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TRIAL CHAMBER VI

Before:

**Judge Miatta Maria Samba, Presiding Judge
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godínez**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF
*THE PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Public

Decision on matters relating to the participation of victims during the trial

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

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TRIAL CHAMBER VI of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Mahamat Said Abdel Kani*, having regard to Articles 64, 68, 69, and 75 of the Rome Statute (the ‘Statute’), Rules 85, 86, and 89-91 of the Rules of Procedure and Evidence (the ‘Rules’), and Regulations 23*bis*, 44, 56, 79-81, 86 and 88 of the Regulations of the Court (the ‘Regulations’) issues this ‘Decision on matters relating to the participation of victim during the trial’.

I. PROCEDURAL HISTORY

1. On 16 April 2021, Pre-Trial Chamber II (the ‘Pre-Trial Chamber’) issued a Decision establishing the principles applicable to victims’ applications for participation (the ‘Application Decision’).¹
2. On 14 September 2021, the Appeals Chamber confirmed the Application Decision (the ‘Application Judgment’).²
3. On 6 October 2021, the Pre-Trial Chamber issued a decision granting 27 individuals participatory status and appointed the Office of the Public Counsel for Victims (the ‘OPCV’) as their common legal representative.³
4. On 9 December 2021, the Pre-Trial Chamber confirmed part of the charges against Mr Said relating to crimes allegedly committed at the *Office Central de Répression du Banditisme* (the ‘OCRB’).⁴ None of the charges relating to alleged crimes committed at the *Comité Extraordinaire pour la Défense des Acquis Démocratiques* (the ‘CEDAD’) were confirmed.⁵

¹ [ICC-01/14-01/21-56](#). On 9 July 2021, the Pre-Trial Chamber rejected the Defence’s request to be provided with all application forms of victims who have been admitted to participate in the proceedings as well as the personal details of all intermediaries of the Victims Participation and Reparations Section (the ‘VPRS’). See [Decision on legal representation of victims and related matters](#), ICC-01/14-01/21-119.

² [Judgment on the appeal of Mr Mahamat Said Abdel Kani against the decision of Pre-Trial Chamber II of 16 April 2021 entitled “Decision establishing the principles applicable to victims’ applications for participation”](#), ICC-01/14-01/21-171 (OA2).

³ [Decision on victim applications for participation in the proceedings and on legal representation of victims](#), ICC-01/14-01/21-199.

⁴ [Public redacted version of Decision on the confirmation of charges against Mahamat Said Abdel Kani](#), ICC-01/14-01/21-218-Red (the ‘Confirmation Decision’).

⁵ [Confirmation Decision](#), para. 153.

5. On 21 January 2022, the Registry informed Trial Chamber VI (the ‘Chamber’) that none of the 27 individuals who were authorised to participate in the confirmation proceedings were linked to the confirmed charges related to crimes allegedly committed at the OCRB.⁶
6. On 28 January 2022, the Chamber held a status conference, during which the Chamber appointed the OPCV to represent the collective interests of future applicants.⁷
7. On 9 March 2022, the Chamber issued the Directions on the Conduct of Proceedings.⁸
8. On 11 March 2022, the Defence filed a request to receive all new victims’ application forms on a rolling basis in accordance with Rule 89(1) of the Rules (the ‘Defence Victim Application Request’).⁹
9. On 18 March 2022, the Prosecution¹⁰ and the OPCV¹¹ responded to the Defence Victim Application Request.

II. ANALYSIS

A. Application and authorisation process

10. During the pre-trial phase, the Pre-Trial Chamber, *inter alia*, adopted an approach whereby the Registry classifies victims applications for participation in the proceedings into three categories: applicants which clearly qualify (Group A) or clearly do not qualify (Group B) as victims and applicants where such clear determination cannot be

⁶ [Annex II](#) to the Registry Submissions in view of the 28 January 2022 Status Conference, 21 January 2022, ICC-01/14-01/21-229-Conf-Exp-AnxII (public redacted version notified on the same day), para. 6.

⁷ Transcript of hearing, 28 January 2022, ICC-01/14-01/21-T-007-CONF-ENG, p. 47, lines 10-12.

⁸ [ICC-01/14-01/21-251](#).

⁹ [Demande de la Défense se fondant sur les informations actualisées portant sur le nombre de demandes de participation de victimes déposées et anticipées dans la présente affaire visant à ce que ces demandes soient communiquées aux Parties en application du Jugement d'appel du 14 septembre 2021 \(ICC-01/14-01/21-171\)](#), ICC-01/14-01/21-255.

¹⁰ [Prosecution’s Response to Defence’s Request Seeking Updated Information on Victims Participation \(ICC-01/14-01/21-255\)](#), 18 March 2022, ICC-01/14-01/21-261.

¹¹ [Victims’ response to the “Demande de la Défense se fondant sur les informations actualisées portant sur le nombre de demandes de participation de victimes déposées et anticipées dans la présente affaire visant à ce que ces demandes soient communiquées aux Parties en application du Jugement d'appel du 14 septembre 2021 \(ICC-01/14-01/21-171\)”](#), 18 March 2022, ICC-01/14-01/21-263, para.

made (Group C) (the ‘A-B-C Approach’).¹² In accordance with the established system, the Pre-Trial Chamber assessed the Group A and B applications unilaterally on the basis of the Registry’s recommendations.¹³ Only Group C applications were transmitted to the parties, who had an opportunity to submit observations thereon.

1. Processing of applications

11. In its submissions for the first status conference, the Registry recommended the Chamber to maintain the A-B-C Approach.¹⁴ The Defence, on the other hand, expressed its wish to be provided with the application forms of all individuals who apply to participate in the trial proceedings. It argued that, given the relatively small number of expected applications, it would be quite feasible for the VPRS to disclose applications, with the necessary redactions on a rolling basis.¹⁵ The Defence reiterated this request in the Defence Victim Application Request, which was joined by the Prosecution.¹⁶

12. In its response to the Defence Victim Application Request, the OPCV submitted that it is for the Chamber to decide which procedure it wishes to adopt regarding the transmission and admission of victims’ applications and suggested that the Registry might be in a position to make a recommendation in this regard.¹⁷

13. On 21 January 2022, the Registry informed the Chamber that it expected that a few hundred individuals might potentially qualify as victims having suffered harm as a

¹² [Application Decision](#), paras 32-36. The Pre-Trial Chamber had previously adopted the same approach in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona* (the ‘Yekatom and Ngaïssona case’). See Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom & Patrice-Edouard Ngaïssona*, [Decision Establishing the Principles Applicable to Victims’ Applications for Participation](#), 5 March 2019, ICC-01/14-01/18-141.

