



Original: English

No. **ICC-01/14-01/18**
Date: **20 December 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
with Annexes A and B**

**Eighteenth Decision on Victims' Participation in Trial Proceedings
(Groups A and B)**

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

The Office of the Prosecutor

Karim A. A. Khan
Mame Mandiaye Niang
Kweku Vanderpuye

Counsel for Alfred Yekatom

Mylène Dimitri
Thomas Hannis
Anta Guissé

Counsel for Patrice-Edouard Ngaïssona

Geert-Jan Alexander Knoops
Richard Omissé-Namkeamai
Marie-Hélène Proulx

Legal Representatives of Victims

Abdou Dangabo Moussa
Elisabeth Rabesandratana
Yaré Fall
Marie-Edith Douzima-Lawson
Paolina Massidda
Dmytro Suprun

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

TRIAL CHAMBER V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaissona*, 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 ‘Eighteenth Decision on Victims’ Participation in Trial Proceedings (Groups A and B)’.

1. The Chamber recalls the procedural history as set out in its previous decisions concerning victim participation.¹ 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’, it would ratify the Registry’s assessment of the applications.² 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’.³
2. On 29 November 2022, the Chamber received a total of 30 Group A victims’ applications (the ‘Group A Applications’),⁴ and 10 Group B victims’ applications (the ‘Group B Applications’).⁵ Additionally, the Registry filed accompanying assessment reports, containing a brief description of the criteria applied in its transmissions of the Group A and Group B Applications.⁶
3. The Registry notes that, pursuant to the Chamber’s previous decisions, it categorised under Group A applicants who (i) describe ‘crimes committed by Anti-Balaka groups in areas neighbouring the borders of Cattin or Boeing and

¹ See, in particular, Decision on Victims’ Participation in Trial Proceedings, 23 November 2020, ICC-01/14-01/18-738, paras 1-5 (the ‘First Decision on Victim Participation’).

² 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.

³ 5 March 2019 Decision, ICC-01/14-01/18-141, para. 41(i).

⁴ Twenty-Third Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, ICC-01/14-01/18-1679 (with 30 confidential *ex parte* annexes, only available to the Registry).

⁵ Fourteenth Registry Transmission of Group B Applications for Victim Participation in Trial Proceedings, ICC-01/14-01/18-1680 (with 10 confidential *ex parte* annexes, only available to the Registry).

⁶ Twenty-Fifth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, 29 November 2022, ICC-01/14-01/18-1678 (with confidential Annex 1 and confidential *ex parte* Annex 2, only available to the Registry) (the ‘Twenty-Fifth Registry Report’).

clearly related to the alleged attack in Bangui on 5 December 2013’; (ii) ‘crimes committed by Anti-Balaka groups along the 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’; and (iii) ‘crime[s] 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’.⁷

4. Furthermore, the Registry notes, *inter alia*, that certain Group A Applications seemingly contained minor discrepancies, such as ‘the date of birth of the applicant or the person acting on her/his behalf (“PAB”); an inversion of the applicant’s first and last name; the spelling of the applicant or the PAB’s name; or other minor inconsistencies [...] which appear to be the result of inadvertent errors’.⁸ In this regard, the Registry submits that it took note of the previous Pre-Trial Chamber II instructions, *i.e.* that ‘a certain degree of flexibility must be shown’, considering that the discrepancies mentioned above ‘do not call into question the overall credibility of the information provided by the applicant’.⁹
5. Additionally, the Registry notes that certain Group A Applications ‘provide[d] an erroneous date of the alleged events or [did] not explicitly state specific dates’ while, at the same time, ‘refer[red] to publicly known events [...] or provide[d] other sufficiently detailed contextual descriptions that date the events’.¹⁰ With regard to these applications, the Registry submits that it applied the Chamber’s instruction to examine applications ‘holistically by assessing their internal coherence and the overall context of the alleged acts’.¹¹
6. With regard to the Group B Applications, the Registry notes that, in conducting its *prima facie* assessment, it concluded that the applicants therein ‘clearly do not qualify as victims’, due to the fact that ‘the harm alleged has resulted from the

⁷ Twenty-Fifth Registry Report, ICC-01/14-01/18-1678, paras 21-22.

⁸ Twenty-Fifth Registry Report, ICC-01/14-01/18-1678, para. 18.

⁹ Twenty-Fifth Registry Report, ICC-01/14-01/18-1678, para. 18, *citing* 5 March 2019 Decision, ICC-01/14-01/18-141, para. 34.

¹⁰ Twenty-Fifth Registry Report, ICC-01/14-01/18-1678, para. 23

¹¹ Twenty-Fifth Registry Report, ICC-01/14-01/18-1678, para. 23, *citing* email from the Chamber to the Registry, 30 July 2020, at 17:29.

indication of perpetrators and events falling outside the territorial, temporal, and/or material parameters of the [c]ase'.¹²

7. The Chamber recalls the applicable law set out in its 'Decision on Victims' Participation in Trial Proceedings'.¹³
8. 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.¹⁴ 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.¹⁵
9. The Chamber has not identified any clear, material errors in the Registry's assessment and therefore authorises the participation as victims of the 30 applicants whose applications were transmitted under Group A, and rejects the 10 applicants whose applications were transmitted under Group B.

FOR THESE REASONS, THE CHAMBER HEREBY

ADMITS the 30 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; and

REJECTS the 10 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.

¹² Twenty-Fifth Registry Report, ICC-01/14-01/18-1678, para. 26.

¹³ First Decision on Victim Participation, ICC-01/14-01/18-738, paras 11-12.

¹⁴ Twenty-Fifth Registry Report, ICC-01/14-01/18-1678, para. 17.

¹⁵ Twenty-Fifth Registry Report, ICC-01/14-01/18-1678, para. 25.

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



Judge Péter Kovács



Judge Bertram Schmitt

Presiding Judge



Judge Chang-ho Chung

Dated 20 December 2022

At The Hague, The Netherlands