

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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No.: ICC-01/14-01/22  
Date: 13 September 2022

**PRE-TRIAL CHAMBER II**

**Before:** Judge Rosario Salvatore Aitala, Presiding Judge  
Judge Antoine Kesia-Mbe Mindua  
Judge Tomoko Akane

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

**IN THE CASE OF  
THE PROSECUTOR *v.* MAXIME JEOFFROY ELI MOKOM GAWAKA**

**Public  
With Confidential Annex**

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

**Source:** Registry

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

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## I. Introduction

1. On 27 June 2022, Pre-Trial Chamber II (“Chamber”) issued its “Order on the conduct of the confirmation of charges proceedings” (“27 June 2022 Order”),<sup>1</sup> in the case of *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka* case (“Case”), in which it *inter alia* adopted the “A-B-C” victim application procedure<sup>2</sup> and endorsed the guidance on the legal assessment of victim applications adopted by the Chamber in the case of *The Prosecutor v. Yekatom and Ngaïssona* (“Y/N Case”).<sup>3</sup> Specifically, in its 27 June 2022 Order, the Chamber instructed the Registry to:
  - a. Classify the 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”);<sup>4</sup> and
  - b. Prepare reports that accompany each transmission. These reports should list the applications for participation and the group they are classified in.<sup>5</sup>
2. The Registry hereby transmits its first assessment report (“First Registry Assessment Report”), on 70 complete applications (“Applications”) to participate in the Case, which includes a brief description of the assessment criteria applied in relation to the 70 applicants who clearly, in the Registry’s assessment, qualify as victims falling within the scope of the Case (Group A).

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<sup>1</sup> Pre-Trial Chamber II, “Order on the conduct of the confirmation of charges proceedings”, 27 June 2022, (“27 June 2022 Order”), ICC-01/14-01/22-62.

<sup>2</sup> *Id.*, para. 40.

<sup>3</sup> *Id.*, para. 44.

<sup>4</sup> *Id.*, para. 40 (iv).

<sup>5</sup> *Id.*, para. 40 (vii).

3. The applications falling in Group A are listed in the annex to the present submission (“Annex”) and are being transmitted separately to the Chamber, in accordance with paragraph 40 (v) of the 27 June 2022 Order.

## **II. Classification**

4. The Annex is classified as confidential, in accordance with the 27 June 2022 Order.<sup>6</sup>

## **III. Applicable Law**

5. 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.

## **IV. Submissions**

6. Applying the criteria set out in paragraph 40(ii) of the 27 June 2022 Order, the Registry has assessed each of the 70 Applications presently transmitted under Group A as complete. In conducting its assessment, in accordance with paragraph 40(ii) of the 27 June 2022 Order, the Registry confirms that each of the 70 applicants whose applications are being transmitted in Group A have met *prima facie* the following criteria:

- i. Her or his identity as a natural person is established;
- ii. She or he has suffered harm;
- iii. The harm suffered is a result of an incident falling within the temporal, geographic and material scope of the Case.

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<sup>6</sup> 27 June 2022 Order, para. 40(vii).

*Observations in relation to criterion (i)*

7. Certain Applications<sup>7</sup> falling under Group A contain minor discrepancies, pertaining to *inter alia*: the applicant's date of birth; an inversion of the applicant's first and last name; the spelling of the applicant's name; or other minor inconsistencies in the information provided which appear to be the result of inadvertent errors. In these cases, the Registry took note of the instruction given by the Chamber in the Y/N Case that "a certain degree of flexibility must be shown"<sup>8</sup> and considers that the discrepancies presented in these applications "do not call into question the overall credibility of the information provided by the applicant [...]".<sup>9</sup>
8. Several applicants have submitted as identification document a card delivered by relevant camp management agencies following a registration process ("Registration card").<sup>10</sup> In accordance with paragraph 43 of the 27 June 2022 Order, the Registry will implement in the Case the Chamber's approval in the

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<sup>7</sup> The applications with minor discrepancies include: a/70318/22, a/70322/22, a/70324/22, a/70328/22, a/70330/22, a/70332/22, a/70333/22, a/70335/22, a/70337/22, a/70342/22, a/70343/22, a/70348/22, a/70351/22, a/70354/22, a/70357/22, a/70359/22, a/70360/22, a/70361/22, a/70362/22, a/70363/22, a/70364/22, a/70368/22, a/70371/22, a/70372/22, a/70376/22, a/70378/22, a/70379/22, a/70381/22, a/70382/22, a/70383/22, a/70385/22, a/70389/22, a/70402/22, a/70410/22, a/70411/22, a/70412/22, a/70415/22, a/70423/22, a/70424/22, a/70429/22, a/70431/22, a/70436/22 and a/70442/22.

<sup>8</sup> Pre-Trial Chamber II, *The Prosecutor v. Yekatom and Ngaïssona*, "Decision Establishing the Principles Applicable to Victims' Applications for Participation" ("5 March 2019 Decision"), 5 March 2019, ICC-01/14-01/18-141, para. 34.

