

Annex 1

Public Redacted Version of
“Annex 1: Report on the VPRS mission held in Bangui from [REDACTED] 2012”,
05 April 2012, ICC-01/05-01/08-2187-Conf-Exp-Anx1

Report on the VPRS mission to Bangui from [REDACTED] 2012

I. Background

1. On 3 June 2011, in accordance with the Chamber's instructions,¹ the Registry filed a report² which referred to an individual whose role as an intermediary was evoked during the course of a hearing by Witness W-73 ("Intermediary 2"). In this report the Registry reported on the conduct of Intermediary 2, and informed the Chamber of a series of actions it was taking regarding the training and monitoring of the work of intermediaries in the Central African Republic (the "CAR").
2. On 11 July 2011, the Victims Participation and Reparations Section (the "VPRS") was ordered by the Chamber to, *inter alia*, contact all the applicants assisted by Intermediary 2 and whose applications were included in the Ninth Transmission³ in order to verify the accuracy of the information contained in their application ("Decision of 11 July").⁴
3. From [REDACTED] a mission was undertaken to Bangui to interview the applicants concerned.⁵
4. On 28 November 2011, in compliance with rule 89(1) of the Rules of Procedure and Evidence and the instructions of the Chamber,⁶ the Registry filed with the Chamber a consolidated version of each application concerned by the issue of Intermediary 2, which included any supplementary information collected during the interviews conducted with the applicants,⁷ as well as the individual assessments of these applications, together with the usual individual reports on

¹ Email of 20 May 2011, from Legal Officer ("LO"), Trial Division to Associate Legal Officer ("ALO"), Division of Court Services ("DCS").

² See the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 3 June 2011 ("3 June Registry Report") (ICC-01/05-01/08-1478-Conf.).

³ ICC-01/05-01/08-1381.

⁴ See the Chamber's Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications for participation" dated 11 July 2011 (ICC-01/05-01/08-1593-Conf.), para.37.

⁵ The VPRS notes that its Field Officer in Bangui had begun interviewing applicants on [REDACTED] 2012, and that one more interview was conducted on [REDACTED] 2012.

⁶ ICC-01/05-01/08-1593-Conf, para. 37 e).

⁷ ICC-01/05-01/08-1957.

applications prepared by the VPRS in accordance with regulation 86(5) of the Regulations of the Court.⁸ The Registry also filed the same day a report on the mission to Bangui conducted from [REDACTED] to [REDACTED] 2011 (the “28 November Report”).⁹

5. In its 28 November Report, the VPRS informed the Chamber that it had been unable to meet 18 applicants who had been assisted by Intermediary 2 and who were concerned by the Decision of 11 July.
6. On 31 January 2012, the VPRS sought guidance from the Chamber on whether an additional number of applications for participation that were completed with the assistance of Intermediary 2 should be filed with the 22nd transmission of applications for participation.¹⁰ On 1 March 2012, the Chamber instructed the VPRS to file these applications by 5 April 2011 together with additional statements that should be collected by the VPRS (“Instructions of 1 March”).¹¹
7. To date, the VPRS has been able to meet 62 of the 91 applicants who have been assisted by Intermediary 2 and from whom the VPRS should collect additional statements (the “Concerned Applications or Applicants”).¹²
8. In addition, the VPRS draws to the Chamber’s attention one instance¹³ in which an application filled in with the assistance of the VPRS was transmitted to the Chamber,¹⁴ the Parties and the participants. The VPRS later identified a duplicate of this application, filled in with the assistance of Intermediary 2. Since the VPRS staff met the applicant and assisted him in filling in the form filed with the Chamber, and unless otherwise instructed by the Chamber, the VPRS considers

⁸ ICC-01/05-01/08-1959.

⁹ ICC-01/05-01/08-1960-Conf-Exp

¹⁰ Memorandum sent on 31 January 2012 from ALO, VPRS to ALO, Trial Division (VPRS-A-2012-011). The number of additional applicants concerned with the issue of Intermediary 2 was later assessed by the VPRS to be 73.

¹¹ Email of 1 March 2012 from ALO, Trial Division to ALO, DCS.

¹² The 91 applicants were either concerned by the Decision of 11 July (18 applicants), but had not been met in the context of the previous mission, or by the Instructions of 1 March (73 applicants).