¹³ [Decision on victim applications for participation in the proceedings and on legal representation of victims](#), ICC-01/14-01/21-199, paras. 35-39.

¹⁴ [Annex II](#) to the Registry Submissions in view of the 28 January 2022 Status Conference, 21 January 2022, ICC-01/14-01/21-229-Conf-Exp-AnxII (public redacted version notified on the same day), paras 16-18.

¹⁵ Transcript of hearing, 28 January 2022, ICC-01/14-01/21-007-CONF-ENG, p. 44, line 19 to p. 45, line 20.

¹⁶ [Prosecution’s Response to Defence’s Request Seeking Updated Information on Victims Participation \(ICC-01/14-01/21-255\)](#), 18 March 2022, ICC-01/14-01/21-261.

¹⁷ [Victims’ response to the “Demande de la Défense se fondant sur les informations actualisées portant sur le nombre de demandes de participation de victimes déposées et anticipées dans la présente affaire visant à ce que ces demandes soient communiquées aux Parties en application du Jugement d’appel du 14 septembre 2021 \(ICC-01/14-01/21-171\)”](#), 18 March 2022, ICC-01/14-01/21-263, para. 13.

result of the confirmed charges.¹⁸ On 1 April 2022, the Registry indicated that it had actually received 20 new applications for participation, as well as additional information regarding six applications that were rejected at the pre-trial stage.¹⁹

14. The Chamber is aware that the standard practice of the Court in most recent cases has been to adopt the A-B-C- Approach.²⁰ The Appeals Chamber confirmed that the A-B-C Approach is not intrinsically incompatible with Rule 89(1) of the Rules and the statutory framework in general.²¹ The Appeals Chamber further held that it is not *per se* impermissible to withhold transmission of all victim applications, as long as this is not prejudicial to or inconsistent with the rights of the accused.²² The Appeals Chamber also indicated that the purpose of transmitting applications to the parties is to allow them to make observations thereon and, in this way, assist the Chamber in determining whether or not the applicants qualify as victims for the purposes of participation.²³

15. The Appeals Chamber further stressed that chambers have been afforded a high degree of discretion in terms of how to organise the victims application process²⁴ and that any decision on the most appropriate system must always be case-specific, based on objective information and the result of a proper balancing of all interests at stake.²⁵

¹⁸ [Annex II](#) to the Registry Submissions in view of the 28 January 2022 Status Conference, 21 January 2022, ICC-01/14-01/21-229-Conf-Exp-AnxII (public redacted version notified on the same day), para. 8.

¹⁹ Email message from VPRS Chief to Trial Chamber VI Communications, 1 April 2022, at 17:42.

²⁰ Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, [Decision on victims' participation in trial proceedings](#), 6 February 2015, ICC-01/04-02/06-449, para. 24 and paras 29-33; Pre-Trial Chamber I, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Decision Establishing the Principles Applicable to Victims' Applications for Participation](#), 24 May 2018, ICC-01/12-01/18-37-tENG, para. 59; Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, [Decision Establishing the Principles Applicable to Victims' Applications for Participation](#), 5 March 2019, ICC-01/14-01/18-141, para. 41; Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Decision on the procedure for the admission of victims to participate in proceedings for the purposes of trial](#), 12 March 2020, ICC-01/12-01/18-661, para. 1; Trial Chamber V, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, [Order Scheduling First Status Conference](#), 19 March 2020, ICC-01/14-01/18-459, para. 8 (iv); Pre-Trial Chamber II, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, [Decision establishing the principles applicable to victims' participation and representation during the Confirmation Hearing](#), 18 January 2021, ICC-02/05-01/20-259, para. 34; Trial Chamber I, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")*, [Decision on victims' participation and legal representation in trial proceedings](#), 19 October 2021, ICC-02/05-01/20-494, para. 15.

²¹ [Application Judgment](#), para. 48.

²² [Application Judgment](#), para. 2.

²³ [Application Judgment](#), para. 50.

²⁴ [Application Judgment](#), para. 63.

²⁵ [Application Judgment](#), para. 65.

In particular, the Chamber should balance the following factors: (i) the interests of the Defence in having access to victims' applications for participation; (ii) the safety, physical and psychological well-being, dignity and privacy of the victims; (iii) the need to ensure that victims' participation is meaningful; and (iv) the effectiveness and expeditiousness of the proceedings.²⁶ The Appeals Chamber further indicated that 'in cases where the number of victims' applications is expected to remain low, the interest of the suspect or accused in receiving copies thereof and replying thereto may outweigh the benefits gained by the implementation of the A-B-C Approach. In such cases, the safety and well-being of the victims may be more appropriately safeguarded by implementing necessary redactions to the victims' applications prior to their transmission to the parties.'²⁷

16. The Chamber has taken careful note of the Appeals Chamber's guidance on this matter. The Chamber notes, in this regard, that the A-B-C Approach can be implemented in a manner that allows the parties to make submissions on all or certain categories of applications.²⁸ In light of the expected low number of applications in the present case,²⁹ the Chamber considers it appropriate to adopt an amended version of the A-B-C Approach. In particular, the Registry is instructed to transmit Group A and C applications to the parties together with the corresponding reports pursuant to Regulation 86(5) of the Regulations of the Court. The parties shall submit their observations on the aforesaid applications, if any, within ten days after notification of the Registry's report. The Chamber will then assess the Group A and C applications individually and determine whether the applicants concerned shall be authorised to participate in the trial proceedings.

17. There is no need for the parties to systematically receive copies of all Group B applications. As the Registry will have determined such applications to clearly do not meet the requirements under rule 85 for this case, there is in principle no reason for the

²⁶ [Application Judgment](#), paras 67, 81.

