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**No. ICC-01/14-01/18  
Date: 21 November 2022**

**TRIAL CHAMBER V**

**Before: Judge Bertram Schmitt, Presiding Judge  
Judge Péter Kovács  
Judge Chang-ho Chung**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

**IN THE CASE OF  
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD  
NGAISSONA***

**Public redacted version of  
with public Annexes A and B**

**Seventeenth Decision on Victims' Participation in Trial Proceedings  
(Groups A, B and C)**

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

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**TRIAL CHAMBER V** of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaißsona*, having regard to Article 68(3) of the Rome Statute, Rules 85 and 89 of the Rules of Procedure and Evidence (the ‘Rules’) and Regulation 86 of the Regulations of the Court, issues this ‘Seventeenth Decision on Victims’ Participation in Trial Proceedings (Groups A, B and C)’.

## **I. Procedural history**

1. The Chamber recalls the procedural history as set out in its previous decisions concerning victim participation.<sup>1</sup>
2. Between 27 July 2022 and 24 October 2022, the Chamber received a total of 198 Group A victims’ applications (the ‘Group A Applications’)<sup>2</sup> and 92 Group B victims’ applications (the ‘Group B Applications’).<sup>3</sup>
3. On 27 July 2022, the Registry also transmitted three Group C victims’ applications (the ‘Group C Applications’) to the Chamber and redacted versions thereof to the participants.<sup>4</sup>
4. In addition, the Registry filed accompanying assessment reports, containing a brief description of the criteria applied in its assessment of the Group A

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<sup>1</sup> See, in particular, Decision on Victims’ Participation in Trial Proceedings, 23 November 2020, ICC-01/14-01/18-738 (the ‘First Decision on Victim Participation’), paras 1-12.

<sup>2</sup> Nineteenth Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, 27 July 2022, ICC-01/14-01/18-1527 (with 59 confidential *ex parte* annexes, only available to the Registry); Twentieth Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, 31 August 2022, ICC-01/14-01/18-1560 (with 44 confidential *ex parte* annexes, only available to the Registry); Twenty-First Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, 29 September 2022, ICC-01/14-01/18-1592 (with 42 confidential *ex parte* annexes, only available to the Registry); Twenty-Second Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, 24 October 2022, ICC-01/14-01/18-1630 (with 53 confidential *ex parte* annexes, only available to the Registry).

<sup>3</sup> Tenth Registry Transmission of Group B Applications for Victim Participation in Trial Proceedings, 27 July 2022, ICC-01/14-01/18-1528 (with 16 confidential *ex parte* annexes, only available to the Registry); Eleventh Registry Transmission of Group B Applications for Victim Participation in Trial Proceedings, 31 August 2022, ICC-01/14-01/18-1561 (with 26 confidential *ex parte* annexes, only available to the Registry); Twelfth Registry Transmission of Group B Applications for Victim Participation in Trial Proceedings, 29 September 2022, ICC-01/14-01/18-1593 (with 28 confidential *ex parte* annexes, only available to the Registry); Thirteenth Registry Transmission of Group B Applications for Victim Participation in Trial Proceedings, 24 October 2022, ICC-01/14-01/18-1631 (with 22 confidential *ex parte* annexes, only available to the Registry).

<sup>4</sup> Third Registry Transmission of Group C Applications for Victim Participation in Trial Proceedings, 27 July 2022, ICC-01/14-01/18-1529 (the ‘Third Transmission’) (with 3 confidential *ex parte* annexes, only available to the Registry, as well as confidential redacted versions thereof).

