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**No. ICC-01/14-01/18  
Date: 8 September 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**

**Eleventh Decision on Victims' Participation in Trial Proceedings  
(Group C)**

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

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**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(1) and (3) of the Rome Statute, Rules 85 and 89 of the Rules of Procedure and Evidence, and Regulation 86 of the Regulations of the Court, issues this ‘Eleventh Decision on Victims’ Participation in Trial Proceedings (Group C)’.

## **I. Procedural history**

1. The Chamber recalls the procedural history and applicable law set out in its ‘Decision on Victims’ Participation in Trial Proceedings’.<sup>1</sup>
2. On 31 March 2021, the Registry transmitted 25 Group C applications for participation as victims (the ‘Applications’) to the Chamber and redacted versions thereof to the participants,<sup>2</sup> as well as a report setting out the reasons why it is not in a position to make a clear determination on the Applications.<sup>3</sup>
3. On 12 April 2021, the Ngaïssona Defence and the Yekatom Defence (jointly, the ‘Defence’) provided their observations on the Applications.<sup>4</sup>

## **II. Analysis**

### **A. Preliminary remarks**

4. The Chamber recalls its previous finding that applications by victims to participate in the proceedings are to be assessed against the parameters of the charges as confirmed by Pre-Trial Chamber II (hereinafter: ‘PTC II’) and set out

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<sup>1</sup> Decision on Victims’ Participation in Trial Proceedings, 23 November 2020, ICC-01/14-01/18-738 (the ‘First Group C Decision’), paras 1-12.

<sup>2</sup> Second Registry Transmission of Group C Applications for Victims’ Participation in Trial Proceedings, ICC-01/14-01/18-940 (the ‘Second Transmission’) (with 25 confidential *ex parte* annexes, only available to the Registry, as well as confidential redacted versions thereof).

<sup>3</sup> Seventh Registry Assessment Report on Victim Applications for Participation in Trial Proceedings, ICC-01/14-01/18-939 (the ‘Registry Report’) (with confidential annexes I, ICC-01/14-01/18-939-Conf-AnxI, II and III).

<sup>4</sup> Joint Defence Observations relating to the “Seventh Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, ICC-01/14-01/18-939, ICC-01/14-01/18-953 (the ‘Defence Observations’).

in the ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’ (the ‘Confirmation Decision’).<sup>5</sup>

5. It also recalls that a *prima facie* demonstration of harm suffices for the purpose of victim admission, allowing a certain degree of leeway when assessing the information provided by an applicant, the limits of which are to be assessed ‘on a case-by-case basis, in light of the specific information provided by the applicants and the link between the alleged harm suffered and the parameters of the charges’.<sup>6</sup> On the basis of these principles, the Chamber will assess the Applications individually, below.

## **B. The Chamber’s determinations**

### *I. Applications related to the alleged Anti-Balaka attack in Bangui starting on 5 December 2013*

6. The Chamber recalls that, in the context of the alleged Anti-Balaka attack in Bangui starting on 5 December 2013 (the ‘5 December 2013 Attack’), PTC II confirmed the charges of, *inter alia*, (i) directing attacks against the civilian population, ‘in Bangui, including Cattin and the Boeing market, starting on 5 December 2013, on the basis of the conduct pertaining to Counts 2 to 6 and 8’ (Count 1); (ii) forcible transfer, deportation and displacement, for ‘the dislocation of nearly all Muslim persons residing in Cattin and Boeing to PK5, a predominantly Muslim neighbourhood in Bangui, other parts of the CAR or neighbouring countries, starting from 5 December 2013 in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013’ (Counts 4 and 5); and (ii) persecution, by virtue of the conduct pertaining to the abovementioned counts (Count 8).<sup>7</sup>

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<sup>5</sup> Confirmation Decision, 11 December 2019, ICC-01/14-01/18-403-Conf-Corr (corrected version and corrected version of public redacted version notified on 14 May 2020; public redacted version of corrected version notified on 29 June 2021, ICC-01/14-01/18-403-Corr-Red).

<sup>6</sup> First Group C Decision, ICC-01/14-01/18-738, paras 20-21. *See also* the jurisprudence referred to in para. 21, n. 35.

<sup>7</sup> Confirmation Decision, ICC-01/14-01/18-403-Corr-Red, pp. 103-110.

