



**Original: English**

No. **ICC-01/14-01/18**  
Date: **3 February 2023**

**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**

**Decision on the CLRV Request for a Procedure to Inform  
Crime-based Witnesses about the Possibility to Apply to Participate  
in the Proceedings as Victims**

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 Ngaissona*, having regard to Articles 64(2) and 68 of the Rome Statute, Rules 16, 85, 86 and 89 of the Rules of Procedure and Evidence, and Regulation 86 of the Regulations of the Court, issues this ‘Decision on the CLRV Request for a Procedure to Inform Crime-based Witnesses about the Possibility to Apply to Participate in the Proceedings as Victims’.

1. On 13 December 2022,<sup>1</sup> the Common Legal Representative of the Former Child Soldiers and the Common Legal Representatives of the Victims of Other Crimes (the ‘CLR2’ and, jointly, the ‘CLR’) requested that the Chamber adopt a procedure whereby ‘crime-based witnesses who have already testified and those who will be called to testify are informed of the possibility and assisted to apply to participate as victims in the proceedings’ (the ‘Request’).<sup>2</sup>
2. On 21 December 2022,<sup>3</sup> the Registry supported the Request.<sup>4</sup>
3. On 23 December 2022, the Yekatom Defence indicated that while it does not oppose the Request, it suggests certain amendments to the procedure proposed by the CLR.<sup>5</sup>
4. The Chamber notes that the CLR have so far addressed three *ad hoc* requests to the Chamber concerning three potential dual status individuals who testified before the Chamber but were apparently unaware of the possibility to apply to participate as victims in the proceedings. It notes that, in these instances, the

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<sup>1</sup> Upon receipt of the CLR’s request by email, the Single Judge, noting that it would be more appropriate to rule on the request on the record, instructed the CLR to submit it by way of a formal filing (*see* email from the CLR, 30 November 2022, at 11:41; email from the Chamber, 5 December 2022, at 14:24).

<sup>2</sup> Common Legal Representatives’ request to establish a procedure for informing crime-based witnesses about the possibility to apply to participate in the proceedings as victims, ICC-01/14-01/18-1698, paras 1, 32. *See further details* on the proposed procedure in paras 2, 23-31.

<sup>3</sup> The Single Judge instructed the Victims Participation and Reparations Section to provide its observations to the Request within the response deadline applicable to the participants (email from the Chamber, 5 December 2022, at 14:24).

<sup>4</sup> Registry’s Observations on the Common Legal Representatives’ Request to Establish a Procedure for Informing Witnesses about the Possibility to Apply to Participate in the Proceedings as Victims, ICC-01/14-01/18-1709, para. 3.

<sup>5</sup> Yekatom Defence Response to the “Common Legal Representatives’ request to establish a procedure for informing crime-based witnesses about the possibility to apply to participate in the proceedings as victims”, ICC-01/14-01/18-1716, para. 2. *See further details* on the suggested amendments in paras 16-27.

Chamber instructed the Victims Participation and Reparations Section (the ‘VPRS’) to contact the concerned witnesses to explain to them the victim participation process and, eventually, to provide them with victim application forms for this purpose.<sup>6</sup>

5. The Chamber notes that this practice is in line with that adopted by other chambers<sup>7</sup> and has so far functioned without any issue on the limited abovementioned occasions. It also notes that the participants have not objected to this practice so far. Moreover, it does not consider that adopting the proposed procedure would result in expedited proceedings.
6. In light of the above, the Chamber sees no need to change the current practice by establishing a formal procedure at this point. Accordingly, it rejects the Request.
7. In line with the current practice, the Chamber will rule on any *ad hoc* requests it receives in relation to potential dual status individuals who testify before the Chamber and are unaware of the possibility to apply as participating victims in the proceedings. The Chamber encourages the CLRV to bring these requests forward as soon as they become aware of any such situation.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**REJECTS** the Request.

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<sup>6</sup> In particular, the CLRV2 addressed a first request to the Chamber asking it that it be allowed to explain the victim participation process to a crime-based witness after he finished his testimony and, eventually, to provide him with an application form. The Single Judge indicated that it considered that the VPRS was ‘best placed to assist the witness with the application process’ and that it trusted that the Registry would ‘take all necessary steps to inform him in this regard’ (email from the CLRV2, 2 March 2022, at 14:57; email from the Chamber, 2 March 2022, at 15:21). Subsequently, the Single Judge granted further requests by the CLRV2 to ‘instruct VPRS to contact the witness to explain him the process of applying to be authorised to participate as a victim in the proceedings and, eventually, to provide him with an application form for this purpose’ in relation to two other crime-based witnesses (email from the CLRV2, 22 November 2022, at 12:06; email from the Chamber, 29 November 2022, at 10:48; email from the CLRV2, 2 December 2022, at 13:40; email from the Chamber, 2 December 2022, at 14:41).

<sup>7</sup> See e.g. *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Registry, Annex 23 to the Registry Quarterly Report on Email Decisions for the month of November 2020, 22 September 2021, ICC-01/12-01/18-1404-Anx23-Red, p. 1.

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

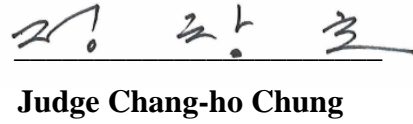


**Judge Bertram Schmitt**

**Presiding Judge**



**Judge Péter Kovács**



**Judge Chang-ho Chung**

Dated 3 February 2023

At The Hague, The Netherlands