Applications and the Group B Applications, and a brief overview of the reasons why it was not in a position to make a clear determination in relation to the Group C Applications.<sup>5</sup>

## II. Analysis

5. The Chamber recalls the applicable law set out in its ‘Decision on Victims’ Participation in Trial Proceedings’.<sup>6</sup>

### A. Group A and B Applications

6. In particular, the Chamber recalls the criteria for an applicant to qualify as a victim and the procedure established for the admission of Group A and B applications, namely that ‘barring a clear, material error in the Registry’s assessment’, it would ratify the Registry’s assessment of the applications.<sup>7</sup> The Chamber further recalls that Group A applications correspond to ‘applicants who clearly qualify as victims’ and Group B applications correspond to ‘applicants who clearly do not qualify as victims’.<sup>8</sup>
7. The Registry notes, *inter alia*, that, pursuant to the Chamber’s previous decisions, it categorised under Group A applicants who (i) mention crimes committed by Anti-Balaka groups in areas neighbouring the borders of Cattin or Boeing, and (ii) clearly relate those crimes to the alleged Anti-Balaka attack in Bangui on 5 December 2013. Further, the Registry notes that it categorises within Group A ‘applicants who mention crimes committed by Anti-Balaka groups along the

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<sup>5</sup> Twenty-first Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, 27 July 2022, ICC-01/14-01/18-1530 (with confidential Annexes 1 and 3 and confidential *ex parte* Annex 2 only available to the Registry) (the ‘Twenty-first Registry Report’); Twenty-second Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, 31 August 2022, ICC-01/14-01/18-1559 (with confidential Annex 1 and confidential *ex parte* Annex 2, only available to the Registry) (the ‘Twenty-second Registry Report’); Twenty-third Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, 29 September 2022, ICC-01/14-01/18-1591 (with confidential Annex 1 and confidential *ex parte* Annex 2, only available to the Registry) (the ‘Twenty-third Registry Report’); Twenty-fourth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, 24 October 2022, ICC-01/14-01/18-1629 (with confidential Annex 1 and confidential *ex parte* Annex 2, only available to the Registry) (the ‘Twenty-fourth Registry Report’).

<sup>6</sup> First Decision on Victim Participation, ICC-01/14-01/18-738, paras 11-12.

<sup>7</sup> See Fourteenth Decision on Victims’ Participation in Trial Proceedings (Groups A and B), 9 February 2022, ICC-01/14-01/18-1274 (with public Annexes A and B), para. 1 *referring to* Pre-Trial Chamber II, Decision Establishing the Principles Applicable to Victims’ Applications for Participation, 5 March 2019, ICC-01/14-01/18-141 (the ‘5 March 2019 Decision’), paras 29-41.

<sup>8</sup> 5 March 2019 Decision, ICC-01/14-01/18-141, para. 41(i).

PK9-Mbaiki axis and clearly related to the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaiki axis, notably within a short distance of the villages of Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa and Mbaiki'.<sup>9</sup> Finally, the Registry categorises within Group A applicants who 'mention the crime of imprisonment and other forms of severe deprivation of physical liberty in relation to their forced stay at the *Ecole de la Liberté* in Bossangoa during December 2013'.<sup>10</sup>

8. The Registry further notes that some of the Group A Applications seemingly contain minor discrepancies, pertaining to, *inter alia*, the applicant's date of birth; an inversion of the applicant's first and last name; the applicant's signature date or the spelling of the applicant's name; or other minor inconsistencies in the information provided which appear to be the result of inadvertent errors. The Registry submits that in assessing the Group A Applications, it took note of the instruction by Pre-Trial Chamber II (hereinafter: 'PTC II') that 'a certain degree of flexibility must be shown' and considers that these discrepancies 'do not call into question the overall credibility of the information provided by the applicant'.<sup>11</sup>
9. The Registry also notes that certain applications 'appear to provide an erroneous date of the alleged events or do not explicitly state specific dates', while at the same time referring to 'publicly known events' or providing 'any other sufficiently detailed contextual descriptions that date the events'. In these cases, the Registry submits that it applied the Chamber's instruction to assess applications 'holistically by assessing their internal coherence and the overall context of the alleged acts'.<sup>12</sup>

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<sup>9</sup> Twenty-first Registry Report, ICC-01/14-01/18-1530, para. 18; Twenty-second Registry Report, ICC-01/14-01/18-1559, para. 20; Twenty-third Registry Report, ICC-01/14-01/18-1591, para. 18; Twenty-fourth Registry Report, ICC-01/14-01/18-1629, para. 22.