7. The Defence submits that applicants a/65060/19, a/65066/19, a/65079/19, a/65113/19, a/65119/19, a/15102/20, a/15056/20, a/15133/20, a/15118/20, a/15138/20, a/65171/19 and a/66148/19 should be rejected as falling outside the geographical scope of the 5 December 2013 Attack.<sup>8</sup> It also submits that specific information provided by applicants a/15056/20 and a/15133/20 further support that they should be dismissed.<sup>9</sup>
8. In addition, the Defence requests the dismissal of applicants a/15307/20, a/15281/20 and a/15119/20 to the extent that they claim harm as a result of an attack ‘having occurred any time after 5 December 2013, *irrespective of the location, i.e.* despite the reported location being Boeing or Cattin’.<sup>10</sup> With regard to application a/65170/19, the Defence defers to the Chamber’s discretion.<sup>11</sup>
9. Applicant **a/65060/19**<sup>12</sup> resided, at the time relevant to the charges, in *quartier Sénégalais* in the 3<sup>rd</sup> *arrondissement* of Bangui. She states that following an attack which started on 5 December 2013 and ended at the end of that month, she had to flee, together with her children, to Ndjamena in Chad. She claims that the Anti-Balaka and Bozizé are responsible for the attack, and that she suffered harm as a result thereof.
10. Applicant **a/65066/19**<sup>13</sup> resided, at the time relevant to the charges, in *quartier Sara* in the 3<sup>rd</sup> *arrondissement* of Bangui. She claims that following an Anti-Balaka attack against Muslims on 5 December 2013, she had to flee to Ndjamena in Chad. She states that her children disappeared and her house was destroyed during the attack, and that she suffered harm as a result thereof.
11. Applicant **a/65079/19**<sup>14</sup> resided, at the time relevant to the charges, in *quartier Sanga Bibalé* in the 3<sup>rd</sup> *arrondissement* of Bangui. She claims that during an attack on 5 December 2013, she was shot, as a result of which she had to be

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<sup>8</sup> Defence Observations, ICC-01/14-01/18-953, paras 23-26, 28.

<sup>9</sup> Defence Observations, ICC-01/14-01/18-953, para. 27.

<sup>10</sup> Defence Observations, ICC-01/14-01/18-953, paras 33-41.

<sup>11</sup> Defence Observations, ICC-01/14-01/18-953, para. 41.

<sup>12</sup> Annex 16 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx16-Red.

<sup>13</sup> Annex 17 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx17-Red.

<sup>14</sup> Annex 18 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx18-Red.

hospitalised before being evacuated to Chad, together with her children, at the beginning of January 2014, and that to this day she has not heard any news from her husband. She considers Bozizé responsible for the attack and claims to have suffered harm as a result thereof.

12. Applicant **a/65113/19**<sup>15</sup> resided, at the time relevant to the charges, in *quartier Castor* in the 3<sup>rd</sup> *arrondissement* of Bangui. He claims that he had to flee his home following an Anti-Balaka attack on 5 December 2013. He considers Bozizé responsible for the attack and claims to have suffered harm as a result thereof.
13. Applicant **a/65119/19**<sup>16</sup> resided, at the time relevant to the charges, in *quartier Ramandji* in the 3<sup>rd</sup> *arrondissement* of Bangui. She claims that, following an attack on 5 December 2013, she, her husband and their children had to flee their home. She states that she was relocated to Chad together with her children but that she has not heard back from her husband since that night, having been told that he had been killed. She holds Bozizé responsible for the attack and claims to have suffered harm as a result thereof.
14. Applicant **a/15102/20**<sup>17</sup> resided, at the time relevant to the charges, in *quartier Yaloua* in the 3<sup>rd</sup> *arrondissement* of Bangui. He claims that he and his parents had to flee to Ndjamena in Chad following an Anti-Balaka attack on 5 December 2013. He claims that his mother was first evacuated to Chad, followed by his father and himself in March 2014. He holds Bozizé responsible for the attack and claims to have suffered harm as a result thereof.
15. Applicant **a/15118/20**<sup>18</sup> resided, at the time relevant to the charges, in *quartier Yakité* in the 3<sup>rd</sup> *arrondissement* of Bangui. He claims that, following an Anti-Balaka attack on 5 December 2013, he was evacuated to the ‘*mosquée*’ and then to the airport before being transferred to Chad. He claims to have suffered harm as a result thereof.