²⁷ [Application Judgment](#), paras 5, 82.

²⁸ [Chambers Practice Manual](#), 5th edition, para. 96, note 3.

²⁹ Annex II to the Registry Submissions in view of the 28 January 2022 Status Conference, 21 January 2022, ICC-01/14-01/21-229-Conf-Exp-AnxII (public redacted version notified on the same day, [ICC-01/14-01/21-229-AnxII-Red](#)), para. 8.

parties to make observations on them. This is particularly true in this case, where the temporal and geographical scope of the charges is limited and clearly defined.

18. The Chamber will review the Registry's assessment of Group B. Barring clear material errors in the Registry's assessment, the Chamber will not authorise the corresponding applicants to participate in the proceedings.³⁰

2. Application forms and proof of identity

19. During the pre-trial phase, at the suggestion of the Registry,³¹ the Pre-Trial Chamber authorised the use of application forms for participation as adopted in the *Yekatom and Ngaïssona* case.³² The Pre-Trial Chamber also authorised applicants to use a wide range of documents as proof of their identity.³³ The Chamber sees no reason to deviate from the Pre-Trial Chamber's decisions in this regard.

3. Redactions

20. The Defence acknowledges that redactions may have to be applied to the victims' application forms before being transmitted to the parties. However, the Defence argues that any redactions should be exceptional and specifically justified.³⁴ In particular, the Defence claims that, in principle, any information about the place and date of the alleged crimes, as well as information about injuries suffered by the victims, should not

³⁰ See also, [Chambers Practice Manual](#), 5th edition, para. 96 (x).

³¹ [Registry Submissions on Aspects Related to the Participation of Victims in the Proceedings](#), 26 February 2021, ICC-01/14-01/21-25.

³² [Decision establishing the principles applicable to victims' applications for participation](#), 16 April 2021, ICC-01/14-01/21-56, paras 26-27. See, for a sample of the form, [Annex I](#) to the Registry Submissions on Aspects Related to the Participation of Victims in the Proceedings, 26 February 2021, ICC-01/14-01/21-25-AnxI.

³³ [Decision establishing the principles applicable to victims' applications for participation](#), 16 April 2021, ICC-01/14-01/21-56, para. 28. See also Pre-Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Fourth Decision on Victims' Participation](#), 12 December 2008 and registered on 15 December 2008, ICC-01/05-01/08-320, para. 36; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Decision on 772 applications by victims to participate in the proceedings](#), 18 November 2010, ICC-01/05-01/08-1017, para. 42; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Corrigendum to the Decision on 401 applications by victims to participate in the proceedings and setting a final deadline for the submission of new victims' applications to the Registry](#), 21 July 2011, ICC-01/05-01/08-1590-Corr, para. 35; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Decision on 270 applications by victims to participate in the proceedings](#), 25 October 2011, ICC-01/05-01/08-1862, para. 25; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Decision on 418 applications by victims to participate in the proceedings](#), 15 December 2011, ICC-01/05-01/08-2011, para. 17; Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom & Patrice-Edouard Ngaïssona*, [Decision Establishing the Principles Applicable to Victims' Applications for Participation](#), 5 March 2019, ICC-01/14-01/18-141, paras 25-25, 33.

³⁴ [Defence Victim Application Request](#), para. 55.

be redacted.³⁵ According to the Defence, this information is crucial and revealing it to the Defence will not endanger the victims.³⁶

21. According to the Prosecution, the vast majority of potential applicants are likely to be dual status witnesses, whose statements will be disclosed to the Defence in any case and will be redacted in accordance with the protocol on redactions contained in the Chambers Practice Manual.³⁷ For any victims that are not dual status witnesses, the Prosecution argues that the same practice should be followed and that their applications should be provided to the parties with redactions as authorised in the Chambers Practice Manual and consistent with any redactions applied to the statements of dual status witnesses.³⁸

22. The OPCV contends that, considering the concerns related to the continued criminal activities in and around Bangui, participating victims in the present case, who are not dual status witnesses, should in principle remain anonymous *vis-à-vis* the Defence.³⁹ The OPCV therefore requests the Chamber to allow the redaction of all identifying information of victims or their family members and further asks to be consulted about the necessary redactions before any applications are transmitted to the parties.⁴⁰

23. The Chamber agrees with the Defence that victims' application forms should not be redacted more than necessary. At the same time, the Chamber is aware of the precarious security situation in the CAR. The Chamber therefore instructs the VPRS to apply such redactions as are necessary to safeguard the safety and well-being of the

³⁵ [Defence Victim Application Request](#), para. 56.

³⁶ [Defence Victim Application Request](#), para. 56.

³⁷ [Prosecution's Response to Defence's Request Seeking Updated Information on Victims Participation \(ICC-01/14-01/21-255\)](#), 18 March 2022, ICC-01/14-01/21-261, para. 4.

³⁸ [Prosecution's Response to Defence's Request Seeking Updated Information on Victims Participation \(ICC-01/14-01/21-255\)](#), 18 March 2022, ICC-01/14-01/21-261, paras 4-5.

³⁹ [Victims' response to the "Demande de la Défense se fondant sur les informations actualisées portant sur le nombre de demandes de participation de victimes déposées et anticipées dans la présente affaire visant à ce que ces demandes soient communiquées aux Parties en application du Jugement d'appel du 14 septembre 2021 \(ICC-01/14-01/21-171\)](#), 18 March 2022, ICC-01/14-01/21-263, para. 18.

⁴⁰ [Victims' response to the "Demande de la Défense se fondant sur les informations actualisées portant sur le nombre de demandes de participation de victimes déposées et anticipées dans la présente affaire visant à ce que ces demandes soient communiquées aux Parties en application du Jugement d'appel du 14 septembre 2021 \(ICC-01/14-01/21-171\)](#), 18 March 2022, ICC-01/14-01/21-263, paras 16-17.

applicants. Such redactions may include the Category B redactions under Rule 81(4) of the Rules as outlined in the Chambers Practice Manual⁴¹ but should not, in principle, withhold relevant information about the timing and location of alleged crimes as well as the alleged effects of these crimes,⁴² unless this is necessary to prevent the identification of the applicants or their relatives.

