

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 2 May 2024

**TRIAL CHAMBER VI**

**Before:** Judge Miatta Maria Samba, Presiding Judge  
Judge María del Socorro Flores Liera  
Judge Sergio Gerardo Ugalde Godínez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

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

**Public**

**Victims' observations on the "Sixth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings" (ICC-01/14-01/21-748)**

**Source:** Office of Public Counsel for Victims

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

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**Unrepresented Applicants  
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**The Office of Public Counsel for  
Victims**

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**REGISTRY**

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**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other**

## I. INTRODUCTION

1. Counsel representing the collective interests of future applicants as well as of applicants in the proceedings and participating victims (the “Common Legal Representative”)<sup>1</sup> hereby submits her observations on the “Sixth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings” (the “Registry Report” or the “Report”).<sup>2</sup>

2. The Common Legal Representative posits that the application *prima facie* fulfils the criteria of rule 85(a) of the Rules of Procedure and Evidence (the “Rules”) for Victim a/30004/24 to be admitted to participate in the proceedings.

## II. PROCEDURAL BACKGROUND

3. On 16 April 2021, the Single Judge acting on behalf of Pre-Trial Chamber II (the “Single Judge”) in the present case issued the “Decision establishing the principles applicable to victims’ applications for participation”, endorsing, *mutatis mutandis*, the victim admission system adopted in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*.<sup>3</sup>

4. On 9 December 2021, Pre-Trial Chamber II (the “Pre-Trial Chamber”) confirmed the charges against Mahamat Said Abdel Kani (“Mr Saïd”) relating to crimes allegedly

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<sup>1</sup> See the transcript of the hearing held on 28 January 2022, [No. ICC-01/14-01/21-T-007-CONF-ENG](#) and [No. ICC-01/14-01/21-T-007-Red-ENG](#), p. 47, lines 12-24; the “Decision on matters relating to the participation of victims during the trial” (Trial Chamber VI), [No. ICC-01/14-01/21-278](#), 13 April 2022, para. 29; the “Decision authorising 20 victims to participate in the proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-331](#), 27 May 2022 (the “First Decision on Participation”); and the “Second Decision Authorising Victims to Participate in the Proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-640-Conf](#), 8 November 2023 (the “Second Decision on Participation”).

<sup>2</sup> See the “Sixth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/21-748](#), 19 April 2024 (the “Registry Report”).

<sup>3</sup> See the “Decision establishing the principles applicable to victims’ applications for participation” (Pre-Trial Chamber II, Single Judge), [No. ICC-01/14-01/21-56](#), 16 April 2021. See also the “Decision Establishing the Principles Applicable to Victims’ Applications for Participation” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-141](#), 5 March 2019.

committed at the *Office Central de Répression du Banditisme* (the “OCRB”) between 12 April and 30 August 2013 (the “Confirmation Decision”).<sup>4</sup>

5. On 13 April 2022, Trial Chamber VI (the “Chamber”) issued its “Decision on matters relating to the participation of victims during the trial”, in which it, *inter alia*, adopted an amended version of the victim admission system endorsed by the Single Judge, in light of the expected low number of applications in the present case.<sup>5</sup>

6. On 20 April 2022, the Chamber issued the “Decision on Prosecution Notification regarding the Charges (ICC-01/14-01/21-262-Red)” (the “Notification Decision”), ruling that “*the scope of the charged crimes in this case is limited to the specific criminal acts listed by the Pre-Trial Chamber in paragraph 29 of the Confirmation Decision*”.<sup>6</sup>

7. On 27 May 2022, pursuant to its “Decision on matters relating to the participation of victims during the trial”,<sup>7</sup> and following the submission of the “First Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”,<sup>8</sup> the Chamber authorised 20 victims to participate in the proceedings.<sup>9</sup>

8. On 13 July 2022, the Registry submitted its “Second Registry Assessment Report on Victim Applications for Participation in Trial Proceedings” on 19 complete applications to participate in the present case, assessing 14 of them to fall in Group A and five in Group C.<sup>10</sup>

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<sup>4</sup> See the “Decision on the confirmation of charges against Mahamat Said Abdel Kani” (Pre-Trial Chamber II), [No. ICC-01/14-01/21-218-Conf](#) and [No. ICC-01/14-01/21-218-Red](#), 9 December 2021 (the “Confirmation Decision”).

