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PRE-TRIAL CHAMBER II

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
*THE PROSECUTOR v. MAXIME JEOFFROY ELI MOKOM GAWAKA***

**Public
with Public Annexes A and B**

**Application for recognition of the status of victims in the case of
The Prosecutor v. Maxime Jeoffrey Eli Mokom Gawaka
to victims participating in the case of
*The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaissona***

Source: Office of Public Counsel for 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

Mr Mame Mandiaye Niang

Mr Kweku Vanderpuye

Counsel for the Defence**Legal Representatives of the Victims****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 Peter Lewis

Counsel Support Section**Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

I. INTRODUCTION

1. Counsel of the Office of Public Counsel for Victims (the “OPCV” or the “Office”), appointed as one of the Common Legal Representatives in the team of lawyers representing the Victims of the Other Crimes and as the Common Legal Representative of the Former Child Soldiers in the *Yekatom and Ngaïssona* case, request Pre-Trial Chamber II (the “Chamber”) to recognise the status of victims in the present case to victims already authorised to participate in the *Yekatom and Ngaïssona* case at the pre-trial and/or trial phase.

2. In light of the Trial Chamber V’s determination in the *Yekatom and Ngaïssona* case that victims may submit applications for participation in the trial proceedings until the end of the presentation of evidence by the Prosecution, Counsel also advocate for the establishment of a system according to which new applicants who will be admitted by the trial chamber in said case will be automatically admitted in the current proceedings (until the start of the confirmation of charges hearing), following the transmission by the Registry to the Chamber of the list of admitted individuals.

3. Counsel posit that (A) this course of events is justified by the similarity of the crimes and events in both cases; (B) adopting such an approach would be in line with the practice of the Court and in the interests of the victims, while greatly contributing to the efficiency of the proceedings.

4. In the alternative, should the Chamber conclude that such an approach is not desirable at this juncture, Counsel request, in accordance with the mandate vested upon the OPCV under regulation 81(4) of the Regulations of the Court, to be appointed to represent the distinct collective interests of the two categories of Victims (former child soldiers and victims of the other crimes) who may qualify in the present case until the issuance of a decision on their status and legal representation.

II. PROCEDURAL BACKGROUND

5. On 11 November 2018 and 7 December 2018, the Chamber issued the Warrants of Arrest for Mr Alfred Yekatom (“Mr Yekatom”) and Mr Patrice-Edouard Ngaïssona (“Mr Ngaïssona”), respectively.¹ On 17 November 2018 and 30 January 2019, respectively, Messrs Yekatom and Ngaïssona were surrendered to the Court.²

6. On 20 February 2019, the Chamber joined the cases.³

7. On 5 March 2019, the Chamber rendered the “Decision Establishing the Principles Applicable to Victims’ Applications for Participation” (the “Decision of 5 March 2019”) in the case against Messrs Yekatom and Ngaïssona,⁴ detailing the procedure for processing victims’ applications and granting the status of victim in that case.⁵

8. On 23 May 2019, the Chamber issued the “Decision on the Legal Representation of Victims” in the case against Messrs Yekatom and Ngaïssona, appointing, *inter alia*, one Counsel from the OPCV as the Common Legal Representative of the Former Child Soldiers.⁶

¹ See the “Public Redacted Version of ‘Warrant of Arrest for Alfred Yekatom’, ICC-01/14-01/18-1-US-Exp, 11 November 2018” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-1-Red](#), 17 November 2018 (the “Warrant of Arrest for Mr Yekatom”); and the “Public Redacted Version of ‘Warrant of Arrest for Patrice-Edouard Ngaïssona’” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-89-Red](#), 13 December 2018 (the “Warrant of Arrest for Mr Ngaïssona”).

² See the “Decision on the joinder of the cases against Alfred Yekatom and Patrice-Edouard Ngaïssona and other related matters” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-121](#), 20 February 2019, para. 2.

³ *Idem*, para. 14.

⁴ See the “Decision Establishing the Principles Applicable to Victims’ Applications for Participation” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-141](#), 5 March 2019 (the “Decision of 5 March 2019”).

⁵ *Idem*, paras. 29-45.

⁶ See the “Decision on the Legal Representation of Victims” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-205](#), 23 May 2019, para. 16.

