

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/18

Date: 18 September 2023

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-ÉDOUARD NGAÏSSONA**

Public

**Common Legal Representatives of Victims' Joint Observations on the
"Twenty-Eighth Registry Assessment Report on Victim Applications for
Participation in Trial Proceedings"**

Source: Common Legal Representatives of Victims

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

Mr Karim A. A. Khan KC
Mr Kweku Vanderpuye

Counsel for Alfred Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé

Counsel for Patrice-Édouard Ngaïssona

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

Legal Representatives of the Victims

Mr Abdou Dangabo Moussa
Ms Marie Édith Douzima Lawson
Mr Yaré Fall
Ms Paolina Massidda
Ms Elisabeth Rabesandratana
Mr Dmytro Suprun

Legal Representatives of the Applicants**Unrepresented Victims****Unrepresented Applicants
(Participation/Reparation)****The Office of Public Counsel for
Victims**

Ms Paolina Massidda
Mr Dmytro Suprun

**The Office of Public Counsel for the
Defence****States' Representatives****Amicus Curiae****REGISTRY****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. The Common Legal Representative of the Victims Former Child Soldiers (the “CLR V1”) and the Common Legal Representatives of the Victims of Other Crimes (the “CLR V2”, together the “CLR V”) support the Registry’s requests for an extension of the deadline for the transmission of (i) incomplete victim applications already in its possession (the “First Request”);¹ and (ii) future victim applications eventually collected after the expiration of the deadline (the “Second Request”)². The CLR V share the view of the Registry that good cause exists under regulation 35(2) of the Regulations of the Court (the “Regulations”) to justify the extension of said deadlines.

2. In particular, the Registry indicates difficulties in reaching out to the relevant victims in order to retrieve the necessary information for the completion of their applications, and the challenges faced by the applicants to provide the required information and/or documentation to complete their applications. The CLR V concur with the Registry that complications are encountered in reaching some of their clients. Moreover, the CLR V concur with the Registry that victims continue to have a legitimate interest in obtaining the status of participating victims after the presentation of evidence by the Prosecution and the Legal Representatives. Finally, the CLR V posit that granting the extension of the deadlines would not unduly affect the expeditiousness of the proceedings, nor impact the accused’s rights to a fair trial.

¹ See the “Twenty-Eight Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, [No. ICC-01/14-01/18-2081](#), 7 September 2023, paras. 37-38 (the “Report”).

² *Idem*, paras. 39-43.

II. PROCEDURAL BACKGROUND

3. On 16 July 2020, Trial Chamber V (the “Chamber”) established the deadline “for the transmission of victim applications to participate at trial” at the end of the Prosecution’s presentation of evidence.³

4. On 27 September 2022, the Chamber reiterated that “the deadline for the collection of applications was extended until the end of the Prosecution’s presentation of evidence”.⁴

5. On 7 September 2023, the Registry filed the “Twenty-Eight Registry Assessment Report on Victim Applications for Participation in Trial Proceedings” (the Report).⁵

6. On 11 September 2023, the Prosecution filed the notice of the close of the presentation of its evidence.⁶

III. SUBMISSIONS

A. The Registry’s Request for an extension of deadline for the transmission of incomplete victim applications already in its possession

7. In support of the First Request, the Registry refers to infrastructural and security challenges in a number of localities outside Bangui⁷ which have prevented the completion of 337 applications currently in its possession.⁸ For said applications, the Registry still needs to receive supplementary information or a final confirmation from the relevant Legal Representative, before making a final determination for transmission to the Chamber.⁹

³ See the “Decision Setting the Commencement Date of the Trial” (Trial Chamber V), [No. ICC-01/14-01/18-589](#), 16 July 2020, paras. 19-20.

⁴ See the “Decision on the Yekatom Defence Request for an Amendment of the Victim Application Procedure” (Trial Chamber V), [No. ICC-01/14-01/18-1586-Red](#), 27 September 2022, para. 13.