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<sup>15</sup> Annex 19 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx19-Red.

<sup>16</sup> Annex 20 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx20-Red.

<sup>17</sup> Annex 3 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx3-Red.

<sup>18</sup> Annex 4 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx4-Red.

16. Applicant **a/15138/20**<sup>19</sup> resided, at the time relevant to the charges, in PK5 in the 3<sup>rd</sup> *arrondissement* of Bangui, next to the ‘*grande mosquée centrale*’. She claims that, following an attack on 5 December 2013, she had to flee her home and was transferred, together with her children, to Ndjamena in Chad. She holds the Anti-Balaka responsible for the attack and claims to have suffered harm as a result thereof.
17. The Chamber notes that the above applicants indicate that, at the time relevant to the charges, they all resided in neighbourhoods located in the 3<sup>rd</sup> *arrondissement* of Bangui, which neighbours the Cattin area.<sup>20</sup> It further considers that the description of the relevant events provided by each applicant, in particular in terms of date, location, target, alleged perpetrators or those held responsible for it, and type of alleged harm suffered as a consequence of the events described, indicates that the applicants refer to the 5 December 2013 Attack. The Chamber is therefore satisfied that the applicants have, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. Thus, the Chamber authorises applicants a/65060/19, a/65066/19, a/65079/19, a/65113/19, a/65119/19 a/15102/20, a/15118/20 and a/15138/20 to participate as victims in the present proceedings.
18. Applicant **a/15056/20**<sup>21</sup> resided, at the time relevant to the charges, in *quartier Fondo* in the 3<sup>rd</sup> *arrondissement* of Bangui. He states that, during an attack on 5 December 2013, Anti-Balaka elements coming from *quartier Combattant* attacked his house and pillaged all his belongings. He claims that, following the attack, he was forced to go to some mosques. He holds Mr Ngaïssona responsible for the attack and claims to have suffered harm as a result thereof.
19. The Defence argues that the fact that the Anti-Balaka came from *quartier Combattant* rules out ‘any possibility that this incident is covered by the confirmed charges.’<sup>22</sup> However, and regardless of where the Anti-Balaka elements allegedly came from, the Chamber notes that the applicant indicates that, at the

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<sup>19</sup> Annex 7 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx7-Red.

<sup>20</sup> See also First Group C Decision, ICC-01/14-01/18-738, para. 29.

<sup>21</sup> Annex 2 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx2-Red.

<sup>22</sup> Defence Observations, ICC-01/14-01/18-953, para. 27.

time relevant to the charges, he resided in *quartier Fondo*, located in the 3<sup>rd</sup> *arrondissement* of Bangui, which neighbours the Cattin area. The Chamber further considers that the description of the relevant events provided by the applicant, including date, location, target, alleged perpetrators and person held responsible, and type of alleged harm suffered as a consequence of the events described, indicates that the applicant refers to the 5 December 2013 Attack. The Chamber is therefore satisfied that the applicant has, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. Accordingly, the Chamber authorises applicant a/15056/20 to participate as a victim in the present proceedings.

20. Applicant **a/15133/20**<sup>23</sup> claims to have suffered harm as a result of an attack against a group of Muslims at the ‘*marché de PK5 (cinq Kilo)*’ in the 3<sup>rd</sup> *arrondissement* of Bangui on 5 December 2013. The applicant holds ‘*Commandant de la milice Anti-Balaka surnommé Francis*’ responsible for the attack.
21. The Defence submits that this application should be dismissed on the basis that it (i) does not indicate ‘what happened to the alleged victim who mentions only an attack against “*un groupe de musulmans*”’, and (ii) identifies ‘*Commandant de la milice Anti-Balaka surnommé Francis*’ as the perpetrator of the attack.<sup>24</sup> In this regard, the Chamber observes that the applicant provides details about the physical, psychological and material harm suffered as a consequence of the attack described<sup>25</sup> and requests, *inter alia*, the reparation of his ‘*logement*’.<sup>26</sup> Further, while the applicant identifies ‘*Commandant Francis*’ as the person responsible for the attack, the Chamber notes that he attributes the commission of the attack, in more general terms, to the Anti-Balaka, and that the harm is claimed to have occurred as a result of that attack. Thus, having considered the description of the relevant events as provided in the application, the Chamber is satisfied that the applicant refers to the 5 December 2013 Attack and that he has, on a *prima facie*

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<sup>23</sup> Annex 6 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx6-Red.