<sup>5</sup> See the “Decision on matters relating to the participation of victims during the trial” (Trial Chamber VI), [No. ICC-01/14-01/21-278](#), 13 April 2022.

<sup>6</sup> See the “Decision on Prosecution Notification regarding the Charges (ICC-01/14-01/21-262-Red)” (Trial Chamber VI), [No. ICC-01/14-01/21-282](#), 20 April 2022 (the “Notification Decision”).

<sup>7</sup> See the “Decision on matters relating to the participation of victims during the trial” (Trial Chamber VI), [No. ICC-01/14-01/21-278](#), 13 April 2022.

<sup>8</sup> See the “First Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/21-297](#), 6 May 2022.

<sup>9</sup> See the First Decision on Participation, *supra* note 1.

<sup>10</sup> See the “Second Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/21-405-Conf](#) and [No. ICC-01/14-01/21-405-Red](#), 13 July 2022.

9. On 6 September 2022, following protracted litigation in this respect,<sup>11</sup> the Chamber issued the “Decision on the scope of the charges”, reiterating its position adopted in the Notification Decision that the scope of the charged crimes in the present case is limited to the specific incidents listed by the Pre-Trial Chamber in paragraph 29 of the operative part of the Confirmation Decision.<sup>12</sup>

10. On 12 September 2022, the Registry submitted its “Third Registry Assessment Report on Victim Applications for Participation in Trial Proceedings” on three applications assessed as falling in Group A.<sup>13</sup>

11. On 27 September 2022, the Chamber issued an order instructing the Registry “to reassess all applications that it had previously classified as Group A, including those authorised to participate in the First Decision”.<sup>14</sup>

12. On 11 October 2022, the Registry submitted the “Updated Registry Assessment Report on Previously Transmitted Victim Applications for Participation in Trial Proceedings”,<sup>15</sup> in which it indicated that, of the 37 applications assessed as falling in Group A so far, 25 remain in Group A, four shall now be classified as falling in Group C, and eight require additional information in order to determine under which category they fall (the “Incomplete Applications”).

13. On 8 November 2023, the Chamber issued the “Second Decision Authorising Victims to Participate in the Proceedings”,<sup>16</sup> authorising 30 victims and denying four

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<sup>11</sup> See, *inter alia*, the “Prosecution’s Notification Related to Incident (r) of Paragraph 33 of the Document Containing the Charges”, [No. ICC-01/14-01/21-262-Conf](#) and [No. ICC-01/14-01/21-262-Red](#), 18 March 2022; the Notification Decision, *supra* note 6; the “Prosecution’s application to amend the charges”, [No. ICC-01/14-01/21-294-Conf](#) and [No. ICC-01/14-01/21-294-Red](#), 5 May 2022; and the “Decision on the Prosecution’s application to amend the charges”, [No. ICC-01/14-01/21-396](#), 8 July 2022.

<sup>12</sup> See the “Decision on the scope of the charges” (Trial Chamber VI), [No. ICC-01/14-01/21-472](#), 6 September 2022.

<sup>13</sup> See the “Third Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/21-478](#), 13 September 2022 (dated 12 September 2022).

<sup>14</sup> See the “Order for the Reassessment of Victims Applications” (Trial Chamber VI), [No. ICC-01/14-01/21-490](#), 27 September 2022.

<sup>15</sup> See the “Updated Registry Assessment Report on Previously Transmitted Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/21-498](#), 11 October 2022.

<sup>16</sup> See the Second Decision on Participation, *supra* note 1.

victims to participate in the proceedings, and ordering the Registry to provide an update on the status of the Incomplete Applications by 20 November 2023 at the latest.

