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**International
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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 Confidential *EX PARTE* Annex, available only to the Registry and the
Common Legal Representatives of Victims**

Third Periodic Report on the Victims Admitted to Participate in the 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. On 11 December 2020, Trial Chamber V ("Chamber") issued its "Second Decision on Victims' Participation in Trial Proceedings (Group A)" ("Decision") in which it directed the Registry to report every four months on: (i) the number of participating victims; (ii) the number of victims represented by each team of Common Legal Representatives of Victims ("CLRVs");¹ (iii) the recent activities of the CLRVs in their respective victims' communities; and (iv) any views and/or concerns expressed by the participating victims to the CLRVs, including regarding the victims' ability to follow the proceedings from their respective communities.²
2. In accordance with the Decision, the Registry's Victims Participation and Reparations Section ("VPRS") has liaised with the CLRVs to collect the above mentioned information.³ The latter provided the VPRS with detailed information relating to their activities with participating victims during the reporting period (from August to December 2021) as well as information on victims' views and concerns.⁴
3. The Registry hereby transmits its third periodic report on the requested information. It further appends to it information - provided by the Registry's Country Analysis Unit and Victims and Witnesses Section - pertaining to the safety and security of the victims during the reporting period ("Annex"), to provide the Chamber with a comprehensive overview of the challenges participating victims and intermediaries may be facing on the ground relating

¹ The two CLRVs teams are: i) the common legal representative of the victims of the crime of enlistment of children under the age of 15 years and their use to participate actively in hostilities ("CLRV1") and ii) the common legal representatives of the victims of the other crimes listed in the decision confirming partially the charges in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaissona* ("CLRV2").

² Trial Chamber V, "Second Decision on Victims' Participation in Trial Proceedings (Group A)", 11 December 2020, ICC-01/14-01/18-765, para. 9.

³ Email from VPRS to both CLRVs teams, 29 October 2021 at 10:47.

⁴ Email from CLRV2 to VPRS, 1 December 2021 at 16:34; email from CLRV1 to VPRS, 3 December 2021 at 10:16.

to the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard. Ngaïssona* (“Case”).

II. Procedural History

4. On 5 March 2019, Pre-Trial Chamber II set out the admission procedure for victims’ participation in the Case (“PTC” and “5 March 2019 Decision”).⁵
5. On 21 June 2019, the PTC authorised 15 victims to participate at the confirmation hearing in the Case,⁶ and on 13 September 2019 an additional 1,070 victims.⁷
6. On 11 December 2019, the PTC issued a decision partially confirming the charges against the accused (“Confirmation Decision”).⁸
7. On 19 March 2020, the Chamber issued its “Order Scheduling First Status Conference” (“Scheduling Order”), in which it *inter alia*: i) endorsed the victim application procedure set out in the 5 March 2019 Decision;⁹ and ii) requested the Registry to provide an update and forecast on (additional) applications by victims to participate in the proceedings.¹⁰
8. On 22 May 2020, the Registry provided its Update on Victim Participation (“Update”).¹¹

⁵ Pre-Trial Chamber II, “Decision Establishing the Principles Applicable to Victims’ Applications for Participation”, 5 March 2019, ICC-01/14-01/18-141.

⁶ Pre Trial Chamber II, “Decision regarding the Registry’s First Assessment Report on Applications for Victim Participation, the Registry’s First Transmission of Group C Applications, the appointment of counsel for Victims of Other Crimes, and the victims’ procedural position”, 21 June 2019, ICC-01/14-01/18-227-Conf. A public redacted version was filed on the same day (ICC-01/14-01/18-227-Red).

⁷ Pre Trial Chamber II, “Decision regarding the Registry’s Outstanding Transmissions of Applications for Victim Participation”, 13 September 2019, ICC-01/14-01/18-338.

⁸ Pre Trial Chamber II, “Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona”, 11 December 2019, ICC-01/14-01/18-403-Conf. A public redacted version was filed on 20 December 2019. A corrected public redacted version was filed on 14 May 2020 (ICC-01/14-01/18-403-Red-Corr).

⁹ Trial Chamber V, “Order Scheduling First Status Conference”, 19 March 2020, ICC-01/14-01/18-459, para. 8 (iv).