<sup>24</sup> Defence Observations, ICC-01/14-01/18-953, para. 27.

<sup>25</sup> See Annex 6 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx6-Red, p. 1, where the applicant indicates that he suffered, *inter alia*, a bodily injury and the pillaging and destruction of his belongings.

<sup>26</sup> See Annex 6 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx6-Red, p. 2.



basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. The Chamber therefore authorises applicant a/15133/20 to participate as a victim in the present proceedings.

22. Applicant **a/66148/19**<sup>27</sup> resided, at the time relevant to the charges, in *quartier Kpetene* in the 6<sup>th</sup> *arrondissement* of Bangui. She claims that an attack by Anti-Balaka elements in Cattin caused a massive displacement of people from surrounding neighbourhoods, including *quartier Kpetene*, by the entrance of KM5. She states that following these events she had to flee with her family to the south of Bangui and that, upon her return, her belongings had been pillaged. She refers to 5 December 2013 as the relevant date, holds Mr Yekatom responsible for the events described and claims to have suffered harm as a result thereof.
23. The Chamber notes that *quartier Kpetene*, while located within the 6<sup>th</sup> *arrondissement* of Bangui, borders the 3<sup>rd</sup> *arrondissement*; and that while this neighbourhood was not the direct subject of the alleged attack, the applicant states that, as a consequence of such attack, she had to flee her home, suffering harm as a result thereof. The Chamber further considers that the description of the relevant events provided by the applicant, including date, target, alleged perpetrators and person held responsible, and consequences of the events described (a massive displacement of people in addition to alleged individual harm), indicates that the applicant refers to the 5 December 2013 Attack. The Chamber is therefore satisfied that this applicant has, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. Accordingly, the Chamber authorises applicant a/66148/19 to participate as a victim in the present proceedings.
24. Applicant **a/65170/19**<sup>28</sup> resided, at the time relevant to the charges, in *quartier Boeing* in the 3<sup>rd</sup> *arrondissement* of Bangui. She states that following an attack by Mr Yekatom's Anti-Balaka elements on 6 December 2013, during which they beat her and pillaged the belongings in her house, she had to flee to KM5, and suffered harm as a result thereof.

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<sup>27</sup> Annex 25 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx25-Red.

<sup>28</sup> Annex 21 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx21-Red.

25. The Chamber considers that the description of the relevant events provided by the applicant, in particular in terms of date, location, target, alleged perpetrators and type of alleged harm suffered as a consequence of the events described, indicates that the applicant refers to the 5 December 2013 Attack. The Chamber is therefore satisfied that the applicant has, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. Accordingly, applicant a/65170/19 is authorised to participate as a victim in the present proceedings.
26. Applicant **a/15307/20**<sup>29</sup> resided, at the time relevant to the charges, in *quartier Boeing* in the 3<sup>rd</sup> *arrondissement* of Bangui. She claims that Mr Yekatom's Anti-Balaka elements established their base at the Yamwara School and that there was a massive displacement of people from the neighbourhoods that had been attacked to the neighbourhoods that had not. She further claims that she had to flee her home, after which all her belongings were pillaged and her house was destroyed. She refers to 10 December 2013 as the relevant date for the events described and holds Mr Yekatom responsible for these events.
27. The Defence objects to application a/15307/20 on the basis that the applicant's flight did not occur in the context of the 5 December 2013 Attack 'but as a result of the alleged presence of Mr Yekatom's Anti-Balaka group at the Yamwara School'.<sup>30</sup> The Chamber is unpersuaded by this argument. It considers that the description of the relevant events provided by the applicant, including date, location, alleged perpetrators and person held responsible, and consequences of the events described (a massive displacement of people as well as alleged individual harm), indicates that she refers to the 5 December 2013 Attack. The fact that the applicant mentions Mr Yekatom's elements establishing a base at the Yamwara School is not in contradiction with the above finding. Thus, the Chamber is satisfied that the applicant has, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. The

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<sup>29</sup> Annex 12 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx12-Red.