14. On 20 November 2023, the Registry submitted its “Report on the Status of Eight Incomplete Victim Applications for Participation in Trial Proceedings”, reassessing five applications as falling in Group C,<sup>17</sup> and transmitted the latter to the Chamber and the parties.<sup>18</sup>

15. On 14 February 2024, the Chamber issued its “Third Decision Authorising Victims to Participate in the Proceedings”, in which it denied five applicants authorisation to participate in the present proceedings.<sup>19</sup>

16. On 19 April 2024, the Registry submitted its Report assessing one application as falling in Group A,<sup>20</sup> and transmitted the latter to the Chamber and the parties.<sup>21</sup>

### III. SUBMISSIONS

17. In accordance with the Court’s consistent jurisprudence, individuals seeking to be admitted as participating victims have to demonstrate *prima facie* that they are victims within the meaning of rule 85 of the Rules, according to the following criteria: (i) the applicant has established his/her identity as a natural person; (ii) the applicant is alleged to have suffered harm; and (iii) the personal harm reported by the applicant resulted from an incident falling within the temporal, geographic and material parameters of the case.<sup>22</sup>

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<sup>17</sup> See the “Report on the Status of Eight Incomplete Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/21-650](#), 20 November 2023.

<sup>18</sup> See the “Third Registry Transmission of Group C Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/21-651](#), 20 November 2023.

<sup>19</sup> See the “Third Decision Authorising Victims to Participate in the Proceedings” (Trial Chamber VI), [No. ICC-01/14-01/21-695-Conf](#) and [No. ICC-01/14-01/21-695-Red](#), 14 February 2024.

<sup>20</sup> See the Registry Report, *supra* note 2.

<sup>21</sup> See the “Fourth Registry Transmission of Group A Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/21-747](#), 19 April 2024.

<sup>22</sup> See, *inter alia*, the First Decision on Participation, *supra* note 1, para. 8; the “First decision on the admission of victims to participate in trial proceedings” (Trial Chamber I), [No. ICC-02/05-01/20-556](#), 14 January 2022, para. 4; the “Decision Establishing the Principles Applicable to Victims’ Applications for Participation” (Pre-Trial Chamber I, Single Judge), [No. ICC-01/12-01/18-37-tENG](#), 24 May 2018,

18. Therefore, applicants who demonstrate *prima facie* that they have suffered harm as a result of the commission of any of the confirmed crimes allegedly committed at the OCRB between 12 April and 30 August 2013 when Mr Saïd was in charge, should be admitted to participate in the present proceedings, as held by the Chamber.<sup>23</sup>

19. The Common Legal Representative further recalls that the Chamber's determination as to whether the criteria of rule 85 of the Rules have been met is based on a *prima facie* assessment of the information provided in the application forms, meaning that the Chamber should not engage in a systematic in-depth credibility assessment of all the information provided by the applicants.<sup>24</sup>

20. Turning now to the application transmitted by the Registry, the Common Legal Representative underlines that Victim a/30004/24: (i) has established their identity; (ii) has suffered direct personal harm; and (iii) has clearly demonstrated that said harm is the result of events which took place between 12 April 2013 and 30 August 2013 at the OCRB and which correspond to all of the alleged crimes charged against Mr Saïd.<sup>25</sup>

21. Incidentally, Victim a/30004/24's harm is the result of one of the specific criminal acts listed as non-exhaustive examples of the confirmed crimes by the Pre-Trial Chamber in paragraph 29 of the operative part of the Confirmation Decision,<sup>26</sup> namely incident (h), as noted by the Registry.<sup>27</sup>

22. Consequently, the Common Legal Representative posits that the application *prima facie* fulfils the criteria for Victim a/30004/24 to be admitted to participate in the proceedings.

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para. 48; and the "Second decision on victims' participation in trial proceedings" (Trial Chamber VI), [No. ICC-01/04-02/06-650](#), 16 June 2015, para. 10.

<sup>23</sup> See the First Decision on Participation, *supra* note 1, para. 8.

<sup>24</sup> *Idem*, para. 9.

<sup>25</sup> *Idem*, para. 8(b). See also the Confirmation Decision, *supra* note 4.

<sup>26</sup> See the Confirmation Decision, *supra* note 4. See also the "Decision on the 'Prosecution's application to amend the charges'", *supra* note 11.

<sup>27</sup> See the Registry Report, *supra* note 2, para. 23(iii).

**FOR THESE REASONS**, the Common Legal Representative respectfully requests the Chamber to admit Victim a/30004/24 to participate in the proceedings.

A handwritten signature in black ink, appearing to read 'Sarah Pellet', followed by a period.

Sarah Pellet

Dated this 2<sup>nd</sup> day of May 2024

At The Hague, The Netherlands