<sup>10</sup> Twenty-fourth Registry Report, ICC-01/14-01/18-1629, para. 21.

<sup>11</sup> Twenty-first Registry Report, ICC-01/14-01/18-1530, para. 14; Twenty-second Registry Report, ICC-01/14-01/18-1559, para. 17; Twenty-third Registry Report, ICC-01/14-01/18-1591, para. 14; Twenty-fourth Registry Report, ICC-01/14-01/18-1629, para. 18.

<sup>12</sup> Twenty-first Registry Report, ICC-01/14-01/18-1530, para. 19; Twenty-second Registry Report, ICC-01/14-01/18-1559, para. 21; Twenty-third Registry Report, ICC-01/14-01/18-1591, para. 19; Twenty-fourth Registry Report, ICC-01/14-01/18-1629, para. 23.

10. With regard to the Group B Applications, the Registry notes that, in conducting its *prima facie* assessment, it concluded that these applicants ‘clearly do not qualify as victims’ in the case because the harm alleged has resulted from events falling outside the territorial, temporal and/or material parameters of the case.<sup>13</sup>
11. The Chamber notes that the Group A Applications were individually assessed by the Registry, which determined that the applicants meet, on a *prima facie* basis, the requirements of Rule 85(a) of the Rules for the granting of victim status.<sup>14</sup> The Group B Applications were also individually assessed by the Registry, which determined that, on a *prima facie* basis, the applicants clearly do not qualify as victims.<sup>15</sup>
12. The Chamber has not identified any clear, material error in the Registry’s assessment and therefore authorises the participation as victims of the 198 applicants whose applications were transmitted under Group A, and rejects the 92 applicants whose applications were transmitted under Group B.

#### **B. Group C Applications**

13. The Chamber recalls its previous finding that applications by victims to participate in the proceedings are to be assessed against the parameters of the charges as confirmed by PTC II in the ‘Decision on the confirmation of charges

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<sup>13</sup> Twenty-first Registry Report, ICC-01/14-01/18-1530, para. 22; Twenty-second Registry Report, ICC-01/14-01/18-1559, para. 24; Twenty-third Registry Report, ICC-01/14-01/18-1591, para. 22; Twenty-fourth Registry Report, ICC-01/14-01/18-1629, para. 25, *all referring to* First Decision on Victim Participation, ICC-01/14-01/18-738, para. 38. *See in detail* Annex 2 to the Twenty-first Registry Report, ICC-01/14-01/18-1530-Conf-Exp-Anx2; Annex 2 to the Twenty-second Registry Report, ICC-01/14-01/18-1559-Conf-Exp-Anx2; Annex 2 to the Twenty-third Registry Report, ICC-01/14-01/18-1591-Conf-Exp-Anx2; Annex 2 to the Twenty-fourth Registry Report, ICC-01/14-01/18-1629-Conf-Exp-Anx2.

<sup>14</sup> Twenty-first Registry Report, ICC-01/14-01/18-1530, para. 13; Twenty-second Registry Report, ICC-01/14-01/18-1559, para. 16; Twenty-third Registry Report, ICC-01/14-01/18-1591, para. 13; Twenty-fourth Registry Report, ICC-01/14-01/18-1629, para. 17.

<sup>15</sup> *See* Twenty-first Registry Report, ICC-01/14-01/18-1530, para. 22; Twenty-second Registry Report, ICC-01/14-01/18-1559, para. 24; Twenty-third Registry Report, ICC-01/14-01/18-1591, para. 22; Twenty-fourth Registry Report, ICC-01/14-01/18-1629, para. 25.

against Alfred Yekatom and Patrice-Edouard Ngaïssona'<sup>16</sup> (the 'Confirmation Decision').<sup>17</sup>

14. It also recalls that a *prima facie* demonstration of harm suffices for the purpose of victim admission, allowing a certain degree of leeway when assessing the information provided by an applicant, the limits of which are to be assessed 'on a case-by-case basis, in light of the specific information provided by the applicants and the link between the alleged harm suffered and the parameters of the charges'.<sup>18</sup> On the basis of these principles, the Chamber will assess the Group C Applications individually below.