<sup>30</sup> Defence Observations, ICC-01/14-01/18-953, para. 38.

Chamber therefore authorises applicant a/15307/20 to participate as a victim in the present proceedings.

28. Applicant **a/15281/20**<sup>31</sup> resided, at the time relevant to the charges, in *quartier Cattin* in the 3<sup>rd</sup> *arrondissement* of Bangui. She states that following an Anti-Balaka attack on 16 December 2013, she fled to ‘*mosquée Kina*’ and then stayed at ‘*mosquée centrale*’ for several months before being relocated to Chad with her family, and that she was told her husband was killed by the Anti-Balaka during the attack. She claims to have suffered harm as a result thereof.
29. The Defence objects to this application, asserting that the applicant’s flight did not occur in the context of the 5 December 2013 Attack but as a result of ‘an alleged attack on 16 December 2013’.<sup>32</sup> The Chamber is unpersuaded by this argument. The charges in the present case refer specifically to a series of criminal acts which are alleged to have been conducted ‘in the context of’ the attack on Bangui starting on 5 December 2013. The Chamber considers that the description of the relevant events as provided by the applicant, in particular in terms of location, target, alleged perpetrators and type of alleged harm suffered as a consequence of the events described, indicates that the applicant refers to the 5 December 2013 Attack. The Chamber is therefore satisfied that the applicant has, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. On this basis, applicant a/15281/20 is authorised to participate as a victim in the present proceedings.
30. Applicant **a/15119/20**<sup>33</sup> claims to have suffered harm as a result of an attack by Anti-Balaka elements against Central African Muslims of Chadian origin at ‘*quartier Boyigui*’ at the end of December 2013. The applicant states that this attack required the intervention of the Chadian army and that she suffered, *inter alia*, a gunshot injury and the pillaging and destruction of her belongings.

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<sup>31</sup> Annex 8 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx8-Red.

<sup>32</sup> Defence Observations, ICC-01/14-01/18-953, para. 39.

<sup>33</sup> Annex 5 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx5-Red.

31. The Defence objects to this application, arguing that (i) the Registry fails to substantiate its belief that the applicant refers to Boeing and not to ‘*Boyigui*’,<sup>34</sup> particularly considering that Boeing is located outside the 3<sup>rd</sup> *arrondissement*; and (ii) the application refers to harm suffered outside the context of the 5 December Attack.<sup>35</sup> The Chamber notes that the applicant does not provide a specific date and that she does not specify whether she had to flee her home as a result of the events described in her application. However, with regard to the relevant location, the Chamber also notes the phonetic similarity between Boeing and ‘*Boyigui*’ and the absence of any indication that a ‘*quartier Boyigui*’ exists in the 3<sup>rd</sup> *arrondissement* of Bangui, which suggests that she could have referred to Boeing. Therefore, the Chamber considers that in order to determine whether this applicant has suffered harm as a result of the crimes of displacement, forcible transfer and deportation under Counts 4 and 5, additional information would be required on (i) the location of the applicant’s place of residence at the time relevant to the charges, (ii) the date of the events described in her application, and (iii) whether she had to flee her home as a result of those events.

## ***II. Applications related to the alleged crimes committed along the PK9-Mbaïki axis***

32. The Chamber recalls that PTC II confirmed the charges of (i) forcible transfer, deportation and displacement, for ‘the dislocation of the majority of the Muslim population from their towns and villages between on or about 10 January 2014 and on or about 6 February 2014, in the context of the Anti-Balaka’s advance through and takeover of villages along the PK9-Mbaïki axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki)’ (Counts 24 and 25); and (ii) persecution, by virtue of the conduct pertaining to the abovementioned counts (Count 28).<sup>36</sup>

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<sup>34</sup> See Annex I to the Registry Report, ICC-01/14-01/18-939-Conf-AnxI, p. 5, n. 1, where the Registry notes that it ‘believes that the applicant refers to Boeing in his/her form (and not Boyingui) but [...] the person assisting the victim in filing the application form reported what he/she heard phonetically from the victim’, and further notes that ‘the applicants’ diction/pron[u]nciation of neighbourhoods is often influenced by their mother tongue Haoussa, or Fulani’.

