

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

**Original: English**

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

**Date: 1 April 2021**

**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 one public annex**

**Fifth Decision on Victims' Participation in Trial Proceedings  
(Group A)**

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

**The Office of the Prosecutor**

Fatou Bensouda  
James Stewart  
Kweku Vanderpuye

**Counsel for Alfred Yekatom**

Mylène Dimitri  
Thomas Hannis

**Counsel for Patrice-Edouard Ngaïssona**

Geert-Jan Alexander Knoops  
Richard Omissé-Namkeamaï  
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**

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**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 Ngaïssona*, 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 ‘Fifth Decision on Victims’ Participation in Trial Proceedings (Group A)’.

1. The Chamber recalls the procedural history set out in its previous decisions concerning victim participation.<sup>1</sup> 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 applications, namely that ‘barring a clear, material error in the Registry’s assessment’, it would ratify the Registry’s assessment of the applications.<sup>2</sup>
2. On 1 March 2021, the Registry transmitted to the Chamber 70 Group A victims’ applications (the ‘Applications’)<sup>3</sup> and filed an accompanying assessment report,<sup>4</sup> containing a brief description of the criteria applied in its assessment of the Applications and several related observations. The Registry notes, *inter alia*, that, pursuant to the Chamber’s ‘Decision on Victims’ Participation in Trial Proceedings’ (the ‘First Decision on Victim Participation’),<sup>5</sup> 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 (ii) clearly relate those crimes to the alleged Anti-Balaka attack in Bangui on 5 December 2013.<sup>6</sup>
3. The Registry further notes that some of the 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

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<sup>1</sup> Decision on Victims’ Participation in Trial Proceedings, 23 November 2020, ICC-01/14-01/18-738; Second Decision on Victims’ Participation in Trial Proceedings (Group A), 11 December 2020, ICC-01/14-01/18-765 (with one public annex); Third Decision on Victim’s Participation in Trial Proceedings (Group A), 29 December 2020, ICC-01/14-01/18-798 (with one public annex), Fourth Decision on Victims’ Participation in Trial Proceedings (Group A), 29 January 2021, ICC-01/14-01/18-858 (with one public annex).

<sup>2</sup> 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>3</sup> Registry’s Fourth Transmission of Group A Applications for Victims’ Participation in Trial Proceedings, ICC-01/14-01/18-896 (with 70 confidential *ex parte* annexes, only available to the Registry) (the ‘Fourth Transmission’).

<sup>4</sup> Fifth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, ICC-01/14-01/18-895 (with one confidential annex) (the ‘Fifth Registry Report’).

<sup>5</sup> First Decision on Victim Participation, ICC-01/14-01/18-738, paras 27-33.

<sup>6</sup> Fifth Registry Report, ICC-01/14-01/18-895, para. 24.

applicant's name, or other minor inconsistencies [...] which appear to be the result of inadvertent errors'.<sup>7</sup> The Registry submits that in assessing the Applications, it took note of Pre-Trial Chamber II's (the 'PTC II') instruction 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>8</sup> Lastly, the Registry notes that some of the Applications seemingly provide an erroneous date (year) of the alleged events or do not explicitly state specific dates. In assessing these applications, the Registry submits that it followed the Chamber's instruction to evaluate applications 'holistically by assessing their internal coherence and the overall context of the alleged acts'.<sup>9</sup>

4. The Chamber recalls the applicable law set out in its First Decision on Victim Participation<sup>10</sup> and the consistent jurisprudence of the Court on Rule 85 of the Rules, as set out by PTC II.<sup>11</sup>
5. The 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>12</sup>
6. The Chamber has not identified any clear, material error in the Registry's assessment and therefore authorises the participation as victims of the 70 applicants whose applications were transmitted under Group A.

## **FOR THESE REASONS, THE CHAMBER HEREBY**

**DECIDES** to admit the 70 applicants listed in the annex to the present decision as participating victims for the purpose of the trial proceedings.

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<sup>7</sup> Fifth Registry Report, ICC-01/14-01/18-895, para. 21.

<sup>8</sup> Fifth Registry Report, ICC-01/14-01/18-895, para. 21 *referring to* the 5 March 2019 Decision, ICC-01/14-01/18-141, para. 34.

<sup>9</sup> Fifth Registry Report, ICC-01/14-01/18-895, para. 25 *referring to* email from the Chamber to the Registry, 30 July 2020, at 17:29.

<sup>10</sup> First Decision on Victim Participation, ICC-01/14-01/18-738, paras 11-12.

<sup>11</sup> 5 March 2019 Decision, ICC-01/14-01/18-141, paras 21, 31-36.

<sup>12</sup> Fifth Registry Report, ICC-01/14-01/18-895, para. 20.

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

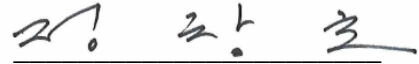


**Judge Péter Kovács**



**Judge Bertram Schmitt**

**Presiding Judge**



**Judge Chang-ho Chung**

Dated 1 April 2021

At The Hague, The Netherlands