<sup>9</sup> *Ibid.*

<sup>10</sup> The Registry found – in the context of the Y/N case - that in many instances, displaced applicants had lost their identification document and had difficulties to access local authorities. However, they often possessed cards delivered by UN agencies, refugee camp management agencies or NGOs in a similar role, which they used in lieu of any other type of identification (see ICC-01/14-01/18-133-AnxI, para. 21; a sample of such documents is available in ICC-01/14-01/18-133-AnxII-Red2, pp. 78-80). The Registry further found that Registration cards and Entitlement cards were used outside of the context of internally displaced persons camps/sites for identification purposes. The applications concerned are: a/70318/22, a/70322/22, a/70332/22, a/70337/22, a/70343/22, a/70348/22, a/70351/22, a/70354/22, a/70357/22, a/70359/22, a/70372/22, a/70378/22, a/70382/22, a/70385/22, a/70389/22, a/70402/22, a/70411/22, a/70412/22, a/70415/22, a/70423/22, a/70424/22 and a/70442/22.

*Y/N Case*, to consider such document as sufficiently establishing the identity of applicants in the Case.<sup>11</sup>

*Observations in relation to criterion (iii)*

9. In identifying the crimes falling within the scope of the Case, the Registry looks solely at the alleged acts and - save in the case of alleged persecution - does not make any assessment as to the potential underlying grounds for their commission.<sup>12</sup>
10. In accordance with paragraph 44 of the 27 June 2022 Order as well as the guidance provided by the Chamber in the *Y/N Case*<sup>13</sup> on the material scope of forced displacement, “applications submitted by persons who have fled either because they feared the approach of the Anti-Balaka or because they have knowledge of crimes committed by the Anti-Balaka against Muslims in other locations may be accepted on the basis of the wording of the elements of crimes, which specify that ‘[t]he term “forcibly” is not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence [...]’ ”.<sup>14</sup>
11. Lastly, the Registry notes that certain applications<sup>15</sup> appear to provide an erroneous date of the alleged events contradicting other dates in the narrative (such as, for the attack in Bangui, the period of “December 2014 to January 2014” as the date of the event and “5 December 2013” in the narrative), or do not explicitly state specific dates. However, they also refer to publicly known events (such as, in Mbaiki, the evacuation of the Muslim community to Bangui

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<sup>11</sup> Email from the Chamber in the *Y/N Case* to Registry on 2 August 2019 at 15:20.

<sup>12</sup> As a result, the Registry assesses within Group A applicants who have suffered harm from at least one of the crimes charged against the accused. The Registry assesses whether relevant victim applicants were “perceived as collectively responsible for, complicit with, or supportive of the Seleka” only in cases where the applicant appears to have suffered from the charged crime of persecution.

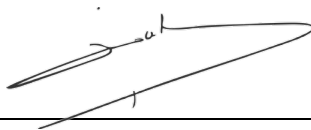
<sup>13</sup> Email from the Chamber in the *Y/N Case* to Registry on 11 July 2019 at 11:24.

<sup>14</sup> *Ibid.*

<sup>15</sup> These applications include: a/70368/22, a/70378/22, a/70380/22, a/70792/22 and a/70798/22.

by the Chadian forces,<sup>16</sup> or in Bossangoa the Anti-Balaka attack in December 2013), or provide any other sufficiently detailed contextual descriptions that date the events. In these cases, in accordance with paragraph 44 of the 27 June 2022 Order, the Registry has applied the Chamber 's guidance in the Y/N Case "to adopt a flexible approach in assessing victim applications with regard to the temporal and territorial scope of the present case at this stage of the proceedings".<sup>17</sup>

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 27 June 2022 Order.<sup>18</sup>




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

Dated this 13 September 2022

At The Hague, The Netherlands

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<sup>16</sup> This event occurred on or around 6 February 2014. See TC V Single Judge, "Public redacted version of Corrected version of 'Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona'", 29 June 2021, ICC-01/14-01/18-403-Corr-Red, para. 134 or also Human Rights Watch, "Central African Republic: Muslims forced to flee", 12 February 2014, at [Central African Republic: Muslims Forced to Flee | Human Rights Watch \(hrw.org\)](https://www.hrw.org/news/2014/02/12/central-african-republic-muslims-forced-to-flee).

<sup>17</sup> Pre Trial Chamber II, *The Prosecutor v. Yekatom and Ngaïssona*, "Decision regarding the Registry's First Assessment Report on Applications for Victim Participation, the Registry's First Transmission of Group C Applications, the appointment of counsel for Victims of Other Crimes, and the victims' procedural position", 21 June 2019, ICC-01/14-01/18-227-Red, para. 24. Accordingly, the Registry has considered as falling within Group A "applications that are internally coherent, clearly relate to the events described in the Warrants of Arrest and/or, where appropriate, the information in other victim applications, and clearly establish that the alleged perpetrators were part of the Anti-Balaka."

<sup>18</sup> 27 June 2022 Order, para 41. "The Registry shall transmit the Group A and B applications to the Chamber no later than 15 days before the confirmation hearing, and the Group C applications to the Chamber and the parties no later than 30 days before the confirmation hearing [...]."