¹⁰ *Ibid.*, para. 3 (I).

¹¹ Registry, “Update on Victim Applications for Participation”, 8 April 2020, ICC-01/14-01/18-470-Conf-Exp-AnxIII. A confidential redacted version was filed on the same day (ICC-01/14-01/18-470-Conf-AnxIII-Red). A public redacted version was filed on 22 May 2020 (ICC-01/14-01/18-470-AnxIII-Red2).

9. On 16 July 2020, the Chamber set the “end of the Prosecution’s presentation of evidence as the deadline for the transmission of victim applications by the Registry” (“16 July 2020 Decision”).¹²
10. On 11 November 2020, the Chamber issued the Decision.
11. On 12 April 2021 and on 11 August 2021 the Registry submitted its first¹³ and second¹⁴ periodic reports, respectively, on the victims admitted to participate in the proceedings.

III. Applicable Law

12. This submission is made pursuant to articles 68(1) and (3) of the Rome Statute, rule 16 of the Rules of Procedure and Evidence, regulation 86 of the Regulations of the Court (“RoC”) and in compliance with the Decision.

IV. Classification

13. In accordance with regulation 23*bis*(1) of the RoC, the annex to this filing is submitted as confidential *ex parte*, available only to the Registry and both CLRVs, because it contains sensitive information that relates to the safety and physical well-being of victims.

V. Submissions

A. Number of Participating Victims

14. To date, the Registry has received a total of 2458 applications for participation in the proceedings in relation to the Case. This includes 1,244 victim applications received prior to the Confirmation of Charges hearing.
15. Out of these, the Registry transmitted to date 1630 applications - including 961 Group A applications, as well as 629 Group B and 40 Group C

¹² Trial Chamber V, “Decision Setting the Commencement Date of the Trial”, 16 July 2020, ICC-01/14-01/18-589.

¹³ Registry, “First Periodic Report on the Victims Admitted to Participate in the Proceedings”, 12 April 2021, ICC-01/14-01/18-952.

¹⁴ Registry, “Second Periodic Report on the Victims Admitted to Participate in the Proceedings”, 11 August 2021, ICC-01/14-01/18-1085.

applications - to the Chamber, which has so far granted victim status to 908 applicants at the trial stage.¹⁵

16. The Registry recalls that 1,085 victims were accepted to participate ahead of the confirmation of charges hearing at the pre-trial stage.¹⁶ In accordance with the Confirmation Decision, the VPRS has been reviewing these victim applications against the revised scope of the Case. The Registry has assessed until now:

- approximately 735 of these applications as potentially adversely affected by the revised scope of the Case;¹⁷ out of these, 579 applications were transmitted to the Chamber as Group B applications - upon confirmation from the respective CLRVs that no additional clarification/information could be obtained from the victims;
- approximately 290 of these applications as Group A applications; out of these, 285 were admitted so far for participation at trial stage;¹⁸

¹⁵ This includes 889 Group A applications and 19 Group C application. See Trial Chamber V, "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; "Third Decision on Victims' Participation in Trial Proceedings (Group A)", 29 December 2020, ICC-01/14-01/18-798; "Fourth Decision on Victims' Participation in Trial Proceedings (Group A)", 29 January 2021, ICC-01/14-01/18-858; "Fifth Decision on Victims' Participation in Trial Proceedings (Group A)", 1 April 2021, ICC-01/14-01/18-943; "Sixth Decision on Victims' Participation in Trial Proceedings (Groups A and B)", 4 May 2021, ICC-01/14-01/18-980; "Seventh Decision on Victims' Participation in Trial Proceedings (Groups A and B)", 1 June 2021, ICC-01/14-01/18-1009; "Eighth Decision on Victims' Participation in Trial Proceedings (Group A)", 16 June 2021, ICC-01/14-01/18-1028; "Ninth Decision on Victims' Participation in Trial Proceedings (Groups A and B)", 27 July 2021, ICC-01/14-01/18-1075; "Tenth Decision on Victims' Participation in Trial Proceedings (Groups A and B)", 24 August 2021, ICC-01/14-01/18-1092; "Eleventh Decision on Victims' Participation in Trial Proceedings (Group C)", 8 September 2021, ICC-01/14-01/18-1104; "Twelfth Decision on Victims' Participation in Trial Proceedings (Groups A and B)", 29 October 2021, ICC-01/14-01/18-1153; and "Thirteenth Decision on Victims' Participation in Trial Proceedings (Groups A and B)", 19 November 2021, ICC-01/14-01/18-1180.