24. The Chamber also notes that the VPRS' practice is not to transmit the page of the application form containing information about the persons or organisations who have assisted the applicants in filling in the form.⁴³ The VPRS explained that disclosing information about VPRS intermediaries would pose a real risk to the safety of the applicants and the intermediaries and might cause intermediaries to stop collaborating with the Court and dissuade victims from applying.⁴⁴ In light of this, the Pre-Trial Chamber ordered the VPRS to transmit the full victim application forms (including the page containing information about intermediaries) only to the Pre-Trial Chamber in order to allow it to exercise appropriate oversight.⁴⁵

25. The Chamber sees no reason to alter this approach. However, if it comes to the attention of the VPRS that certain intermediaries may have acted inappropriately in the identification and processing of applicants, it shall inform the Chamber forthwith.

4. Deadline for new applications for participation

26. In its submissions regarding the first status conference, the Registry recommended that the 'cut-off' date for new applications for participation be set at the end of the presentation of evidence or, alternatively, at the end of the Prosecution's case.⁴⁶ According to the Registry, 'a comprehensive time frame for victims to come forward' is necessary in light of the challenging conditions in the CAR as well as to

⁴¹ [Chambers Practice Manual](#), 5th edition, pp. 27-31.

⁴² Sections 2-7 of the application form.

⁴³ [Annex I](#) to the Registry Report on Legal Representation of Victims and Observations on the Defence Requests, 21 May 2021, ICC-01/14-01/21-80-AnxI, para. 13.

⁴⁴ [Annex I](#) to the Registry Report on Legal Representation of Victims and Observations on the Defence Requests, 21 May 2021, ICC-01/14-01/21-80-AnxI, paras 16-19.

⁴⁵ [Decision on legal representation of victims and related matters](#), ICC-01/14-01/21-119, paras 35-36.

⁴⁶ Annex II to the Registry Submissions in view of the 28 January 2022 Status Conference, 21 January 2022, ICC-01/14-01/21-229-Conf-Exp-AnxII (public redacted version notified on the same day, [ICC-01/14-01/21-229-AnxII-Red](#)), para. 19.

ensure that victims' access to participation in the proceedings is provided in 'the most comprehensive fashion'.⁴⁷

27. In the Defence Application Request, the Defence asked the Chamber to impose a deadline of 30 days before the start of the trial for any new requests for participation in the trial proceedings.⁴⁸ The OPCV, on the other hand, asks that victims be allowed to submit applications for participation at trial until the end of the Prosecution case.⁴⁹

28. The Chamber is cognisant of the severe difficulties in locating and contacting potential victims in a secure manner. It therefore does not find it appropriate to close off the possibility for potential victims to come forward after the trial has started. Accordingly, the Chamber will allow new applications to be made up until the end of the Prosecution case. After that, the Chamber will consider applications for participation only if the application could not reasonably have been made earlier.

B. Legal Representation

1. Appointment of a Common Legal Representative

29. During the pre-trial phase, the Registry expressed the view that there were no potential conflicts of interest between the victims applicants and recommended that one Common Legal Representative (CLR) should represent all participating victims.⁵⁰ The Registry confirmed that this information is still valid in its submissions in relation to the first status conference.⁵¹ The Chamber sees no reason to diverge from the Registry's

⁴⁷ Annex II to the Registry Submissions in view of the 28 January 2022 Status Conference, 21 January 2022, ICC-01/14-01/21-229-Conf-Exp-AnxII (public redacted version notified on the same day, [ICC-01/14-01/21-229-AnxII-Red](#)), para. 20.

⁴⁸ [Defence Victim Application Request](#), p. 16.

⁴⁹ [Victims' response to the "Demande de la Défense se fondant sur les informations actualisées portant sur le nombre de demandes de participation de victimes déposées et anticipées dans la présente affaire visant à ce que ces demandes soient communiquées aux Parties en application du Jugement d'appel du 14 septembre 2021 \(ICC-01/14-01/21-171\)](#), 18 March 2022, ICC-01/14-01/21-263, para. 22. This proposal is in line with the Chambers Practice Manual, which recommends that the latest date for receiving applications for participation should be the end of the Prosecution's case. See [Chambers Practice Manual](#), 5th edition, para. 97(iii).

⁵⁰ Annex II to the Registry Report on Legal Representation of Victims and Observations on the Defence Requests, 21 May 2021, ICC-01/14-01/21-80-Conf-AnxII, (public redacted version notified on the same day, [ICC-01/14-01/21-80-AnxII-Red](#)), para. 72.

⁵¹ Annex II to the Registry Submissions in view of the 28 January 2022 Status Conference, 21 January 2022, ICC-01/14-01/21-229-Conf-Exp-AnxII (public redacted version notified on the same day, [ICC-01/14-01/21-229-AnxII-Red](#)), para. 22.

recommendation and it therefore requests the victims, once they have been authorised to participate, to choose a CLR with the assistance of the Registry in accordance with Rule 90(2) of the Rules. If they are unable to choose a CLR, the Registry will appoint a suitable CLR with full consideration of the views of the victims and the need to respect local traditions.⁵² The Chamber expects the CLR to have been selected by no later than 22 July 2022. Until this time, victims authorised to participate will be represented by their chosen Legal Representative or, if they have not expressed a choice, by the OPCV, who will have the participatory rights that are outlined in this decision until the CLR has been selected.

2. Reporting of complaints relating to common legal representation

30. The Registry informed the Chamber that victims consulted by it during the pre-trial phase expressed the view that the CLR should be accountable to the victims and that the latter should be in a position to inform the Chamber if they are not satisfied with the services of the CLR.⁵³ The Registry agreed that there would be a need to keep the legal representation of victims under review ‘throughout the proceedings’ and that the Registry could monitor the situation and propose adjustments where necessary.⁵⁴

31. The Chamber understands that it is important for the victims to have confidence in the CLR. If there is no relationship of trust between the CLR and the participating victims or no effective communication between them, it is difficult to envisage how their views and concerns can be effectively represented in a meaningful manner. Accordingly, the Chamber instructs the Registry to inform the victims upon authorisation to participate that they may approach the VPRS if they face any issue that may seriously affect the relationship of trust with the CLR. The VPRS should at all times maintain its neutral position and is instructed to report to the Chamber if it has received significant complaints.

