



Original: English

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

Date: 14 June 2019

PRE-TRIAL CHAMBER II

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

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF
*THE PROSECUTOR V. ALFRED YEKATOM
and PATRICE-EDOUARD NGAÏSSONA***

**Public
With One Confidential Annex**

**Registry's Second Assessment Report on Applications for Victims' 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. In paragraph 41 of the Decision Establishing the Principles Applicable to Victims' Applications for Participation ("Decision"),¹ Pre-Trial Chamber II ("Chamber") established an admission system whereby the Registry should *inter alia* "classif[y] 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")."²
2. Additionally, the Chamber ordered the Registry to prepare "regular reports that list the applications for participation and classify them according to the three groups".³
3. The Registry hereby transmits its second report, on 74 complete applications received to date in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona* ("Case") and assessed by the Registry as clearly falling within Group A.
4. The applications falling in Group A have been listed in the annex to the present submission ("Annex") and are being transmitted separately to the Chamber in accordance with paragraph 41(ii) of the Decision.

II. Procedural History

5. On 20 February 2019, the Chamber joined the cases against Mr Yekatom and Mr Ngaïssona and retained the date of 18 June 2019 as the date for the confirmation of charges hearing to commence.⁴

¹ Pre-Trial Chamber I, "Decision Establishing the Principles Applicable to Victims' Applications for Participation", 5 March 2019, ICC-01/14-01/18-141.

² Decision, para. 41(i).

³ Decision, para. 41(iii).

6. On 5 March 2019, the Chamber issued the Decision, setting out *inter alia* the admission procedure for victims' participation in the Case.⁵
7. On 15 May 2019, the Victims Participation and Reparations Section ("VPRS") transmitted 15 applications categorised in Group C⁶ and submitted a first assessment report on those applications.⁷
8. On 15 May 2019, the Chamber decided to postpone the commencement of the confirmation of charges hearing in the Case until 19 September 2019.⁸

III. Classification

9. The annex to the present submission is classified as confidential in accordance with the instruction of the Chamber.⁹

IV. Applicable Law

10. The present report is submitted on the basis of 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 ("RoC"), and regulations 107 to 109 of the Regulations of the Registry.

⁴ Pre-Trial Chamber II, "Decision on the joinder of the cases against Alfred Yekatom and Patrice-Edouard Ngaïssona and other related matters", 20 February 2019, ICC-01/14-01/18-87, para. 18; ICC-01/14-02/18-34, para. 18.

⁵ See *supra*, footnote one.

⁶ Registry, "Registry's First Transmission of Group C Applications for Victims' Participation in Pre-Trial Proceedings", ICC-01/14-01/18-197, dated 14 May 2019 and notified on 15 May 2019, ICC-01/14-01/18-198.

⁷ Registry, "Registry's First Assessment Report on Applications for Victims' Participation in Pre-Trial Proceedings", dated 14 May 2019 and notified on 15 May 2019, ICC-01/14-01/18-198.

⁸ Pre-Trial Chamber II, "Decision on the 'Prosecution's Request to Postpone the Confirmation Hearing and all Related Disclosure Deadlines'", 15 May 2019, ICC-01/14-01/18-199, p. 17.

⁹ Decision, para. 41(iii).

V. Submissions

11. Applying the criteria set out in paragraph 31 of the Decision, the VPRS has assessed each of the 74 applications transmitted under Group A as complete. In conducting its initial assessment in accordance with paragraph 38 of the Decision, the VPRS confirms that each of the 74 applicants whose applications have been transmitted in Group A have met *prima facie* the following criteria:

- i. His or her identity as a natural person is established;¹⁰
- ii. He or she has suffered harm;¹¹
- iii. The harm suffered is a result of an incident falling within the temporal, geographic and material scope of the Case.¹²

12. In relation to point (i), the VPRS notes that certain applications¹³ falling under Group A contain minor discrepancies, pertaining to *inter alia* an applicant's date of birth, an applicant's first and last name's inversions, the year in an applicant's signature date or spelling of the applicant's name, or other minor inconsistencies in the information provided which appear to be the result of inadvertent error. In these cases, the VPRS took note of the Chamber's instruction that "a certain degree of flexibility must be shown"¹⁴ and considers that the discrepancies presented in these applications "do not call into question the overall credibility of the information provided by the applicant [...]"¹⁵

13. Regarding criterion (iii) *supra* (para. 11), the VPRS notes that it assessed as falling within the temporal scope of the Case certain applications which do not explicitly state specific dates but which refer to publicly known events (such as

¹⁰ Decision, paras. 31-34.

¹¹ *Ibid.*, paras 31, 35.

¹² *Ibid.*, para. 37.


¹³ The applications with minor discrepancies include: a/65211/19, a/65245/19, a/65256/19, a/65262/19, a/65284/19, a/65285/19, a/65289/19, a/65319/19, a/65341/19, a/65360/19, a/65365/19, a/65371/19.

¹⁴ Decision, para. 34.

¹⁵ *Id.*

for example the resignation of former President of the Central African Republic Michel Djotodia), or provide any other sufficiently detailed contextual descriptions that date the events.¹⁶

14. 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 Decision.



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

Dated this 14 June 2019

At The Hague, The Netherlands

¹⁶ These applications include: a/65209/19, a/65220/19, a/65224/19, a/65225/19, a/65261/19, a/65264/19, a/65265/19, a/65268/19, a/65272/19, a/65283/19, a/65285/19, a/65291/19, a/65296/19, a/65320/19, a/65321/19, a/65322/19, a/65325/19, a/65340/19, a/65341/19, a/65352/19, a/65360/19, a/65366/19, a/65376/19, a/65381/19 and a/65383/19. As such, VPRS has followed the precedent set by various Chambers before the Court, including Pre-Trial Chamber II, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, "Second Decision on the Principles Applicable to Victims' Applications for Participation", 8 October 2018, paras. 17-24 referring notably to: Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, "Decision on 270 applications by victims to participate in the proceedings", 25 October 2011, ICC-01/05-01/08-1862, para. 24; Pre-Trial Chamber II, *The Prosecutor v. Dominic Ongwen*, "Decision on contested victims' applications for participation, legal representation of victims and their procedural rights", 27 November 2015, ICC-02/04-01/15-350, paras. 13-14.