9. On 21 June 2019, the Chamber issued the “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” (the “Decision of 21 June 2019”) in the case against Messrs Yekatom and Ngaïssona,⁷ authorising 15 victims to participate in the proceedings,⁸ granting them several procedural rights⁹ and instructing the Registry to proceed with the appointment of six counsel, including the Principal Counsel of the OPCV, to represent the Victims of the Other Crimes.¹⁰ On 13 September 2019, the Chamber further authorised 1,070 victims to participate in the pre-trial phase of the proceedings (the “Decision of 13 September 2019”).¹¹

10. On 11 December 2019, the Chamber partly confirmed the charges against Messrs Yekatom and Ngaïssona¹² (the “Confirmation Decision”).¹³

11. On 23 November 2020, Trial Chamber V issued the first “Decision on Victims’ Participation in Trial Proceedings”,¹⁴ determining the parameters of the participation of victims in the *Yekatom and Ngaïssona* case, in light of the findings in the

⁷ See the “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” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-227-Red](#), 21 June 2019 (the “Decision of 21 June 2019”).

⁸ *Idem*, p. 14.

⁹ *Idem*, paras. 37-46.

¹⁰ *Idem*, paras. 35-36.

¹¹ See the “Decision regarding the Registry’s Outstanding Transmissions of Applications for Victim Participation” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-338](#), 13 September 2019, p. 13 (the “Decision of 13 September 2019”).

¹² See the “Corrected version of ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’” (Pre-Trial Chamber II), [No. ICC-01/14-01/18-403-Red-Corr](#), 11 December 2019 (the “Confirmation Decision”). See, in particular, paras. 75-104 (Bangui (including Cattin) and Boeing (including the 5 December 2013 attack); paras. 105-112 (Bossangoa); paras. 113-128 (Yamwara school); paras. 129-143 (PK9 – Mbaïki Axis); paras. 144-156 (enlistment and use of children under the age of 15 years).

¹³ *Idem*, paras. 175, 183-239.

¹⁴ See the “Decision on Victims’ Participation in Trial Proceedings” (Trial Chamber V), [No. ICC-01/14-01/18-738](#), 23 November 2020.

Confirmation Decision.¹⁵ Thereafter, Trial Chamber V issued several decisions on victims' participation following the A-B-C approach.¹⁶

12. On 14 March 2022, Mr Mokom was surrendered to the Court.

13. On 22 March 2022, the Warrant of Arrest against Mr Maxime Jeoffroy Eli Mokom Gawaka ("Mr Mokom") was made public (the "Warrant of Arrest for Mr Mokom").¹⁷ The same day, during the initial appearance of the suspect, the Chamber scheduled the confirmation of charges hearing for 31 January 2023.

¹⁵ *Idem*, paras. 27-33, 39-42, 46-47, 52-57, 61-64.

¹⁶ See the "Second Decision on Victims' Participation in Trial Proceedings (Group A)" (Trial Chamber V), [No. ICC-01/14-01/18-765](#), 11 December 2020; the "Third Decision on Victims' Participation in Trial Proceedings (Group A)" (Trial Chamber V), [No. ICC-01/14-01/18-798](#), 29 December 2020; the "Fourth Decision on Victims' Participation in Trial Proceedings (Group A)" (Trial Chamber V), [No. ICC-01/14-01/18-858](#), 29 January 2021; the "Fifth Decision on Victims' Participation in Trial Proceedings (Group A)" (Trial Chamber V), [No. ICC-01/14-01/18-943](#), 1 April 2021; the "Sixth Decision on Victims' Participation in Trial Proceedings (Groups A and B)" (Trial Chamber V), [No. ICC-01/14-01/18-980](#), 4 May 2021; the "Seventh Decision on Victims' Participation in Trial Proceedings (Groups A and B)" (Trial Chamber V), [No. ICC-01/14-01/18-1009](#), 1 June 2021; the "Eighth Decision on Victims' Participation in Trial Proceedings (Group A)" (Trial Chamber V), [No. ICC-01/14-01/18-1028](#), 16 June 2021; the "Ninth Decision on Victims' Participation in Trial Proceedings (Groups A and B)" (Trial Chamber V), [No. ICC-01/14-01/18-1075](#), 27 July 2021; the "Tenth Decision on Victims' Participation in Trial Proceedings (Groups A and B)" (Trial Chamber V), [No. ICC-01/14-01/18-1092](#), 24 August 2021; the "Eleventh Decision on Victims' Participation in Trial Proceedings (Group C)" (Trial Chamber V), [No. ICC-01/14-01/18-1104](#), 8 September 2021; the "Twelfth Decision on Victims' Participation in Trial Proceedings (Groups A and B)" (Trial Chamber V), [No. ICC-01/14-01/18-1153](#), 29 October 2021; the "Thirteenth Decision on Victims' Participation in Trial Proceedings (Groups A and B)" (Trial Chamber V), [No. ICC-01/14-01/18-1180](#), 19 November 2021; and the "Fourteenth Decision on Victims' Participation in Trial Proceedings (Groups A and B)" (Trial Chamber V), [No. ICC-01/14-01/18-1274](#), 9 February 2022.