⁵² Regulation 79(2) of the Regulations.

⁵³ Annex II to the Registry Report on Legal Representation of Victims and Observations on the Defence Requests, 21 May 2021, ICC-01/14-01/21-80-Conf-AnxII, (public redacted version notified on the same day, [ICC-01/14-01/21-80-AnxII-Red](#)), para. 35.

⁵⁴ Annex II to the Registry Report on Legal Representation of Victims and Observations on the Defence Requests, 21 May 2021, ICC-01/14-01/21-80-Conf-AnxII, (public redacted version notified on the same day, [ICC-01/14-01/21-80-AnxII-Red](#)), para. 95.

C. Disclosure obligations

32. The Chamber notes that neither the Statute nor the Rules impose an express obligation on victims or their representatives to disclose evidence in their possession, whether incriminating or exculpatory.⁵⁵ Further, as victims do not have the right to present evidence without the leave of the Chamber, there is no justification to impose a general duty of disclosure. Nevertheless, the Chamber is cognisant of the parties' rights to receive evidence sufficiently in advance to allow for effective preparation. Where necessary, the Chamber has set out relevant disclosure obligations incumbent on the CLR in relation to the different types of requests for participation. The Chamber reserves the right to decide on further measures regarding disclosure in pursuance of its obligation to safeguard the fairness of the trial and rights of the accused as necessary and in relation to specific requests by the CLR as and when they arise.

D. Participatory rights

33. In accordance with Rule 89(1) of the Rules, the following sub-sections set out the participatory rights of victims and their legal representatives during the proceedings. Pursuant to Article 68(3) of the Statute, in determining their scope and implementation, the Chamber is mindful that such rights shall not be prejudicial to or inconsistent with the rights of the accused and the conduct of a fair and impartial trial. Accordingly, these modalities are subject to any subsequent modification by the Chamber in accordance with Rule 91(1) of the Rules. Further, the Chamber recalls that modalities implementing certain participatory rights have already been outlined in its Directions on the Conduct of Proceedings and certain participatory rights are set out in rule 91(2) of the Rules.

⁵⁵ Trial Chamber II, *The Prosecutor v. Germain Katanga And Mathieu Ngudjolo Chui*, [Decision on the Modalities of Victim Participation at Trial](#), 22 January 2010, ICC-01/04-01/07-1788-tENG (the 'Decision on Victim Participation in the *Katanga* case'), para 105.

1. Access to the case record and confidential information by the CLR

34. Pursuant to Rules 92(5) and 131(2) of the Rules, and in line with the Court's previous jurisprudence, the Chamber considers that the CLR has a general right to access the case record, including confidential filings.⁵⁶

35. In terms of access to previous filings, the parties and the Registry are instructed to review their confidential filings already on record and identify those which should not be accessible to the CLR. The parties shall inform the Registry, by way of email copying the Chamber, which filings they wish to keep confidential from the CLR and indicate the basis for this in accordance with Regulation 23*bis* of the Regulations. The Chamber authorises the Registry to reclassify these filings as confidential, *ex parte*, subject to any further order by the Chamber. After this process has been completed, the Registry shall grant access to all public and confidential filings in this case to the CLR.

36. The Chamber notes that these general rights of access to the case record are limited to the CLR only. Requests for access by or for individual victims to confidential filings must be approved by the Chamber on a case-by-case basis. Additionally, access to the confidential case record does not entitle the CLR to communicate any confidential information to participating victims. Communication of confidential information by the CLR can only be effected with the leave of the Chamber.

2. Presentation of views and concerns of the victims

37. Unless otherwise ordered by the Chamber, the CLR is not required to state the identity of the victim or victims on whose behalf the CLR wishes to intervene.

i. Raising of substantial or procedural issues

38. If the CLR deems it necessary to initiate discussions on a procedural issue that affects the interests of the victims during the proceedings, the CLR may file a request to present the views and concerns of the victims. In the request, the CLR must set out

⁵⁶ See e.g., Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, [Decision on the Legal Representative of Victims' access to certain confidential filings and to the case record](#), 19 January 2015, ICC-02/11-01/11-749, para 15; Trial Chamber V, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, [Decision on victims' representation and participation](#), 3 October 2012, ICC-01/09-01/11-460, paras 64-69; Trial Chamber V, *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta.*, [Decision on victims' representation and participation](#), 3 October 2012, ICC-01/09-02/11-498, paras 63-68.

the issue at hand and how the personal interests of the victims are affected. If the Chamber is not persuaded that the issue genuinely affects the interests of the victims, it may decline to consider the request.

ii. Views and concerns of individual victims

39. The Chamber notes that the presentation of views and concerns is not limited to the CLR and may include statements made by individual victims in person. However, the appointment of the CLR means that the presentation of views and concerns by individual victims must be limited to substantive issues related to the proceedings.

40. Victims may ask permission to submit their individual views and concerns in person or in writing.

41. The time for such presentation of views and concerns by individual victims will be confined to the phase of proceedings that is reserved for presentation of evidence by the CLR. Should the CLR not request or be granted leave to present evidence, the presentation will take place following the closure of the Prosecution's case.