¹⁶ See *supra*, para. 5.

¹⁷ As explained in its Update, the VPRS provided on 27 February 2020 the CLRVs with a preliminary list of approximately 570 individuals. It latter informed the CLRVs that further 130 might fall outside the scope of the Case following the 23 November 2020 Decision (Emails from VPRS to Mr Dangabo, Ms Rabesandratana, Mr Fall and Ms Douzima, 4 February 2021 at 12:07 and to Ms Massidda, 4 February 2021 at 12:07).

¹⁸ Six applications were included in the Registry's Twelfth Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings (ICC-01/14-01/18-1188) and are pending a decision from the Chamber on their merits.

- approximately 60 of these applications as incomplete.¹⁹

17. The Registry is carrying on its preliminary assessments and will continue to transmit periodically to the Chamber applications for participation in compliance with the deadline set by the Chamber in its 16 July 2020 Decision.²⁰

B. Number of victims represented by each team of CLRVs

18. For the purpose of the current update, the Registry only presents hereafter the number of victims accepted thus far by the Chamber that are represented by the CLRVs, following the Registry's review of applications against the revised scope of the charges. However, it notes that the CLRVs represent additional victims whose status at the trial stage still remains to be settled.²¹

- ***Former Child Soldiers***

19. A total of 133 victims of the crime of enlistment of children under the age of 15 years and their use to participate actively in hostilities ("Former Child Soldiers") have been admitted so far as participating victims at the trial stage.²²

20. The table below provides details on the gender of these victims as well as their approximate age at the time of the alleged crimes.

¹⁹ While some of these applications were assessed as complete at pre-trial stage, they became incomplete in light of the revised scope of the Case (e.g. they require more details in relation to the dates or to the geographical locations of the alleged crimes).

²⁰ See *supra*, footnote 12.

²¹ The Registry's review of applications formerly accepted at pre-trial stage is still ongoing. As such, the Registry considers that the mandate of the CLRVs in relation to victims accepted at pre-trial continues until their status has been determined by the Chamber and the CLRVs have informed the applicants accordingly.

²² This includes 68 of the 88 Former Child Soldiers previously admitted to participate at pre-trial stage.

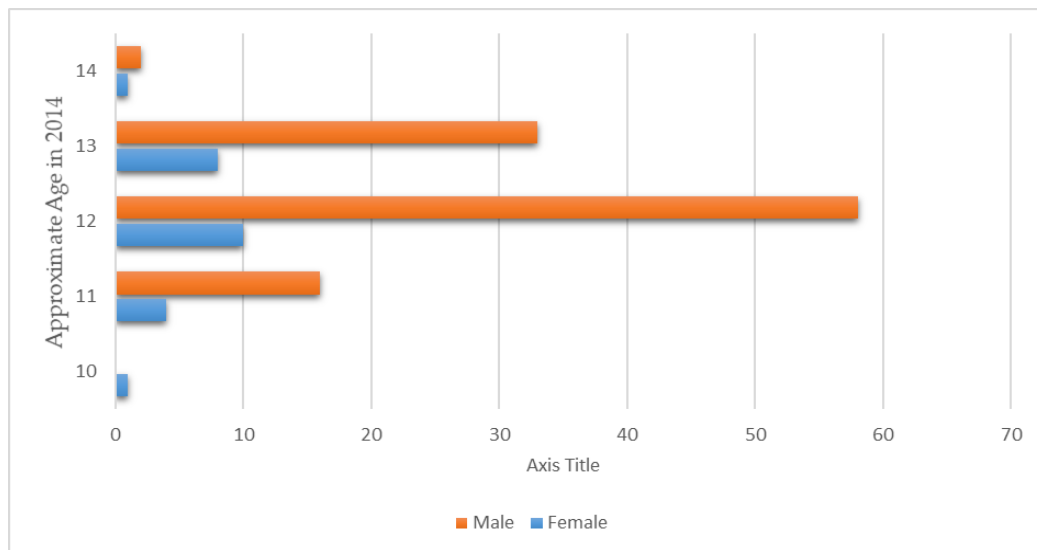


Figure 1

- *Victims of the Other Crimes*

21. 775 victims of the other crimes listed in the Confirmation Decision (the “Victims of Other Crimes”) have been admitted as participants at trial stage.²³

