

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/14-01/21
Date: 27 August 2021

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

Public

With Confidential Annex

**First Registry Assessment Report on Victim Applications for Participation in
Pre-Trial Proceedings**

Source: The Registrar

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

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Counsel for the Defence

Ms Jennifer Naouri

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Legal Representatives of the Victims

Legal Representatives of the Applicants

Ms Claudine Bagaza-Dini

Mr Celestin Nzala

Ms Isabelle Kessel

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Sarah Pellet

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REGISTRY

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**Victims Participation and Reparations
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I. Introduction

1. On 16 April 2021, Pre-Trial Chamber II ("Chamber") issued its "Decision Establishing the Principles Applicable to Victims' Applications for Participation" ("Decision")¹ in which it *inter alia* endorsed the victim application procedure adopted in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona* ("Victim Application Procedure").² In compliance with this procedure, the Registry shall:³
 - i. classify victim applicants into three categories: (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");⁴ and
 - ii. prepare "regular reports that list the applications for participation and classify them according to the three groups".⁵
2. The Registry hereby transmits its first report on 13 complete applications to participate ("Applications") in the case of *The Prosecutor v. Mahamat Said Abdel Kani* ("Case"). The Registry has assessed all of these Applications to fall in Group A.
3. The Applications are listed in the annex to the present submission ("Annex") and are being transmitted separately to the Chamber in accordance with the Victim Application Procedure.⁶

¹ Pre-Trial Chamber II, "Decision Establishing the Principles Applicable to Victims' Applications for Participation", 16 April 2021, ICC-01/14-01/21-56.

² *Ibid.*, para. 35.

³ Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, "Decision Establishing the Principles Applicable to Victims' Applications for Participation", 5 March 2019, ICC-01/14-01/18-141 ("5 March 2019 Decision").

⁴ *Ibid.*, para. 41 (i). In paragraph 41 (ii) of the 5 March 2019 Decision, the Chamber ordered the Registry to "transmits to the Chamber on a rolling basis and in unredacted form all complete applications and any supporting documentation in its possession".

⁵ *Ibid.*, para. 41(iii).

⁶ *Ibid.*, para. 41(ii).

II. Procedural History

4. 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 in the Case.⁷
5. On 16 April 2021, the Single Judge issued the Decision, adopting the Victim Application Procedure.⁸
6. On the same day, the Registry filed the “Registry Report on Legal Representation of Victims and Observations on the Defence Requests” (“Legal Representation Report”).
7. On 9 July 2021, the Single Judge issued a decision on legal representation of victims and related matters, *inter alia*: i) ordering the Registry to transmit the full victim application forms to the Chamber as part of the Victim Application Procedure; and ii) assigning the OPCV to represent the collective interests of applicant victims on a temporary and provisional basis.⁹

III. Classification

8. The annex to the present submission is classified as confidential in accordance with the Victim Application Procedure.¹⁰

IV. Applicable Law

9. The present transmission is submitted in accordance with article 68(1) and (3) of the Rome Statute, rules 85 to 89 and 92 of the Rules of Procedure and Evidence, regulation 86 of the Regulations of the Court, and regulations 107 to 109 of the Regulations of the Registry.

⁷ Registry, “Registry Submissions on Aspects Related to the Participation of Victims in the Proceedings”, 26 February 2021, ICC-01/14-01/21-25.

⁸ See *supra*, footnote 2.

⁹ Pre-Trial Chamber II, “Decision on legal representation of victims and related matters”, 9 July 2021, ICC-01/14-01/21-119, paras 30, 35 and p. 12.

¹⁰ 5 March 2019 Decision, para. 41(iii).

V. Submission

Details on the assessment criteria applied to victims falling within Group A

10. Applying the criteria set out in the Victim Application Procedure,¹¹ the VPRS has assessed each of the 13 applications transmitted under Group A as complete. In conducting its initial assessment,¹² the VPRS confirms that each of the 13 applicants whose applications are being transmitted in Group A have met *prima facie* the following criteria:

- i. His or her identity as a natural person is established;¹³
- ii. He or she has suffered harm;¹⁴
- iii. The harm suffered is a result of an incident falling within the temporal, geographic and material scope of the Case.¹⁵

11. In relation to criterion (i), certain applications¹⁶ falling under Group A contain minor discrepancies, pertaining to, *inter alia*, the applicant's date of birth or the spelling of the applicant's name. These discrepancies appear to be the result of inadvertent errors. Accordingly, the VPRS followed the approach set in the Victim Application Procedure, i.e. that "a certain degree of flexibility must be shown"¹⁷ and considered in its assessment of the forms in question that the discrepancies presented in these applications "do not call into question the overall credibility of the information provided by the applicant [...]".¹⁸

12. The Registry will continue to assess all applications in its possession according to the criteria established by the Chamber and will transmit all complete applications on a rolling basis in accordance with the deadlines set out in the Decision.

¹¹ *Ibid.*, para. 31.

¹² In accordance with paragraph 38 of the 5 March 2019 Decision.

¹³ 5 March 2019 Decision, paras. 31-34.

¹⁴ *Ibid.*, paras 31, 35.

¹⁵ *Ibid.*, para. 37.

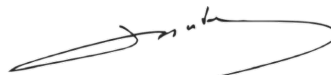
¹⁶ The applications with minor discrepancies are: a/20565/21; a/20568/21, a/20572/21 and a/20578/21.

¹⁷ 5 March 2019 Decision, para. 34.

¹⁸ *Id.*

Observations in relation to the legal representation of applicants

13. Noting that the Chamber may issue a further decision on matters of legal representation “at the stage of the determination of the merits of the victim applications and on the status of victims”,¹⁹ the Registry has outlined in the Annex each of the Group A victims’ choice of counsel insofar as such a choice is indicated in the application.²⁰ Counsel indicated on the forms are Ms Claudine Bagaza-Dini, Mr Celestin Nzala and Ms Isabelle Kessel.²¹
14. The Registry further informs the Chamber that Ms Bagaza-Dini and Mr Nzala have proposed to jointly act within a single team to represent their clients before the ICC.²² They further indicated that if appointed they would seek access to the Court’s legal aid system. Finally, they declared that they stand ready to represent also other participating victims in the Case.
15. The Registry has presently received a further 32 victim application forms which are being assessed in accordance with the Victim Application Procedure.²³



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

Dated this 27 August 2021

At The Hague, the Netherlands

¹⁹ Pre-Trial Chamber II, “Decision on legal representation of victims and related matters”, 9 July 2021, ICC-01/14-01/21-119, paras 30.

²⁰ Eight out of 13 victims have designated a counsel in their Applications. Out of the five victims who have not designated a counsel, three wish to be represented by a lawyer from the Office of Public Counsel for Victims, one wishes to choose a lawyer from the ICC list, and one expressed both wishes (See question 15, v) in the Applications).

²¹ The Registry notes that the Counsel designated in the Applications were identified in paras. 52 to 57 of the Registry’s Legal Representation Report. The Registry confirms that Ms Bagaza Dini and Mr Nzala are on the ICC List of Counsel and that Ms Kessel is on the List of Assistants to Counsel.

²² Emails from Ms Bagaza-Dini to Registry, 19 August 2021 at 13:29 and 23 August 2021 at 19:01.

²³ Pending a final confirmation of these applications being complete, the Registry notes that 31 of them have designated Mr Nzala and/or Ms Kessel in their application forms as their counsel. The 32th form does not designate any counsel.