42. The CLR is instructed to inform the Chamber before the end of the Prosecution's case how many individual victims wish to make statements presenting their views and concerns at trial. The application must provide at least the following information:

- the identity of the victims and their application number;
- the topic(s) they wish to address;
- an explanation why it is considered important for the victims to present their views and concerns orally before the Court;
- estimated time needed for the victims to present their views and concerns;
- whether the victims wish their views and concerns to be presented publicly, or whether they wish to be afforded in-court protective measures;

43. The Prosecution and Defence are to file their observations within five days of notification.

44. Statements by the CLR or individual victims should be confined to setting out the views and concerns of the participating victims and should not stray into evidentiary statements or commentary on the elements of the crimes charged or the accused's alleged role in their commission, which is the role of the Parties.⁵⁷

3. *Requests for leave to call witnesses during the trial*

45. As has been recognised by the Appeals Chamber, participating victims may ask the Chamber for permission to call witnesses.⁵⁸ Consistent with the Court's jurisprudence, the Chamber will assess in due course, in addition to whether the personal interests of the victims are affected, whether: (i) the hearing of evidence is appropriate and affects the issues in the case; (ii) the hearing of evidence is necessary for the determination of the truth; and (iii) the presentation of evidence is consistent with the rights of the accused, in particular the right to have adequate time and facilities to prepare his defence pursuant to Article 67(1)(b) of the Statute, and a fair and impartial trial.⁵⁹

⁵⁷ Trial Chamber X, *The Prosecutor v Al-Hassan AG Abdoul Aziz AG Mohamed AG Mahmoud*, 'Decision on LRV's Request to present evidence and views and concerns', 9 December 2021, ICC-01/12-01/18-2063-Conf (a public redacted version was notified on the same date, [ICC-01/12-01/18-2063-Red](#)) (the 'Decision on LRV's Request to present evidence in the *Al-Hassan* case'), para 12; *see also*, Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, [Decision on Defence Urgent Request for Delay in Opening of LRV and CLRV Evidence Presentation](#), 26 April 2018, ICC-02/04-01/15-1248, (the 'Decision on Defence Urgent Request for Delay in Opening of LRV and CLRV Evidence in the *Ongwen* case') para. 13; Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, 'Decision on the Legal Representatives for Victims Requests to Present Evidence and Views and Concerns and related requests', 6 March 2018, (a public redacted version was notified on the same date, [ICC-02/04-01/15-1199-Red](#)) (the 'Decision on the LRV Requests to Present Evidence in the *Ongwen* case'), paras 18, 23

⁵⁸ Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victims' Participation of 18 January 2008](#), 11 July 2008, ICC-01/04-01/06-1432 (OA9 OA10), (the 'Appeals Chamber Judgement on Victims Participation in the *Lubanga* Case') paras 93-99. The Chamber notes that authorisation to present evidence is independent of the CLR's or individual victim's rights to present their views and concerns as outlined above. *See* [Decision on the request by the Legal Representative for Victims in the *Ntaganda* case](#), para 10.

⁵⁹ [Decision on LRV's Request to present evidence in the *Al-Hassan* case](#), para. 10; [Decision on the LRV Requests to Present Evidence in the *Ongwen* case](#), para. 17; [Decision on the request by the Legal Representative for Victims in the *Ntaganda* case](#), para. 11; Appeals Chamber, *Prosecutor vs. Germain Katanga and Mathieu Ngudjolo Chui*, [Judgment on the Appeal of Mr Katanga Against the Decision of Trial Chamber II of 22 January 2010 Entitled "Decision on the Modalities of Victim Participation at Trial"](#), 16 July 2010, ICC-01/04-01/07-2288 (OA11), para. 114.

i. Application

46. Noting the order of the presentation of evidence set out in the Directions on the Conduct of Proceedings,⁶⁰ the CLR shall file any request for leave to call witnesses as soon as possible after the Prosecution has submitted its final list of witnesses and, in any case, no later than five days after the opening statement(s) at the commencement of the trial.

47. To assist the Chamber in its determination of the truth and provide adequate notice to the parties, any request for leave to call witnesses must contain at least the following information:

- the identity and status of the proposed witness,
- if the proposed witness is a participating victim: the application number and whether they have relinquished anonymity or are prepared to do so;
- a full statement or detailed summary of the expected testimony in a working language of the Court;
- if the proposed witness is also a participating victim, a lesser redacted copy of their application form;
- an explanation of the relevance of the expected testimony and how it may contribute to the Chamber's determination of the truth;
- an explanation as to how the expected testimony relates to other evidence that has already been submitted to the Chamber and why it is not cumulative;
- a list of material (if any) which may be used by the CLR during the questioning of the proposed witness;
- an estimate of the time needed for the witness's proposed testimony-in-chief;
- the language of the testimony;
- the modality of testimony (video-link or in-court);
- whether protective measures will be sought;

⁶⁰ [Directions on the Conduct of Proceedings](#), para 10.

48. In case of serious security concerns, the CLR may redact the witness identity from the parties. The Chamber notes, however, that victims may, in principle, not testify anonymously, so their identity will have to be revealed at some point after the Chamber has authorised their testimony. If the written statements contain identifying information that should not be disclosed to the parties prior to the Chamber's ruling on the merits of their applications, the CLR shall submit a redacted version for the benefit of the parties. The statement or summary must also be made available in French for the benefit of the accused.

49. The Chamber stresses that the burden of proof regarding the guilt of the accused lies with the Prosecution.⁶¹ Thus, the victims' presentation of evidence must not be aimed, in principle, at introducing new incriminating evidence.⁶² The primary purpose of the CLR's presentation of evidence is to illustrate matters that are relevant to the personal interests of the victims by eliciting evidence which, while not directly pertaining to the accused's individual responsibility, bears relevance to the issues of the case.⁶³

ii. Witness preparation process

50. If the Chamber calls witnesses at the request of the CLR who are also participating victims, the Witness Preparation Protocol will not apply.

51. In circumstances where the Chamber has agreed to call witnesses at the request of the CLR who are not participating victims, the CLR may only engage in witness preparation when a proper statement in accordance with Rule 111 of the Rules has been provided. The Chamber may make further orders regarding how any witness preparation process must be conducted.

⁶¹ Article 66(2) of the Statute.

⁶² [Decision on Defence Urgent Request for Delay in Opening of LRV and CLRV Evidence in the *Ongwen* case](#), para. 12; [Decision on the LRV Requests to Present Evidence in the *Ongwen* case](#), paras 18, 23; [Decision on Victim Participation in the *Katanga* case](#), para. 52.