22. Of these 775 victims:

- 433 victims allege that they suffered from crimes charged in the context of the Anti-Balaka attack in Bangui on 5 December 2013 (“5 December 2013 Attack”);
- 173 victims report that they suffered from crimes charged in the context of the Anti-Balaka attack on Bossangoa on 5 December 2013 and in the days following this attack (“Bossangoa events”);
- 169 victims report that they suffered from crimes charged in the context of the Anti-Balaka’s advance through and takeover of villages along the PK9-Mbaïki axis (“PK9-Mbaïki events”).²⁴

²³ 997 Victims of the Other Crimes listed in the Prosecutor’s Document Containing the Charges (ICC-01-14/01-18-282-Conf-AnxB1) were admitted to participate at the pre-trial stage.

²⁴ The Registry notes that few victims report that they suffer from crimes charged in the context of more than one event.

23. The following chart provides an overview of the Victims of the Other Crimes including their gender, age category and the events at which they suffered harm.

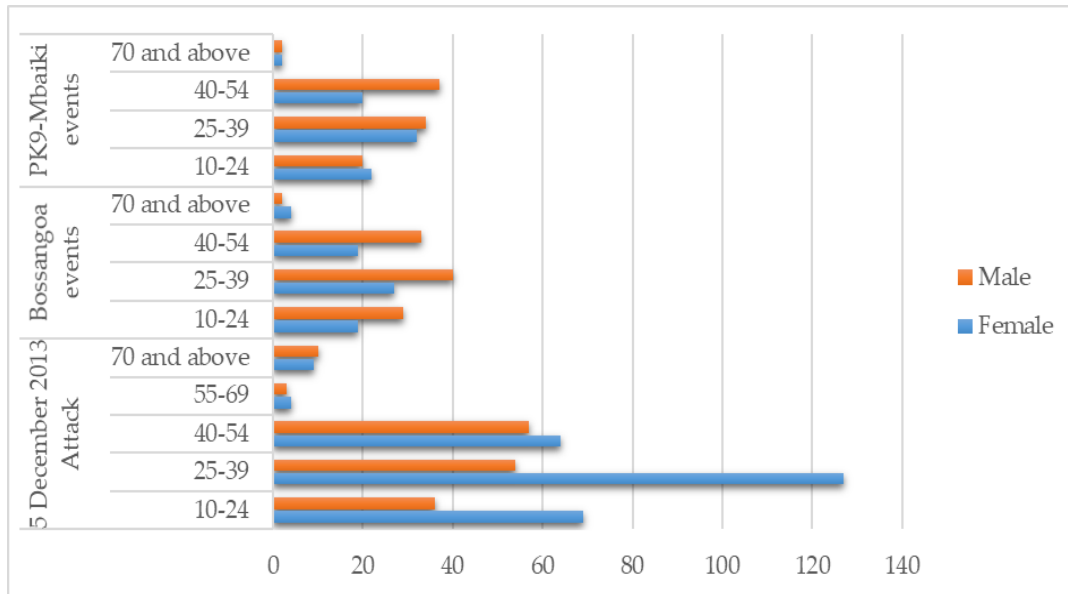


Figure 2

C. CLRVs Activities and Victims' Views

24. In accordance with paragraph 9 of the Decision the CLRV1 and the CLRV2 team have provided the Registry with :

- information relating to their recent teams' activities amongst the victims' communities, and
- the views and/or concerns expressed by the participating victims to the CLRVs, including the victims' ability to follow the proceedings from their respective communities.