<sup>35</sup> Defence Observations, ICC-01/14-01/18-953, para. 40.

<sup>36</sup> Confirmation Decision, ICC-01/14-01/18-403-Corr-Red, pp. 104-106, 108, 110.

33. The Defence requests the dismissal of applicants a/65433/19 and a/20103/21, on the basis that they allege harm suffered in villages which are neither specifically listed in the Confirmation Decision nor directly located on the PK9-Mbaïki axis.<sup>37</sup> With regard to application a/65171/19, the Defence defers to the Chamber's discretion 'for the part referring to incidents in Kpalongo'.<sup>38</sup>
34. In addition, the Defence contends that the events described in applications a/15387/20, a/15418/20, a/15015/20 and a/66029/19 fall outside the temporal scope of the case and should therefore be rejected.<sup>39</sup>
35. Applicant **a/65171/19**<sup>40</sup> claims to have suffered harm as a result of the destruction by Mr Yekatom's elements of (i) a house in Kpalongo, in PK15, on the Mbaïki axis, on 12 January 2014; and (ii) houses and shops in *quartier Béa-Rex* in the 3<sup>rd</sup> *arrondissement* of Bangui, on 5 December 2013. He claims to have sought refuge in Cameroon.
36. The Chamber notes that while the applicant does not specify his place of residence at the time relevant to the charges, the fact that he had to flee following the destruction of his houses in Kpalongo and Bangui suggests that he lived in one of these houses. It further considers that the description of the relevant events provided by the applicant, in particular in terms of dates, locations, target, alleged perpetrators and type of alleged harm suffered as a consequence of the events described, indicates that the harm alleged by the applicant falls within the scope of the charges in the present case, that is, either those concerning alleged crimes committed 'in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki)' or the 5 December 2013 Attack. Thus, the Chamber is satisfied that the applicant has, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. On this

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<sup>37</sup> Defence Observations, ICC-01/14-01/18-953, paras 29-32.

<sup>38</sup> Defence Observations, ICC-01/14-01/18-953, para. 32.

<sup>39</sup> Defence Observations, ICC-01/14-01/18-953, paras 42-45.

<sup>40</sup> Annex 22 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx22-Red.

basis, applicant a/65171/19 is authorised to participate as a victim in the present proceedings.

37. Applicant **a/65433/19**<sup>41</sup> claims to have suffered harm following an attack on 20 January 2014 by the Anti-Balaka on the village of Gbolika – which is located in the surroundings of Sekia, approximately 4.5 kilometres away from the PK9-Mbaïki road. She states that as a result of this attack, she and her family had to flee to the forest and the Anti-Balaka pillaged all their belongings.
38. Applicant **a/20103/21**<sup>42</sup> claims to have suffered harm following an attack on 15 January 2014 by the Anti-Balaka on the village of Yombo – which is approximately 6 kilometres away from the PK9-Mbaïki road. The applicant claims that, after hiding in the fields and on his way to Bangui, the Anti-Balaka found him and beat him almost to death, after which he was able to reach Bangui and seek refuge in the ‘*Mosquée centrale*’ of KM5. He claims that all his belongings were pillaged and destroyed after his departure.
39. The Chamber considers that the description of the relevant events as provided by the above applicants, in particular in terms of dates, locations, target, alleged perpetrators and type of alleged harm suffered as a consequence of the events described, indicates that the applicants refer to alleged crimes committed ‘in the context of the Anti-Balaka’s advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki)’. The Chamber is thus satisfied that the applicants have, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. On this basis, the Chamber authorises applicants a/65433/19 and a/20103 to participate as victims in the present proceedings.
40. Applicant **a/15387/20**<sup>43</sup> claims that following an attack by the Anti-Balaka elements of ‘Rambo’ on 16 December 2013, she had to flee from Bossongo on the PK9-Mbaïki axis to Bangui. She claims that the Anti-Balaka set her house on

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<sup>41</sup> Annex 23 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx23-Red.

<sup>42</sup> Annex 15 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx15-Red.

<sup>43</sup> Annex 13 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx13-Red.

fire and pillaged all the belongings inside it, and that she suffered harm as a result thereof.