⁶³ [Decision on Defence Urgent Request for Delay in Opening of LRV and CLRV Evidence in the *Ongwen* case](#), para. 14; [Decision on LRV's Request to present evidence in the *Al-Hassan* case](#), para. 12.

iii. Use of materials during the presentation of evidence

52. The CLR must comply with the procedure for the use of materials during the witness testimony as set out in paragraphs 32 to 36 of the Directions on the Conduct of Proceedings. The Chamber reiterates that this includes obligations to ensure that materials used during questioning have already been disclosed to the parties and the circulation of the ‘List of Material’ at least 5 days before the witness commences testifying.

iv. Submission of prior recorded testimony

53. If the conditions of Rule 68 of the Rules have been met, the Chamber may allow the introduction of prior recorded testimony of witnesses called at the behest of the CLR. This is only possible when the witness has signed a formal statement in accordance with Rule 111 of the Rules or if the prior recorded testimony has been transcribed.

54. When the Chamber rejects a request by the CLR for a witness to testify in person, it may still consider an application from the CLR seeking introduction of their statement via Rule 68 of the Rules.

4. Questioning of other witnesses, experts or the accused

55. Pursuant to Rule 91(3)(a) of the Rules, the CLR must make an application to the Chamber to question a witness, an expert or the accused. As indicated in the Directions on the Conduct of Proceedings,⁶⁴ a general notice suffices, but should contain an estimation of the amount of time which the CLR foresees the questioning taking. The Chamber may, if necessary, exercise its discretion to reduce the amount of time requested by the CLR to ensure a fair and expeditious trial.

56. The CLR is to provide its general advance notification as soon as practicable and, in any event, no later than 3 days before the witness testifies. If the CLR intends to use documents that are not included in the parties’ Lists of Materials, the CLR must provide its own a List of Materials at least 1 day before the commencement of its questioning

⁶⁴ [Directions on the Conduct of Proceedings](#), para. 26.

and comply with any disclosure requirements as set out in the Directions on the Conduct of Proceedings.⁶⁵

57. The Chamber notes that the Court's statutory framework expressly provides for the possibility of hearing evidence for the purposes of a potential future decision on reparations during the trial.⁶⁶ In this regard, the Chamber recalls that the CLR may be given permission to question witnesses called by the parties in relation to any potential future reparations proceedings, including questions about harm which the witness personally suffered or harm of other victims which the witness observed.⁶⁷

58. The Chamber emphasises that it will at all times ensure that questioning of witnesses for the purposes of a potential future decision on reparations does not involve any element of prejudgment on the question of guilt or innocence of the accused, and that it does not undermine the accused's right to a fair trial.⁶⁸

5. Requests for leave to submit evidence other than through a witness

59. In line with the framework set out above, the CLR may request the Chamber to submit evidence other than through a witness.⁶⁹ The application must include a detailed explanation about how the victims' interests are affected by the evidence. Any such request should be submitted before the end of the presentation of the evidence by the Prosecution.

60. If the documents in question were not already disclosed by the Prosecution or the Defence, the CLR must upload and disclose them in accordance with the E-Court Protocol by the time the request is filed.

61. The CLR shall endeavour to file any requests to submit evidence other than through a witness as soon as practicable and, in any event, no later than by the end of the Prosecution case.

⁶⁵ [Directions on the Conduct of Proceedings](#), para. 35.

⁶⁶ Regulation 56 of the Regulations of the Court.

⁶⁷ [Directions on the Conduct of Proceedings](#), paras 25-27.

⁶⁸ [Decision on Victims' Participation in the Lubanga case](#), paras 119-122. *See also* Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo, Corrigendum to Decision on the participation of victims in the trial and on 86 applications by victims to participate in the proceedings*, 12 July 2010, ICC-01/05-01/08-807-Corr, para. 28.

⁶⁹ Paragraphs 45 and 46 of the [Directions on the Conduct of Proceedings apply](#).

E. Dual status witnesses

62. This section regulates the situation of witnesses who have also been authorised to participate in the proceedings or applied for such authorisation ('dual status witness').

63. For the purpose of this section, a person is considered a witness when he or she is included in the witness list of any of the parties or is called to testify by the Chamber on its own motion or at the behest of the CLR. This includes witnesses whose prior recorded testimony the party may seek to introduce *via* Rule 68 of the Rules.

64. As held by the Appeals Chamber, when victims admitted to participate in proceedings testify before the court as witnesses called by the Prosecution, the regular disclosure regime is applicable and the Prosecution must provide the Defence with all necessary information, including the victims' applications forms.⁷⁰ In addition, the parties and participants shall comply with the following directions.

1. Information to be provided to the Registry

65. The Victims and Witnesses Unit ('VWU') must be made aware of the dual status of a protected individual in order to reduce risks and to facilitate a proper risk assessment. As soon as they become aware of the dual status of an individual, parties and participants must communicate this to the VWU and to the VPRS.

66. During the assessment interviews, the VWU shall ask witnesses whether they have applied for participation. When the VWU assesses a witness it shall ask whether the witness is also a victim.

2. Communication between the CLR of a dual status witness and the calling party

67. When the CLR believes that their client has dual status as a Prosecution witness, they shall provide the Prosecution with the name of the individual, their date of birth and other identifying information, to the extent possible.

68. Upon receipt of this information, the Prosecution must verify whether or not the individual has dual status, and, if so, confirm this to the CLR (including when the witness is in the ICCPP).

⁷⁰ [Application Judgment](#), para. 4.

69. The Prosecution must also confirm whether it intends to apply for protective or special measures under Rules 87 and 88 of the Rules and communicate this to the CLR.

70. Should the Defence elect to call witnesses at a later point in the proceedings, these rules apply *mutatis mutandis*.

3. Communication between the Prosecution, the Defence and the CLR of a dual status witness

71. As soon as the calling party becomes aware that a witness upon whose testimony it intends to rely is also a victim, it must inform the non-calling party and the CLR.

4. Contact with dual status witnesses

72. When a party wishes to contact a dual status witness, it shall provide notice as soon as possible of this intention to the CLR or the counsel representing the applicant.

73. If a dual status witness participating in ICCPP wishes to contact any of the parties or participants, the VWU will facilitate this contact and inform the calling party.