25. The following tables present the information reported to the Registry by the two CLRVs.

- **Former Child Soldiers**

Information provided by CLRV1
On the form and content of interactions with victims
<p>The CLRV1 reported that considering the security situation in the region along with the travel restrictions due to the COVID-19 pandemic, interactions with the victims were mainly held by telephone, in groups and individually. He further explained that during the group meetings, which were held on a weekly basis and lasted on average one and a half hours (sometimes longer because of very unstable telephone network), the victims were first informed of the developments in the proceedings, and then had the opportunity to ask questions, express their views and concerns, as well as their expectations in terms of the justice and assistance they need.</p> <p>The CLRV1 also indicated that other interactions were held on a daily individual basis in relation to a specific topic which could be related to health, security or socio-economic reintegration issues.</p>
On the security situation in the respective communities
<p>The CLRV1 stated that, during the reporting period, the security situation in the country and in particular in the areas where most former child soldiers live remained precarious. He further explained that many victims reported witnessing armed clashes between the FACA and the <i>Coalition des Patriotes pour le Changement</i> ("CPC") rebels. The CLR1 reports that rumours of a potential coup attempt by the CPC led to the activation of former Anti Balaka network in the Ombella-Poko and Lobaye prefectures. He added that a number of the former child soldiers, including girls, were approached by former Anti Balaka elements to re-join their ranks. As a result, the victims concerned were due to leave their locations in order to temporarily move to safer areas. The CLR1 reported that the refusal of the former child soldiers to re-engage in rebels activities was welcomed by the victims' respective communities and contributed to a certain improvement of their situation within their communities.</p>
On the views and concerns of victims
<p>The CLRV1 reported that the majority of the former child soldiers expressed general satisfaction about the pace of the trial proceedings. He further explained that those who were able to follow the development of the proceedings through the broadcasting of the trial sequences on the radio waves, expressed a particular interest with respect to the testimony of the Prosecution witnesses who appeared publicly.</p> <p>The CLRV1 further flagged that many victims have reported physical and psychological health concerns, as well as difficulties with social reintegration and/or finding an occupation or a job</p>

On the victims' ability to follow the trial
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<p>The CLRV1 explained that the majority of the victims reported of being able to follow the trial proceedings through radio programmes also accessible in their respective localities.</p>

<p>The CLRV1 reported that said programmes included announcements on the trial schedule and broadcasting of the trial sequences. He added that visual announcements were placed on boards and brochures were distributed both in Bangui and in the localities where most former child soldiers reside.</p>
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- *Victims of the Other Crimes*

Information provided by the CLRV2 team

On the form and content of interactions with victims

<i>Victims based in CAR</i>

<p>The CLRV2 team reported that missions to CAR continue to be not possible because of the pandemic. However, Counsel indicated that they were able to maintain regular contact with their clients throughout the period covered by this report.</p>
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<p>The CLRV2 team noted that, in Bangui, interactions with victims were mainly held <i>via</i> individual or small group meetings with Counsel/Assistant to Counsel based in CAR and that it was also possible to hold meetings via WebEx/ WhatsApp between victims and Counsel based outside CAR. The CLRV2 team explained that special precautions were taken because of the COVID-19 pandemic (including limiting the number of victims if met in group/ wearing face masks / washing of hands/ social distancing). Counsel further reported that considering the continuous volatile security situation in the region, interactions with the victims outside Bangui were mainly held by telephone and/or WhatsApp.</p>
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<p>The CLRV2 also indicated that the number of victims reached per week varied depending on the possibility for them to come at the venue, their professional obligations, restrictions due to the pandemic and the security situation. Counsel submitted that they deployed specific efforts in contacting victims recently admitted to participate by the Chamber. They consider that the main challenge remains to reach all victims formerly unrepresented because the contact details provided at the time of the completion of the forms are not anymore in use or the person is not anymore living in the same area. CLRV2 team also explained that in this regard, Counsel continue to liaise with the Registry (VPRS) to find a solution.</p>
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<p>The CLRV2 team explained that during the meetings, victims were first informed about their status and the developments of the proceedings, and then had the opportunity to ask questions, and express their views and concerns. They were</p>
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also asked about their health needs and/or socio-economic situation.