¹⁷ See the "Public Redacted Version of 'Warrant of Arrest for Maxime Jeoffroy Eli Mokom Gawaka' (ICC-01/14-01/22-2-US-Exp)" (Pre-Trial Chamber II), [No. ICC-01/14-01/22-2-Red2](#), 22 March 2022 (the "Warrant of Arrest for Mr Mokom").

III. SUBMISSIONS

A. Similarity of crimes and events in both cases

14. A review of the Warrant of Arrest for Mr Mokom shows that the crimes and events described therein are the exact same as those contained in the Warrant of Arrest for Mr Ngaïssona.¹⁸ Moreover, the crimes and events described in the Warrant of Arrest for Mr Yekatom overlap extensively with those contained in the Warrants of Arrest for Mr Mokom and Mr Ngaïssona, and share several similarities, including the temporal and geographical parameters.¹⁹ It is noteworthy that Messrs Ngaïssona and Yekatom are expressly mentioned several times in the Warrant of Arrest for Mr Mokom.²⁰ Mr Mokom's name also appears numerous times in the Confirmation Decision, being referred, among others, as the Deputy National Coordinator and the National Coordinator of Operations of the Anti-Balaka.²¹ The Prosecution also recently qualified both cases as "*related [...], given their substantial overlap*".²²

15. Counsel therefore submit that the charges against the suspect are identical or nearly identical to those originally contained in the Warrants of Arrests for Messrs Yekatom and Ngaïssona and that the temporal and geographical parameters are exactly the same.²³

¹⁸ See the Warrant of Arrest for Mr Mokom, *supra* note 17; and the Warrant of Arrest for Mr Ngaïssona, *supra* note 1.

¹⁹ See the Warrant of Arrest for Mr Mokom, *supra* note 17, para. 2; and the Warrant of Arrest for Mr Ngaïssona, *supra* note 1, para. 2; and the Warrant of Arrest for Mr Yekatom, *supra* note 1, para. 2.

²⁰ See the Warrant of Arrest for Mr Mokom, *supra* note 17, paras. 6, 8, 15-16, 18.

²¹ See the Confirmation Decision, *supra* note 12, paras. 62, 65, 81, 83, 101, 111-112, 167, 169, 172, 174, 184, 188, 191, 199-200, 204, 209-210, 227-228, 230, 234-236.

²² See the "Prosecution's Request for an E-Court Protocol, a Redaction Protocol, and a Protocol on the Handling of Confidential Information and Contacts with Witnesses", [No. ICC-01/14-01/22-24](#), 21 March 2022, para. 5.

²³ See the Warrant of Arrest for Mr Mokom, *supra* note 17; the Warrant of Arrest for Mr Ngaïssona, *supra* note 1; and the Warrant of Arrest for Mr Yekatom, *supra* note 1.

16. Based on those same charges, the Chamber admitted victims to participate in the pre-trial phase in the *Yekatom and Ngaïssona* case,²⁴ indicating that they satisfied the criteria of rule 85 of the Rules of Procedure and Evidence (the “Rules”); in particular, that their (1) identity had been established; (2) the events described in their applications constituted one or more crimes within the jurisdiction of the Court with which the then suspects had been charged; and (3) they suffered harm(s) as a result of the commission of the crime(s) with which the then suspects were charged.²⁵

17. Counsel posit that the assessment made by the Chamber (notably, in the same composition that in the present case) at the pre-trial phase in the *Yekatom and Ngaïssona* proceedings remain entirely valid for the present case, especially considering that victims do not need to specify in their application the precise identity of the alleged perpetrator(s) and that identifying them as “*part of the Anti-Balaka*” has been considered sufficient.²⁶

18. Moreover, Counsel note that additional victims – who did not participate during the pre-trial phase – were admitted to participate at trial in the *Yekatom and Ngaïssona* case. Said victims should also be allowed to participate in the current proceedings, especially considering that Trial Chamber V, following a review by the Registry of all applications, already made an assessment of the parameters and information contained in said applications and concluded that the concerned victims satisfied the criteria of rule 85 of the Rules.²⁷

19. Counsel further note that the Chamber in the *Yekatom and Ngaïssona* case admitted victims who subsequently did not anymore qualify at the trial stage,

²⁴ See the Decision of 21 June 2019, *supra* note 7, paras. 24-31; and the Decision of 13 September 2019, *supra* note 11, paras. 17-18.