*1. Issues pertaining to the temporal scope of the case - Applications related to the 5 December 2013 attack in Bangui (including Cattin) and Boeing (category 1)*

15. The Chamber recalls that, in the context of the alleged Anti-Balaka attack in Bangui starting on 5 December 2013 (the 'Bangui Attack'), PTC II confirmed the charges of, *inter alia*, (i) directing attacks against the civilian population, 'in Bangui, including Cattin and the Boeing market, starting on 5 December 2013, on the basis of the conduct pertaining to Counts 2 to 6 and 8' (Count 1); (ii) forcible transfer, deportation and displacement, for 'the dislocation of nearly all Muslim persons residing in Cattin and Boeing to PK5, a predominantly Muslim neighbourhood in Bangui, other parts of the CAR or neighbouring countries, starting from 5 December 2013 in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013' (Counts 4 and 5); and (iii) persecution, by virtue of the conduct pertaining to the abovementioned counts (Count 8).<sup>19</sup>
16. Applicant **a/65057/19**<sup>20</sup> explains that she [REDACTED] *quartier Sarah* in the 3<sup>rd</sup> *arrondissement* of Bangui at the time relevant to the charges. She claims that

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<sup>16</sup> Confirmation Decision, 11 December 2019, ICC-01/14-01/18-403-Conf-Corr (corrected version and corrected version of public redacted version notified on 14 May 2020; public redacted version of corrected version notified on 29 June 2021, ICC-01/14-01/18-403-Corr-Red).

<sup>17</sup> Eleventh Decision on Victims' Participation in Trial Proceedings (Group C), 8 September 2021, ICC-01/14-01/18-1104 (the 'Eleventh Decision on Victims' Participation').

<sup>18</sup> Eleventh Decision on Victims' Participation, ICC-01/14-01/18-1104, para. 5 *referring to* First Decision on Victim Participation, ICC-01/14-01/18-738, paras 20-21.

<sup>19</sup> Confirmation Decision, ICC-01/14-01/18-403-Corr-Red, pp. 103-110.

<sup>20</sup> Annex 3 to the Third Transmission, ICC-01/14-01/18-1529-Conf-Anx3-Red.

following a ‘*balakes*’ attack on 25 December 2013 at 04:00, [REDACTED]. The applicant claims to have suffered harm as a result of this attack. In particular, she states that her sister and her husband were killed by the Anti-Balaka on their way to the mosque and that [REDACTED] as a result of the attack.

17. The Chamber notes that the applicant indicates that *quartier Sarah* is located in the 3<sup>rd</sup> *arrondissement* of Bangui which neighbours the Cattin area.<sup>21</sup> While the applicant places the attack on the 25 December 2013, the Chamber notes that her description of the relevant events, in particular in terms of date, location, target, alleged perpetrators, and type of alleged harm suffered as a consequence of the events described, indicates that the applicant is referring to the Bangui Attack.<sup>22</sup> The Chamber is therefore satisfied that the applicant has, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. Thus, the Chamber authorises applicant **a/65057/19** to participate as a victim in the present proceedings.
18. Applicant **a/15383/20**<sup>23</sup> explains that she lived in ‘Boeing Yamwara’ in December 2013 ‘*quand les attaques ont commencer*’, and states that several days after the attacks started, she heard rumours that ‘*les antis Balaka ont décidés de tuer toutes femmes et les enfants, qui ont eu des enfants avec des musulmans*’, fleeing her house with her children on 26 December 2013. She further states that after she fled to the ‘*mosquée centrale*’ of Bangui in KM5, her house was pillaged and burned by Anti-Balaka elements, and claims to have suffered harm as a result thereof.
19. In this regard, the Chamber notes that while the applicant indicates that she fled her house with her children after hearing rumours that the Anti-Balaka had decided to kill all women who had had children with Muslims, as well as their children, it is not apparent from her application whether these rumours were linked to the Bangui Attack. Moreover, the Chamber considers that the remainder of the information contained in the application does not enable the Chamber to

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<sup>21</sup> First Decision on Victim Participation, ICC-01/14-01/18-738, para. 29; *see also* Eleventh Decision on Victims’ Participation, ICC-01/14-01/18-1104, para 17.