¹³ [REDACTED].

¹⁴ ICC-01/05-01/08-1922-Conf-Exp-Anx98.

that the content of the application is verified, and it will thus not transmit this duplicate application form filled in with the assistance of Intermediary 2.

9. The remaining 29 applicants could not be met for the following reasons:¹⁵

- 17 applicants¹⁶ could not be contacted, either by telephone or through intermediaries;
- 6 applicants¹⁷ were reported as are currently outside of Bangui, and the VPRS was unable to make arrangements to meet with them;
- 2 applicants¹⁸ were reported as deceased by a family member or a close relation;¹⁹
- 4 applicants²⁰ were contacted (by telephone or through a relative) but did not attend on the day scheduled for their interviews, and the VPRS has so far not been able to reach them to reschedule the interview.

II. Methodology

10. The Registry respectfully refers the Chamber to its two previous reports of missions conducted by the VPRS in the CAR in 2011²¹ for a description of the

¹⁵ [REDACTED].

¹⁶ [REDACTED]. The VPRS met with the alleged grand-daughter of applicant [REDACTED], however she did not provide proof of her kinship and her capacity to speak on behalf of the applicant. For this reason, the VPRS was not in a position to assess the content of the application, and considered that it has not met this applicant.

¹⁷ [REDACTED]

¹⁸ [REDACTED].

¹⁹ To date, no corroborating documents were provided to the VPRS.

²⁰ [REDACTED].

²¹ See the Registry's "Final report on the investigations pursuant to the Chamber's Decision on the "Report of the Registry drawing to the Chamber's attention an issue regarding an application for participation in the proceedings" dated 31 March 2011, ICC-01/05-01/08-1369-Conf-Exp ("Final Report of 31 March") and the Registry's Report on the investigations pursuant to the Chamber's Decision on the Registry's "Report on issues concerning intermediaries' involvement in completion of applications

methodology used by the VPRS staff to collect relevant information while mitigating the risks of negative impacts on the victims interviewed.²² The said reports also detailed the challenges involved in receiving, assessing and presenting information collected throughout the interview process.²³

11. In particular, the Registry highlights important contextual factors regarding the process of interviewing applicants who have been assisted by Intermediary 2, which are:

- the difficulty to establish an atmosphere of trust necessary to collect a complete and entirely accurate account of the events suffered by a victim in the course of a single interaction, especially in light of the fact that the applicants interviewed were not given a choice of the gender of the interpreter or of the interviewer.²⁴
- The cultural background, level of education and proficiency in French or Sango of the applicants influences the quality of the interview and the content of what is understood by the interviewer when he or she meets the applicant.²⁵ Specifically, when interviewing [REDACTED], the interviewing team faces a significant linguistic barrier that limits the

for participation" dated 28 November 2011, ICC-01/05-01/08-1960-Conf-Exp ("Final Report of 28 November").

²² This methodology, which is described in the Final Report of 31 March, was designed to a) obtain a full statement from each applicant on what allegedly happened to him or her, and to assess whether this confirmed or conflicted with the information provided in the person's original application; and b) enable an overall assessment of the probable causes of any inconsistencies between accounts given by applicants and the accounts recorded in their original applications, including by reference to the general experience of victims and intermediaries in CAR (ICC-01/05-01/08-1369-Conf-Exp, paras 11 and 13, and Annex 1).

²³ ICC-01/05-01/08-1369-Conf-Exp, paras 16 to 42.

²⁴ ICC-01/05-01/08-1960-Conf-Exp, paras. 19 and 20.

²⁵ ICC-01/05-01/08-1960-Conf-Exp, para. 24.

quality of the interactions with the applicants and creates additional difficulties to confirm the content of their application forms.²⁶

- Some of the applicants met have developed a relationship of trust with their intermediary, which led them to confide to him their stories.²⁷ The VPRS staff had to take into account and respect this bond, in order to avoid destabilizing the applicant at the time of the interview.

12. In light of this context, when communication with the applicant appeared challenging, or when the applicant expressed or showed signs of distress or vulnerability, and/or was visibly indisposed to share some parts of his/her story, the VPRS staff endeavored to pay particular attention to the form of expression used to characterize what happened to him or her, as well as the overall background of the victim, in making their assessments.