²⁵ *Ibid.* See also, the Decision of 5 March 2019, *supra* note 4, para. 21.

²⁶ See the Decision of 21 June 2019, *supra* note 7, para. 24; and the “Decision on Victims’ Participation at the Confirmation of Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber II, Single Judge), [No. ICC-01/09-01/11-249](#), 5 August 2011, paras. 21-24.

²⁷ See *e.g.*, the Decision on Victims’ Participation in Trial Proceedings, *supra* note 14, paras. 67-68.

following the non-confirmation of some of the charges.²⁸ In this regard, they nevertheless consider that, at this juncture, this category of victims should also be authorised to participate in the present case, due to the parameters applicable at this phase of the proceedings and considering the crimes and events described in the Warrant of Arrest for Mr Mokom. This course of events is indeed without prejudice to a subsequent review of the status of admitted victims when the charges will be analysed by the Chamber.

20. Said approach is consistent with the principle adopted in the *Blé Goudé* case, in which the Single Judge considered that her previous assessment of the link between the events described and the crimes charges and the link between those events and the harm(s) suffered by the applicants in the *Gbagbo* case was sufficient to allow the direct participation of the same victims in the *Blé Goudé* case.²⁹ The Single Judge reasoned that “*the charges against Mr Blé Goudé are so similar to the ones against Mr Gbagbo that applicants fulfilling the criteria of rule 85 in one case will in principle satisfy the criteria in the other*”.³⁰ Accordingly, the Single Judge concluded that “*it is not necessary to assess if (1) the events described by the applicants constitute one of the crimes charged; or if (2) there is a sufficient causal link between such events and the harm suffered because the very same assessment in respect to the same applicants was already conducted by the Single Judge in the context of the Gbagbo Case*”.³¹

21. This approach would be equally consistent with the Pre-Trial Chamber I’s decision in the *Banda and Jerbo* case, where victims admitted to participate in the *Abu Garda* case were automatically allowed to participate in the *Banda and Jerbo* case.³²

²⁸ See the Confirmation Decision, *supra* note 12, paras. 175, 183-239.

²⁹ See the “Decision on victims’ participation in the pre-trial proceedings and related issues” (Pre-Trial Chamber I, Single Judge), [No. ICC-02/11-02/11-83](#), 11 June 2014, para. 15.

³⁰ *Ibid.*

³¹ *Idem*, para. 17.

³² See the “Decision on Victim’s Participation at the Hearing on the Confirmation of the charges” (Pre-Trial Chamber I), [No. ICC-02/05-03/09-89](#), 29 October 2010, paras. 6-10.

22. Counsel also underline that adopting such an approach would be in line with the recent recommendation in the Final Report of the Independent Expert Review of the International Criminal Court and the Rome Statute System, where the experts suggested that “[v]ictims admitted to participate in proceedings should be automatically admitted to participate in any other case opened within the same situation for the same events”.³³

23. Therefore, Counsel posit that victims admitted to participate in the *Yekatom and Ngaïssona* case at the pre-trial and/or trial stage, as well as victims who were authorised to participate at the pre-trial stage and who were subsequently excluded by the geographical/temporal scope of the case by virtue of the Confirmation Decision, continue to satisfy the criteria of rule 85 of the Rules and meet all the requirements to be automatically admitted to participate in the present case.

24. For the reference of the Chamber, Counsel annex to the present submission Annex A containing the list of Victims of the Other Crimes who appointed Ms Massidda, as well as the list of Victims of the Other Crimes who originally did not choose a lawyer (so-called “unrepresented”), and who were authorised to participate in the *Yekatom and Ngaïssona* case at the pre-trial and/or trial stage. Annex B contains the list of Victims Former Child Soldiers represented by Mr Suprun authorised to participate in the *Yekatom and Ngaïssona* case at the pre-trial and/or trial stage.

25. Finally, in light of the Trial Chamber V’s determination in the *Yekatom and Ngaïssona* case that victims may submit applications for participation in the trial proceedings until the end of the presentation of evidence by the Prosecution,³⁴ Counsel advocate for the establishment of a system according to which new applicants who will be admitted by the trial chamber in said case will be automatically recognised in

³³ See the [Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report](#), 30 September 2020, recommendation R338.