The CLRV2 team highlighted that specific individual meetings were also organised with victims whose forms were considered incomplete or for whom the Chamber had asked supplementary information and that, in this regards, Counsel provided supplementary information for a number of victims to the Registry (VPRS). This task is ongoing.

Finally, CLRV2 team reported that Counsel dedicated an important part of their time to re-verify the applications of a number of victims who appeared to not qualify anymore for the Case following the decision confirming the charges. According to CLRV2 team, this task was particularly cumbersome in light of the disappointment of the victims and often required follow-up to verify the situation of the person concerned after having had knowledge that he/she is not anymore a victim of the Case. CLRV2 team further explained that for each person falling in this category, Counsel verified whether the victim concerned suffered from other prejudice deriving from crimes in the scope of the Case and that this task is still ongoing.

Victims based in Chad

The CLRV2 team reported that due to the Covid-19 pandemic and the deterioration of the security situation, Counsel could not travel to meet victims in the field. The CLRV2 team further indicated that, despite this context and with the assistance of the field assistant and intermediaries, and despite the lack of financial and logistical means, they were able to meet victims *via* WhatsApp in order to update them on their personal status and to identify their personal needs - for example in terms of health. The CLRV2 team also indicated that they were able to collect the victims' views and concerns as well as supplementary information, especially when victims seem to not qualify anymore for participation. This task is currently ongoing.

On the views and concerns of victims

According to the CLRV2 team, victims were satisfied of the fact that despite the pandemic the trial continues. However, Counsel noted that victims are becoming impatient - a few victims feeling less enthusiastic - and expressed some concerns that to date only a small number of witnesses appeared before the Chamber. The CLRV2 team stressed that the security situation in the country remains a great concern for the victims who indicated that the anti-Balaka are still active and armed.

Counsel further highlighted that many victims find themselves in very vulnerable situations, and continue to report physical and psychological health problems, difficulties in finding a job and the impossibility to send their children to school. The CLRV2 team moreover highlighted that other victims indicated that they still

live separated from members of their family who sought refuge in other countries, mainly in DRC, Chad and Cameroon. The CLRV2 team reported that the vast majority asked about the TFV assistance programme.

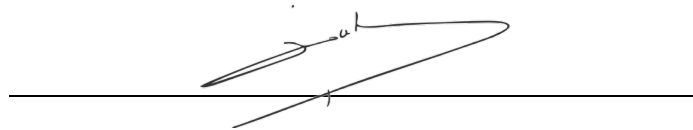
In this context and in collaboration with the TFV, the CLRV2 team explained that they have begun to identify the most vulnerable victims who could qualify for ongoing assistance programmes implemented by the TFV.

On the victims' ability to follow the trial

The CLRV2 team specified that victims represented at trial live in Bangui and in other areas of CAR, as well as in refugee camps in Chad. Counsel also reported that the current situation in CAR where network and phone connections are not stable do not allow to access information easily. The CLRV2 team explained The newly initiative by the Registry to have a specific area within the Field Office where the trial can be followed has proved to be important for disseminating information about the proceedings. However, they reiterated that additional efforts should be made to outreach outside Bangui and in Chad.

Counsel reported that in Chad, contrary to the trial opening, victims could not gather to follow the trial on a giant screen because of the pandemic. However, general information regarding the progress of the trial has been provided to the victims during individual interviews and, collectively, through the field assistant.

The CLV2 team also reiterated that the possibility to be informed and follow the trial varies depending on the location where victims reside, being higher in Bangui town and surroundings and low in rural areas. In this regard, during the meetings, many victims indicated that the Court should organise information campaigns in the various localities where they live, with the possibility of following parts of the trial live. According to the CLRV2 team, this will allow victims to be aware of what really happens at the Court, since often rumours are spread about the release of the accused, worrying victims and their communities. In this regard, Counsel noted that victims expressed the wish for the Court to remobilise the media for a better follow-up of the trial in all the areas where victims reside. According to the CLRV2 team, this is even more true in Chad where the Court's field presence is nearly non-existent.



Marc Dubuisson, Director, Division of Judicial Services

On behalf of Peter Lewis, Registrar

Dated this 13 December 2021

At The Hague, The Netherlands