13. Furthermore, in order to avoid creating feelings of stress or anxiety by raising doubt on the way their intimate stories, which were often shared for the first time, have been reported in the application form, in instances where they noted discrepancies between information found in their application and the declarations made during the interview the VPRS staff did not always ask applicants to explain such discrepancies.

III. Results of the mission

14. The VPRS has interviewed 62 of the Concerned Applicants. One applicant expressed her wish to withdraw her application,²⁸ and provided a declaration to that effect. The VPRS will transmit the information to her legal representative.

²⁶ See ICC-01/05-01/08-1960-Conf-Exp., para. 23 and Annex 2.

²⁷ [REDACTED].

²⁸ [REDACTED].

15. In light of the interviews conducted in Bangui from [REDACTED] 2012, the VPRS has grouped the remaining 61 Concerned Applicants into the following three categories:

A. Category 1: The information recorded in the original application is confirmed by the interview and the applicant should be granted victim status in the case

16. Eleven applicants fall into this category. This represents around 18% of the applicants met.

B. Category 2: The additional statement collected during the interview is different from the information recorded in the original application; however the applicant should be granted victim status in the case

17. Forty-eight applicants interviewed fall into this category. This represents around 78.5 % of the applicants met.

18. The majority of discrepancies relate to applicants not recalling the exact date of the crime. On this specific issue, the Registry notes that similar results were reported in the course of the first two missions conducted by the VPRS, and refers the Chamber to its observations on the challenge of retrospective memory.²⁹

19. The Registry also recalls expert advice regarding the taking of statements on human rights violations, already provided in its previous reports, which indicates that discrepancies may arise between statements given at different times or through different interlocutors, without necessarily involving any *mala fides* on the part of the victim and/or the interlocutor.³⁰

20. The Registry further notes a number of instances of alleged crimes that were different from those mentioned in the applications. The Registry refers the Chamber to the conclusion of its previous mission conducted with applicants

²⁹ See ICC-01/05-01/08-1369-Conf-Exp, Annex 1, question 6.

³⁰ See in particular [REDACTED], and ICC-01/05-01/08-1478-Conf, para. 14, and footnote 28.

assisted by the same intermediary,³¹ and the challenges it faced communicating with victims from [REDACTED]. The Registry believes that such challenges would have been faced both by the intermediary at the time of completing the forms and by the VPRS staff when it met with the applicants to obtain additional statements on their applications.³²

C. Category 3: The interview revealed information that may lead the application to be assessed as falling outside the scope of the case³³

21. The VPRS identified two different types of cases in this category:

- 1) 1 applicant alleged having suffered from a crime that may not fall within the temporal scope of the case.³⁴ The VPRS has filed this application for the Chamber's consideration;³⁵
- 2) 1 applicant's interview confirmed the information originally provided in the application form.³⁶ This applicant does not meet the criteria established by the Chamber to be accepted as a victim participating in proceedings relating to the case. For this reason, the VPRS does not transmit this application to the Chamber.

IV. Recommendation

22. Since the Registry did not succeed in meeting 29 of the Concerned Applicants for the reasons explained above,³⁷ and mostly due to the difficulty of contacting applicants and asking them to come for an interview within a timeframe that may not have been feasible for them, the VPRS will continue

³¹ See ICC-01/05-01/08-1960-Conf-Exp., annex 3.

³² ICC-01/05-01/08-1960-Conf-Exp, para. 38.

³³ For reasons further explained in its previous reports, it is only in instances where the VPRS staff had fundamental doubts regarding the reliability of the applicant's statement or when the applicant met confirmed that the crimes he or she suffered were outside the scope of the charges held against the accused that the applicant has been assessed as belonging to the third category.

³⁴ [REDACTED].

³⁵ In this instance, the VPRS noted several important inconsistencies in the additional statements made by the applicant which might impact on the applicant's overall credibility.

³⁶ [REDACTED].

³⁷ See *supra* para. 9.

its efforts to meet with these applicants in the normal course of its field activities, and proposes to revert to the Chamber for further instructions if some of these applications are completed with additional statements collected by the VPRS in the future.