74. The contacted party must inform the CLR of the dual status witness's wish to communicate.

75. In urgent situations, when it is necessary to preserve or collect evidence and there is no time to give the CLR advance notice, the party who has been in contact with a dual status witness shall as soon as possible thereafter inform the legal representative and disclose any relevant material.

5. Contact between dual status witnesses and their legal representatives

76. The legal representatives of dual status witnesses may contact them without informing the calling party, including if they are in the ICCPP. In the latter case the contact shall be facilitated by the VWU.

6. Providing the legal representative with copies of the signed statements and other materials

77. The CLR shall be provided with copies of the statements, transcripts or recordings made during any interviews with the calling party.

78. If access is sought by the CLR to other materials, such as notes and documents, relating to a dual status witness they represent, that were produced with the involvement or assistance of that witness, they shall submit a request to the calling party outlining the reasons why access is sought. Unless reasons exist for refusing access, the party shall provide the legal representative of dual status witnesses with copies of these materials.

79. If a party considers that reasons exist for refusing access to particular materials, it shall inform the Chamber and the CLR of those reasons. The CLR may then request the Chamber to order the communication of the materials.

80. If a party considers that reasons exist for providing access only in redacted or summary form, it shall communicate copies of the materials in this form. The CLR may petition the Chamber to order the lifting of some or all redactions or to provide copies of the originals instead of summaries.

7. Attendance of the CLR during interviews of dual status witnesses.

81. Dual status witnesses are entitled to have the CLR present during any interviews by the parties. No pressure may be exerted in order to influence the witness' choice regarding the presence of the CLR.

82. Where applicable, the interviewing party shall provide the CLR with any relevant materials to be used during the interview. Such materials shall be made available before the start of the interview.

83. The CLR must not obstruct the interview.

8. Providing information about the family or legal guardian of juvenile dual status witnesses to the CLR

84. If parties have information about the identity and/or whereabouts of family members or legal guardians of juvenile dual status witnesses, they shall share this information with the CLR, subject to the witness' consent.

85. When the witness is in the ICCPP, the VWU is the competent entity to provide this information to the CLR, subject to the consent of the witness and provided that:

- (i) the security of the witness and/or their family member(s) or legal guardian(s); and
- (ii) the operation of the ICCPP are not put at risk.

F. Provisions related to future potential reparations

86. At the outset, the Chamber underlines that, unless proven guilty beyond reasonable doubt, Mr Said benefits unreservedly from the presumption of innocence. Only if convicted, could Mr Said be found liable for reparations pursuant to article 75(2) of the Statute. Nevertheless, experience has shown that leaving issues of reparations until the end of the trial may lead to significant delays. Therefore, the Chamber considers it necessary to take certain, limited measures, which while not conflicting with the presumption of innocence, may expedite potential reparation proceedings.

1. Mapping of potentially eligible beneficiaries of reparations

87. Ideally, in order for the design and implementation of potential reparations to proceed expeditiously, all potential beneficiaries of reparations arising out of a case should be identified or their approximate total number should be at least estimated by the time a chamber renders its judgment under Article 74 of the Statute. This task can only be carried out by the VPRS, as a neutral organ of the Court.

88. Victims do not need to participate in the trial proceedings to be considered potential beneficiaries for reparations. Only direct and indirect victims of the crimes for which an accused has been convicted may qualify to be considered potential beneficiaries. The VPRS should endeavour to have fully identified, mapped, or at least traced the relevant potential victim population by the time the parties have concluded their closing statements. To that end, the VPRS is authorised to take all necessary proactive measures to identify potential beneficiaries of reparations during the trial proceedings. At all times, the VPRS should ensure that it does not unduly raise the victim's expectations, adopts a victim-centred approach and complies with the 'do no harm' and other applicable principles.⁷¹

⁷¹ For the principles to be applied during the identification of potential beneficiaries of reparations, among other phases, see Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Reparations Order, 8 March 2021, [ICC-01/04-02/06-2659](#), paras 41-67.

89. Should the Chamber enter a conviction against Mr Said, the VPRS is instructed to submit a report of its mapping of the population of potential beneficiaries of reparations within 4 weeks of the notification of the Article 74 judgment. This report should provide the following information for each of the incidents for which a conviction was entered: (i) the approximate number of direct and indirect victims that may qualify as potential beneficiaries of reparations; and (ii) if available, the different types of harm the potential beneficiaries allege to have suffered.

90. Individuals or groups of individuals who would like to be considered as potential beneficiaries of potential future reparations should make themselves known to the VPRS during the trial proceedings. The possibility for victims to be identified after the VPRS has submitted its report will be limited to exceptional circumstances only. The estimation of potential beneficiaries of reparations by the VPRS is necessarily provisional and cannot give rise to any rights or expectations on the part of the individuals concerned.

2. Identification of prospective experts on potential reparations

91. In case of a conviction, there may be a need for qualified experts to assist the Registry and possibly the Chamber in issues related to reparations.⁷² In order to avoid unnecessary delays, the Chamber instructs the Registry to start compiling a list of potential experts, with genuine local expertise, and gather information about their profile and eligibility. This list should be completed by the time the Chamber issues its judgment pursuant to Article 74 of the Statute.

⁷² See Rule 97(2) of the Rules.

FOR THESE REASONS, THE CHAMBER HEREBY

ADOPTS the A-B-C Approach as outlined in section A;

INSTRUCTS the VPRS to assist the victims in their choice of a Common Legal Representative as outlined in section B;

GRANTS the victims the participatory rights as outlined in section D;

ADOPTS the rules relating to dual status witnesses as outlined in section E; and

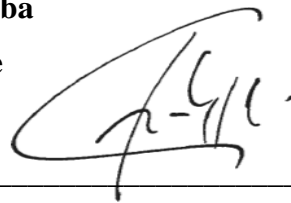
INSTRUCTS the VPRS to start mapping potential beneficiaries of possible future reparations and to identify potential experts on reparations as outlined in section F.



Judge Miatta Maria Samba
Presiding Judge



Judge María del Socorro Flores Liera



Judge Sergio Gerardo Ugalde Godínez

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

Dated 13 April 2022

At The Hague, The Netherlands