<sup>22</sup> Confirmation Decision, ICC-01/14-01/18-403-Corr-Red, pp. 86-92.

<sup>23</sup> Annex 2 to the Third Transmission, ICC-01/14-01/18-1529-Conf-Anx2-Red.



conclude that the applicant suffered harm as a result of crimes falling within the parameters of the charges. The application is therefore rejected.

2. *Issues pertaining to the material scope of the case - Applications of persons born after the forced displacement of their parents (category 2)*

20. Applicant **a/15139/20**<sup>24</sup> indicates that she was born on [REDACTED] in N'Djamena in Chad, immediately following the forced displacement of her pregnant mother, applicant **a/15138/20**, who (i) lived in PK5 in the 3<sup>rd</sup> *arrondissement* of Bangui and (ii) claims that after an attack on 5 December 2013, she had to flee her home with her children before being transferred to N'Djamena. The applicant claims to have suffered harm as a result thereof.
21. The Chamber notes that the applicant's mother is applicant **a/15138/20**,<sup>25</sup> who was admitted as a participating victim.<sup>26</sup> In the decision, the Chamber held that applicant **a/15138/20** had 'on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges'. In reaching this conclusion, the Chamber noted in particular that (i) at the time relevant to the charges she lived in the 3<sup>rd</sup> *arrondissement* of Bangui, which neighbours the Cattin area, and that (ii) her description of the relevant events indicated that she was referring to the Bangui Attack.<sup>27</sup>
22. The Chamber further observes that applicant **a/15139/20** claims to have suffered harm by virtue of her mother's forced displacement and that her mother's statement is partly annexed to her application form.<sup>28</sup> However, the Chamber considers that in order to determine whether this applicant has suffered harm as a result of the crimes of displacement, forcible transfer and deportation under Counts 4 and 5, further information or documentation is required on (i) proof of the relation between applicants **a/15138/20** and **a/15139/20** and (ii)

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<sup>24</sup> Annex 1 to the Third Transmission, ICC-01/14-01/18-1529-Conf-Anx1-Red.

<sup>25</sup> Annex 7 to the Second Registry Transmission of Group C Applications for Victims' Participation in Trial Proceedings, 31 March 2021, ICC-01/14-01/18-940-Conf-Anx7-Red.

<sup>26</sup> Eleventh Decision on Victims' Participation, ICC-01/14-01/18-1104, paras 16-17.

<sup>27</sup> Eleventh Decision on Victims' Participation, ICC-01/14-01/18-1104, para. 17.

<sup>28</sup> Annex 1 to the Third Transmission, ICC-01/14-01/18-1529-Conf-Anx1-Red.

documentation of the harm allegedly suffered by applicant a/15139/20.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**ADMITS** the 198 applicants whose applications were transmitted under Group A, listed in Annex A to the present decision, as participating victims for the purpose of the trial proceedings;

**REJECTS** the 92 applicants whose applications were transmitted under Group B, listed in Annex B to the present decision, as participating victims for the purpose of the trial proceedings;

**ADMITS** applicant a/65057/19, whose application was transmitted under Group C, as a participating victim;

**REJECTS** applicant a/15383/20, whose application was transmitted under Group C; and

**DIRECTS** the Registry to seek additional information in relation to applicant a/15139/20, as provided in paragraph 22 above, and to report back to the Chamber as soon as practicable.

Done in both English and French, the English version being authoritative.

**Judge Péter Kovács**

**Judge Bertram Schmitt**

**Presiding Judge**

**Judge Chang-ho Chung**

Dated 21 November 2022

At The Hague, The Netherlands