41. Applicant **a/15418/20**<sup>44</sup> claims that following an attack by Mr Yekatom's Anti-Balaka elements on 17 December 2013, she had to flee from Sekia on the PK9-Mbaïki axis to Bangui. She claims that she was a target of the attack because of her Muslim religion, and that she was persecuted and deprived of her freedom. She further states that the Anti-Balaka pillaged all her belongings and told her that they would come back. She claims to have suffered harm as a result thereof.
42. Applicants a/15387/20 and a/15418/20 refer to attacks carried out by the Anti-Balaka on their villages along the PK9-Mbaïki axis on 16 and 17 December 2013, respectively. The Chamber notes that these dates deviate considerably from the confirmed timeframe of the charges under Counts 24 and 25, notably 'between on or about 10 January 2014 and on or about 6 February 2014'.<sup>45</sup> Moreover, it considers that the remainder of the information contained in the applications does not enable the Chamber to conclude that the applicants suffered harm as a result of crimes falling within the parameters of the charges, notably the alleged crimes committed along the PK9-Mbaïki axis. The applications for participation by applicants a/15387/20 and a/15418/20 are therefore rejected.
43. Applicant **a/15015/20**<sup>46</sup> claims to have suffered harm as a result of her flight from Mbaïki on 15 February 2014. She claims that her house was destroyed and her belongings and animals pillaged, causing her psychological, economic and material harm, and holds Mr Yekatom responsible.
44. The Defence submits that this application, in addition to falling outside the temporal scope of the present case, falls outside its material scope, noting that the applicant 'does not specify that [her] departure was caused in any way by an alleged attack'.<sup>47</sup> In this regard, the Chamber notes that while the applicant indicates that she had to flee Mbaïki on 15 February 2014 '*sans rien avec*' and that, upon her return, '*nous avons tout perdu*', referring to the fact that her house

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<sup>44</sup> Annex 14 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx14-Red.

<sup>45</sup> See above paragraph 32.

<sup>46</sup> Annex 1 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx1-Red.

<sup>47</sup> Defence Observations, ICC-01/14-01/18-953, para. 44.

had been destroyed and her belongings and animals pillaged, she does not indicate that she had to flee her house as a consequence of an attack by the Anti-Balaka. However, the Chamber also observes that the applicant makes explicit reference to Mr Yekatom. Therefore, the Chamber considers that in order to determine whether the applicant has suffered harm as a result of the crimes of displacement, forcible transfer and deportation under Counts 24 and 25, additional information would be required on (i) the events that resulted in the destruction of her house and the pillaging of her belongings and animals, and (ii) whether she had to flee her home as a result of those events.

45. Applicant **a/66029/19**<sup>48</sup> claims to have suffered harm as a result of his flight from *quartier Baguirmi* in Mbaïki to Bangui following an Anti-Balaka attack on 28 February 2014. The applicant claims that he and his brothers sought refuge in the camp of the Congolese soldiers of 'MISCA', who escorted them to Bangui the next day; and that he lost the family home and his belongings.
46. The Chamber notes that the applicant refers to an attack carried out by the Anti-Balaka on 28 February 2014, a date which considerably deviates from the confirmed timeframe of the charges under Counts 24 and 25, notably 'between on or about 10 January 2014 and on or about 6 February 2014'.<sup>49</sup> In this regard, the Chamber observes that the applicant states that '*c'était le 28 Février 2014 que tout mon malheur avai[t] commencé lorsque les anti-balaka commençaient à attaquer les civils musulmans*' and alleges that he and his brothers were evacuated to Bangui on 29 February 2014. Moreover, it considers that the remainder of the information contained in the application does not enable the Chamber to conclude that the applicant suffered harm as a result of crimes falling within the parameters of the charges. The application for participation by applicant a/66029/19 is therefore rejected.

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<sup>48</sup> Annex 24 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx24-Red.

<sup>49</sup> See above paragraph 32.