⁵ See the Report, *supra* note 1.

⁶ See the “Prosecution’s Notice of the Close of its Case-in-Chief”, [No. ICC-01/14-01/18-2089](#), 11 September 2023.

⁷ See the Report, *supra* note 1, footnote 57.

⁸ *Idem*, para. 37.

⁹ *Ibid.*

8. In this regard, the CLRV confirm that they have experienced a number of difficulties in reaching some of their clients due to the prevailing security situation in certain areas of the Central African Republic (the “CAR”) where the victims live (particularly outside Bangui); and the fact that some of them have been out of the country for some time and are unable to return for logistical, economical or security reasons.

9. The CLRV posit that the difficulties faced by the Registry, the CLRV, and the victims themselves – which could not have been reasonably anticipated – should not prevent the victims from having their applications fully assessed by the Registry and from an eventual participation in the proceedings. It would be greatly detrimental to the victims’ interests if said difficulties resulted in the automatic rejection of their applications. In the circumstances, considering the reality in the field, the CLRV posit that good cause is shown, justifying the granting of the requested extension of deadline for the submission of the victim applications already in possession of the Registry, but for which a final determination could not be made at this juncture because incomplete.

B. The Registry’s Request for an extension of deadline for transmission of any future victim applications

10. In the Second Request, the Registry asks for an extension of time limit for the transmission of any future victim applications yet to be collected or received until the end of the trial.¹⁰

11. The Registry indicates that the prevalent security situation in the CAR and the related operational and logistical challenges to find and reach out to victims’ communities, including in locations outside of the CAR,¹¹ justify the requested extension. Of particular relevance is the fact that said circumstances – some of which have only be known to the Registry recently¹² –have hindered the latter’s efforts to

¹⁰ *Idem*, para. 39.

¹¹ *Idem*, para. 40 and footnote 60.

¹² *Ibid.*

complete victims consultations; and that some victims' communities have not yet been reached by the Registry's teams.¹³ The CLRV note that the difficulties identified by the Registry have similarly impacted their efforts and ability to carry out activities and consultations with participating victims in the present case.

12. The CLRV further fully support the Registry's submissions that victims continue to have an interest in obtaining the status of participating victims after the presentation of evidence by the Prosecution and the Legal Representatives.¹⁴ Indeed, as recognised by Trial Chamber I in the *Abd-al-Rahman* case, there remain "*several important procedural events*"¹⁵ after the conclusion of the presentation of evidence by the Legal Representatives, in which victims have a legitimate interest to participate.¹⁶ In this regard, the CLRV note that regulation 86(3) of the Regulations provides that victims shall make their applications to the Registrar before the start of the stage of the proceedings in which they want to participate, but "*to the extent possible*", thereby leaving open the possibility for victims to apply at a later stage.

13. Finally, the CLRV concur with the Registry that granting the extension would not unduly affect the expeditiousness of the proceedings, nor impact the accused's rights to a fair trial,¹⁷ especially as the ABC approach would continue to be applied in the case.

¹³ *Ibid.*

¹⁴ *Idem*, paras. 41-42.

¹⁵ See the "Decision on the Second Registry's Request to Extend the Time Limit to Submit Victim Applications for Participation" (Trial Chamber I), [No. ICC-02/05-01/20-943](#), 16 May 2023, para. 9.

¹⁶ See the Report, *supra* note 1, paras. 41-42.

¹⁷ *Idem*, para. 43.

IV. CONCLUSION

14. For the foregoing reasons, the CLRV respectfully request the Chamber to grant the Registry's request for an extension of the deadline for the transmission of incomplete victim applications already in its possession; and for the extension of the deadline for transmitting future victim applications to the Chamber until the end of the trial.



Dmytro Suprun
Common Legal Representative
Victims Former Child Soldiers



Paolina Massidda
For the team of the Common
Legal Representatives
Victims of Other Crimes

Dated this 18th day of September 2023

At The Hague (The Netherlands)