



Original: **English**

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

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Public

Public Redacted Version of "Prosecution's Observations on the Registry's "Second Registry Assessment Report on Victim Applications for Participation in Pre-Trial Proceedings", ICC-01/14-01/21-168-Conf", ICC-01/14-01/21-178-Conf, 24 September 2021

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) hereby provides its observations regarding the Registry’s Second Assessment Report on Applications for Victims’ Participation in Pre-Trial Proceedings (“Second Assessment Report”).¹

2. Of the 15 victim applications listed by the Victims Participation and Reparations Section (“VPRS”) under Group C, three should be moved to the Group A category. Four applications should be accepted on the basis of a flexible approach, or in the alternative, accepted preliminarily pending additional information from the VPRS. Eight applications should not be accepted as they fall outside the scope of the charged crimes.

II. CONFIDENTIALITY

3. These observations are filed as *Confidential* in accordance with regulation 23bis(2) of the Regulations of the Court as they refer to the content of Registry filings of the same designation. A public redacted version is filed concurrently.

III. SUBMISSIONS

4. In its Second Assessment Report, the VPRS seeks guidance from the Single Judge on two issues: i) whether victim applications conform to the temporal scope of the case (“Issue 1”); and ii) whether victim applications conform to the territorial scope of the case (“Issue 2”).² Examples of these issues are set out in Annex 1 to the Second Assessment Report (“Annex 1”).³ The Prosecution herewith provides submissions on all 15 Group C applications.

¹ ICC-01/14-01/21-168-Conf.

² Ibid., para. 16.

³ ICC-01/14-01/21-168-Conf-Anx.

A. Issue 1: temporal scope

5. Regarding the first issue raised, the Applications noted as connected to the OCRB in Annex 1 all fall *outside* the temporal scope of the case against Mr. SAID. As set out in the Document Containing the Charges (“DCC”),⁴ Mr. SAID is not charged for any alleged incidents committed at the OCRB after 31 August 2013. On the basis of the currently available evidence, Mr SAID was removed from his position at the OCRB central at the latest by 30 August 2013. Thus, applications a/20599/21, a/20601/21, a/20602/21, a/20603/21, a/20607/21 fall outside the temporal scope of the charges and the alleged harm suffered is not a result of the charges crimes.

6. [REDACTED].

7. [REDACTED].

8. [REDACTED].

9. All other Applications noted in the Annex 1 for CEDAD, namely a/20565/12, a/20589/21, a/20590/21, a/20610/21, fall outside the temporal scope of the charges. The temporal scope of the crimes committed at the CEDAD as set out in the DCC begins from *at least* 15 September to 8 November 2013.

10. [REDACTED].⁵ [REDACTED]. The Prosecution therefore agrees with taking a more flexible approach in assessing these Group C victims’ applications. In the alternative, more information from the applicants would be necessary before a decision can be made by the Chamber as to their participation.

⁴ ICC-01/14-01/21-144-Conf.

⁵ [REDACTED].

B. Issue 2: territorial scope

11. On the Issue 2, none of the three Applications, namely a/20596/21, a/20608/21, a/20612/21, noted in Annex 1 under this issue fall within the territorial scope of the charged incidents. There is no apparent causal link to the charges brought against Mr. SAID and the alleged harm suffered is not a result of the charges crimes.

IV. CONCLUSION

12. For the above reasons, the Chamber should allow four Group C victim applications, a/20565/12, a/20589/21, a/20590/21, a/20610/21, to be accepted at minimum preliminarily pending further information to be provided by the VPRS if a flexible approach is not taken by the Chamber.

13. The applications a/20567/21, a/20577/21, and a/20597/21 have been identified as dual status victims and should be classified as part of Group A.

14. The applications, a/20596/21, a/20599/21, a/20601/21, a/20602/21, a/20603/21, a/20607/21, a/20608/21, a/20612/21a as the alleged harm suffered is not a result of the charges crimes.



Karim A. A. Khan QC, Prosecutor

Dated this 27th day of September 2021
At The Hague, The Netherlands