01/21-90)", 8 June 2021, ICC-01/14-01/21-93-Red.

<sup>9</sup> This includes the pre-trial and trial stages in the case of *The Prosecutor v. Al Hassan* and in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*; as well as the pre-trial stage in the case of *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman* alongside the present Case.

victims' access to the judicial process while being in keeping with the Rome Statute framework and the parties' and participants' rights. Since the victim admission procedure has become a key process in the Registry's judicial support to Chambers and subject to discussion also in external fora,<sup>10</sup> the Registry considers the Appeals Chamber's authoritative assessment both welcome and important.

11. For this same reason, the Registry respectfully requests leave to file observations on the admission process before the Appeals Chamber.



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

Dated this 9 June 2021

At The Hague, the Netherlands

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<sup>10</sup> See only Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report, 30 September 2020, paras. 844-854, at: [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP19/IER-Final-Report-ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/IER-Final-Report-ENG.pdf); FIDH, Whose Court is it? Judicial handbook on victims' rights at the International Criminal Court, April 2021, Chapter 5, pp. 42-47, at: [https://www.fidh.org/IMG/pdf/fidh\\_whose\\_court\\_is\\_it\\_en.pdf](https://www.fidh.org/IMG/pdf/fidh_whose_court_is_it_en.pdf).