³⁴ See the “Decision Setting the Commencement Date of the Trial” (Trial Chamber V), [No. ICC-01/14-01/18-589](#), 16 July 2020, para. 20.

the current proceedings (until the start of the confirmation of charges hearing), following the transmission by the Registry to the Chamber of the list of admitted individuals.

B. Recognising the status of victims at this juncture would promote the efficiency of the proceedings while taking into account the victims' interests and preserving their security and well-being

26. Counsel submit that recognising the status of victims in the present case to individuals admitted in the *Yekatom and Ngaiissona* case would enhance the efficiency of the proceedings and would greatly contribute to take into account the victims' interests and to preserve their security and well-being.

27. In line with the practice adopted in the *Blé Goudé* case,³⁵ said approach would make it unnecessary to require each victim to fill, for the purpose of the present case, a second application form. This will avoid the need for victims to tell their stories again and to detail yet another time the event(s) and harm(s) they have suffered from in relation to the same crimes, minimising the risk of re-traumatisation. Moreover, it would avoid the Chamber (and the Registry) the burden of reassessing applications for the same event(s) and crime(s), thereby contributing to the efficiency of the proceedings.

28. In this regard, Chambers enjoy discretion in considering "*the applications in such a manner as to ensure the effectiveness of the proceedings*",³⁶ and in striking "*a balance between the expeditiousness and fairness of the proceedings, while taking into consideration the particular circumstances of the case*".³⁷

³⁵ See the Decision on victims' participation in the pre-trial proceedings and related issues, *supra* note 29, para. 19.

³⁶ See the "Decision establishing the principles applicable to victims' and representation during the Confirmation Hearing" (Pre-Trial Chamber II, Single Judge), [No. ICC-02/05-01/20-259](#), 18 January 2021, para. 26; the "Decision of 5 March 2019", *supra* note 4, para. 45; and the "Decision on victims' participation in trial proceedings" (Trial Chamber VI), [No. ICC-01/04-02/06-449](#), 6 February 2015, para. 37.

³⁷ See the Decision of 5 March 2019, *supra* note 4, para. 42.

29. Since the arrest of Mr Mokom, a number of victims have expressed their interest in participating in the present case. This interest was conveyed during the regular meetings between Counsel and/or members of their teams based in Central African Republic (the “CAR”) and clients. Many victims have also directly contacted members of Counsel’s teams based in the CAR after the arrest and the initial appearance of Mr Mokom to express their will to participate in the present proceedings.

30. During said discussions, victims have indicated, *inter alia*, that Mr Mokom played a central role in the events of 2013-2014 and that some of the crimes he is alleged to have committed are the same as those for which Messrs Yekatom and Ngaïssona are currently tried before the Court.

31. In the interests of the victims and to avoid overburdening the process, and in light of the discretion afforded to the Chamber,³⁸ Counsel suggest the adoption of a flexible approach where the consent to participate in the current proceedings of victims previously admitted at the pre-trial and/or trial phase of the *Yekatom and Ngaïssona* case is presumed, absent a clear indication of their intention not to participate in the present case. Said intention may be checked by Counsel during the regular meetings with clients and eventually communicated to the Registry which in turn will inform the Chamber.

32. Counsel posit that such an approach is also justified by the specific difficulties in relation to victims’ participation in the CAR,³⁹ including with regard to

³⁸ See *e.g.*, *supra* note 36; and the “Decision Establishing the Principles Applicable to Victims’ Applications for Participation” (Pre-Trial Chamber II), [No. ICC-01/12-01/18-37-tENG](#), 24 May 2018, para. 19.

³⁹ See the Decision on the Legal Representation of Victims, *supra* note 6, para. 8(i); and the Decision of 5 March 2019, *supra* note 4, para. 24.

communicating with clients⁴⁰ - and with victims in general -; and the current volatile security situation in the country.⁴¹

C. Other matters relevant to the interests of the victims in the present case

33. Counsel take this opportunity to ask the Chamber to adopt the same approach implemented for the application process in the *Yekatom and Ngaïssona* case,⁴² adopting the A-B-C system which has proven to be efficient and the use of the same application form designed for the *Yekatom and Ngaïssona* case.⁴³

34. In this regard, Counsel recall the need for “*the forms for participation and reparations [...] be standardized to a certain extent*”⁴⁴ and “*to improve the victims’ participation system in order to ensure ‘its sustainability, effectiveness and efficiency’ [...], including by developing application forms for victims’ participation tailored to the characteristics of the specific case at hand*”.⁴⁵ Once more, the fact that the parameters of the present case are virtually exactly the same as the ones of the *Yekatom and Ngaïssona* case at the pre-trial stage justifies the adoption of the same approach to victims’ participation.