### ***III. Applications related to the alleged crimes committed in Bossangoa***

47. The Chamber recalls that PTC II confirmed the charges of (i) destruction of the adversary's property, 'for the destruction of Muslim houses, especially in the predominantly Muslim neighbourhoods of Boro, Arabe and Fulbe, in the context of the attack on Bossangoa on 5 December 2013 and in the days after the attack' (Count 33); and (ii) pillaging, 'for the pillaging and looting of the houses of Muslims, particularly in the Boro, Arabe and Fulbe neighbourhoods, sometimes writing the words "Anti-Balaka" on the rubble, in the context of the attack on Bossangoa on 5 December 2013' (Count 34).<sup>50</sup>
  
48. The Defence requests the dismissal of applicants a/15304/20 and a/15303/20 'as it would overstretch the [Confirmation Decision] to conclude that these applications fall within the temporal scope of the case', and defers to the Chamber's discretion with regard to applicant a/15302/20.<sup>51</sup>
  
49. Applicant **a/15302/20**<sup>52</sup> claims to have suffered harm as a result of the burning of his house in Bossangoa by the elements of '*Coordinateur ComZon*' Mr Ngaïssona on 10 December 2013. He claims to have lost all his belongings.
  
50. The Chamber observes that the applicant indicates that the events described occurred on 10 December 2013, and notes in this regard that the destruction of the adversary's property under Count 33 took place, according to the Confirmation Decision, 'in the context of the attack on Bossangoa on 5 December 2013 and in the days after the attack'.<sup>53</sup> The Chamber further considers that the description of the relevant events provided by the applicant, in particular in terms of date, location, alleged perpetrators, and type of alleged harm suffered as a consequence of the events described, indicates that the applicant refers to the alleged crimes committed in Bossangoa. The Chamber is therefore satisfied that the applicant has, on a *prima facie* basis, demonstrated a link between the alleged harm suffered and the parameters of the charges. On this basis, the Chamber

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<sup>50</sup> Confirmation Decision, ICC-01/14-01/18-403-Corr-Red, p. 108.

<sup>51</sup> Defence Observations, ICC-01/14-01/18-953, para. 46.

<sup>52</sup> Annex 9 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx9-Red.

<sup>53</sup> See above paragraph 47.

authorises applicant a/15302/20 to participate as a victim in the present proceedings.

51. Applicant **a/15304/20**<sup>54</sup> claims to have suffered harm as a result of the burning of his house in Bossangoa and the pillaging of his belongings by Mr Ngaïssona's Anti-Balaka elements on 20 December 2013.
52. Applicant **a/15303/20**<sup>55</sup> claims to have suffered harm as a result of the pillaging of his car and other belongings by Mr Yekatom's elements in Bossangoa on 28 December 2013. He claims that he was threatened and his house was destroyed, and that the person responsible is Mr Ngaïssona.
53. The Chamber notes that applicants a/15304/20 and a/15303/20 indicate that their houses were destroyed and their belongings pillaged by the Anti-Balaka on 20 and 28 December 2013, respectively. The Chamber notes that these dates deviate considerably from the confirmed timeframe of the charges under Counts 33 and 34, notably 'on 5 December 2013 and in the days after the attack'.<sup>56</sup> Moreover, it considers that the remainder of the information contained in the applications does not enable the Chamber to conclude that the applicants suffered harm as a result of crimes falling within the parameters of the charges. The applications for participation by applicants a/15304/20 and a/15303/20 are therefore rejected.

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

**ADMITS** applicants a/65060/19, a/65066/19, a/65079/19, a/65113/19 , a/65119/19, a/15102/20, a/15056/20, a/15133/20, a/15118/20, a/15138/20, a/65171/19, a/66148/19, a/65433/19, a/20103/21, a/65170/19, a/15307/20, a/15281/20 and a/15302/20, as participating victims;

**DEFERS** its decision with regard to applicants a/15119/20 and a/15015/20;

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<sup>54</sup> Annex 11 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx11-Red.

<sup>55</sup> Annex 10 to the Second Transmission, ICC-01/14-01/18-940-Conf-Anx10-Red.

<sup>56</sup> See above paragraph 47.

**DIRECTS** the Registry to seek additional information in relation to applicants a/15119/20 and a/15015/20, as provided in paragraphs 31 and 44 above, and to report back to the Chamber as soon as practicable; and

**REJECTS** applicants a/15387/20, a/15418/20, a/66029/19, a/15304/20 and a/15303/20.

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



**Judge Péter Kovács**



**Judge Bertram Schmitt**

**Presiding Judge**



**Judge Chang-ho Chung**

Dated 8 September 2021

At The Hague, The Netherlands