⁴⁰ See the “First Periodic Report on the Victims Admitted to Participate in the Proceedings”, [No. ICC-01/14-01/18-952](#), 12 April 2021, para. 28; the “Second Periodic Report on the Victims Admitted to Participate in the Proceedings”, [No. ICC-01/14-01/18-1085](#), 11 August 2021, para. 28; and the “Third Periodic Report on the Victims Admitted to Participate in the Proceedings”, [No. ICC-01/14-01/18-1209](#), 13 December 2021, para. 25.

⁴¹ *Ibid.*

⁴² See the Decision of 5 March 2019, *supra* note 4, paras. 41-45. See also the [Chambers Practice Manual](#), Fifth edition, 25 March 2022, paras. 96-97.

⁴³ See the Decision of 5 March 2019, *supra* note 4, paras. 16-25.

⁴⁴ See the “Decision Establishing the Principles Applicable to Victims’ Applications for Participation” (Pre-Trial Chamber II), [No. ICC-01/12-01/18-37-tENG](#), 24 May 2018, para. 19.

⁴⁵ See the “Decision Establishing Principles on the Victims’ Application Process” (Pre-Trial Chamber II, Single Judge), [No. ICC-01/04-02/06-67](#), 28 May 2013, para. 17 (footnotes omitted).

D. Alternative request

35. In the alternative, should the Chamber consider that the automatic recognition of the relevant victims in the present proceedings is not desirable at this juncture, Counsel request, in accordance with the mandate vested upon the Office under regulation 81(4) of the Regulations of the Court, to be appointed to represent the distinct collective interests of the two categories of Victims (former child soldiers and victims of the other crimes) in the present case, with a view to protect their interests and to provide them with legal assistance and support.

36. In this regard, Counsel submit that, as recognised by Pre-Trial Chambers in the *Said* and *Al-Rahman* cases, it would be “*necessary and appropriate in the circumstances to devise a temporary and provisional arrangement as envisaged under regulation 81(4) of the Regulations of the Court on the involvement of the OPCV, which would be vested with the role of general support and assistance at this stage of the proceedings*”.⁴⁶ This is all the more important as “*appropriate and timely assistance is instrumental to every potential victim’s right to meaningfully participate in the proceedings*”.⁴⁷

37. Finally, Counsel inform the Chamber that they are able to fulfil their mandate at this stage of the proceedings without the need for additional resources.

⁴⁶ See the “Decision on legal representation of victims and related matters” (Pre-Trial Chamber II, Single Judge), [No. ICC-01/14-01/21-119](#), 9 July 2021, para. 30; and the “Decision establishing the principles applicable to victims’ and representation during the Confirmation Hearing” (Pre-Trial Chamber II, Single Judge), [No. ICC-02/05-01/20-259](#), 18 January 2021, para. 37.

⁴⁷ See the “Decision supplementing the Chamber’s first decision on victims’ participation and representation and providing additional guidance” (Pre-Trial Chamber II, Single Judge), [No. ICC-02/05-01/20-277](#), 5 February 2021, para. 15.

IV. CONCLUSION

38. For the foregoing reasons, Counsel respectfully request the Pre-Trial Chamber to recognise the status of victims in the present case to all victims already authorised to participate in the *Yekatom and Ngaïssona* case at the pre-trial and/or trial phase. Counsel also request for the establishment of a system according to which new applicants who will be admitted by Trial Chamber V in the *Yekatom and Ngaïssona* case will be automatically recognised as victims in the current proceedings (until the start of the confirmation of charges hearing), following the transmission by the Registry to the Chamber of the list of admitted individuals.

39. In the alternative, should the Pre-Trial Chamber consider that the automatic recognition of victim status in the present proceedings is not desirable at this juncture, Counsel respectfully request, in accordance with the mandate vested upon the Office under regulation 81(4) of the Regulations of the Court, to be appointed to represent the distinct collective interests of the two categories of Victims (former child soldiers and victims of the other crimes) in the present case, with a view to protect their interests and to provide them with legal assistance and support.



Dmytro Suprun



Paolina Massidda

Dated this 7th day of April 2022

At The Hague (The Netherlands)