

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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No.: ICC-01/04-02/06

Date: 7 February 2014

**PRE-TRIAL CHAMBER II**

**Before: Judge Ekaterina Trendafilova, Single Judge**

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

**IN THE CASE OF  
THE PROSECUTOR V. BOSCO NTAGANDA**

**Public**

**With two confidential *ex parte* annexes**

**Second Decision on Victims' Participation at the Confirmation of Charges  
Hearing and in the Related Proceedings**

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

**The Office of the Prosecutor**

Fatou Bensouda, Prosecutor  
James Stewart, Deputy Prosecutor

**Counsel for the Defence**

Marc Desalliers

**Legal Representatives of the Victims**

Sarah Pellet  
Dmytro Surpun

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar & Deputy Registrar**

Herman von Hebel, Registrar

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Fiona McKay

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”),<sup>1</sup> hereby renders this second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings.

1. At the outset, the Single Judge clarifies that the present decision is classified as “public” although it refers to the existence and, to some extent, to the content of documents that have been submitted and are currently treated as “confidential”. The Single Judge considers that the references made to these documents are required by the principle of publicity and judicial reasoning and are kept to the minimum in order to preserve the safety of the victim applicants and the confidentiality of the information.

### **I. Procedural History**

2. On 28 May 2013, the Single Judge issued the “Decision Establishing Principles on the Victims’ Application Process” (the “28 May 2013 Decision”)<sup>2</sup> in which she organized the victims’ application process in the present case. In particular, she provided detailed guidance as to the principles to be followed by the specialized organs of the Court involved in the victims’ application process, including the Victim Participation and Reparation Section (the “VPRS”) and the sections tasked with outreach activities. She also provided specific instructions as to the operative steps to be taken by those sections. The ultimate goal of the 28 May 2013 Decision was to rationalize the victims’ application process in the present case and to enhance its predictability, efficiency and expeditiousness.<sup>3</sup> In addition, the Single Judge developed a simplified one-page individual application form (the “Simplified Form”). It has been tailored to the specific features of the case against Mr. Ntaganda and confined to the requirements as specified in rule 85 of the Rules of Procedure and Evidence (the “Rules”) for victim applicants to satisfy in order to participate in

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<sup>1</sup> Pre-Trial Chamber II, ICC-01/04-02/06-40.

<sup>2</sup> Pre-Trial Chamber II, ICC-01/04-02/06-67.

<sup>3</sup> Pre-Trial Chamber II, ICC-01/04-02/06-67, para. 1.

the proceedings in the present case. Thus, the Simplified Form entails that victim applicants provide solely the information relevant to said requirements so that the Chamber be in a position to determine whether or not they qualify as victim pursuant to rule 85 of the Rules.<sup>4</sup>

3. On 13 September 2013,<sup>5</sup> 9 October 2013,<sup>6</sup> 31 October 2013,<sup>7</sup> 22 November 2013,<sup>8</sup> and 13 December 2013,<sup>9</sup> the Registry submitted to the Chamber and the Prosecutor reports under regulation 86(5) of the Regulations of the Court (the “Regulations”) together with copies of the Simplified Forms, and transmitted redacted copies thereof to the Defence. Pursuant to the 28 May 2013 Decision, in order to ensure consistency and uniformity in the treatment of the large amount of applications received, the Registry has grouped all applications transmitted to the Chamber and to the parties in accordance with appropriate criteria, such as the victimization suffered and the incidents in which the victim applicants were involved.

4. On 13 November 2013, the Chamber received a report from the Registry concerning the preference expressed by a considerable number of victim applicants with regard to their legal representation as well as the evaluation of the Registry in this respect.<sup>10</sup> The Registry recommended “the creation of two distinct victims groups, each represented by a legal team: a group consisting of UPC/FPLC child soldiers and another consisting of victims of UPC/FPLC attacks”.<sup>11</sup>

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<sup>4</sup> ICC-01/04-02/06-67, paras 17-25.

<sup>5</sup> ICC-01/04-02/06-106-Conf-Exp and its confidential redacted version.

<sup>6</sup> ICC-01/04-02/06-122-Conf and its confidential *ex parte* annexes.

<sup>7</sup> ICC-01/04-02/06-132-Conf and its confidential *ex parte* annexes.

<sup>8</sup> ICC-01/04-02/06-154-Conf and its confidential *ex parte* annexes.

<sup>9</sup> ICC-01/04-02/06-179-Conf and its confidential *ex parte* annexes.

<sup>10</sup> ICC-01/04-02/06-141-Conf-Exp.

<sup>11</sup> ICC-01/04-02/06-141-Conf-Exp, paras 16,18.

5. On 10 January 2014, the Prosecutor filed the document containing the charges (the “DCC”), together with a list of evidence and a translation into Kinyarwanda of both documents.<sup>12</sup>

6. Also on 10 January 2014, the Single Judge received the “Sixth Report to the Pre-Trial Chamber on applications to participate in the proceedings” together with 204 copies of Simplified Forms (the “Sixth Batch”).<sup>13</sup>

7. On 15 January 2014, the Single Judge issued the “Decision on victims’ participation at the confirmation of charges hearing and in the related proceedings” (the “15 January 2014 Decision”),<sup>14</sup> in which she assessed the applications for participation included in the first five batches and decided to admit 922 applicants as victims participating in the confirmation of charges hearing and in the related proceedings. In addition, the Single Judge decided to appoint Ms. Sarah Pellet as common legal representative of all victims child soldiers (Group 1) and Mr. Dmytro Suprun as common legal representative of all victims of attacks carried out by the *Union Patriotique Congolaise* (“UPC”)/*Forces Patriotiques pour la libération du Congo* (“FPLC”) (Group 2).<sup>15</sup>

8. On 20 January 2014, the Single Judge received the “Prosecution’s Observations on 203 Applications for Victim Participation in the Pre-Trial Proceedings”<sup>16</sup> as well as the “*Observations de la Défense de M. Bosco Ntaganda sur les 204 demandes de participation transmises à la Défense le 10 janvier 2014*”.<sup>17</sup>

9. On 28 January 2014, the Prosecutor submitted the “Prosecution’s Request to Redact Information in one Victim Application”<sup>18</sup> (the “Request to Lift Redactions”),

<sup>12</sup> ICC-01/04-02/06-203, ICC-01/04-02/06-203-AnxA, ICC-01/04-02/06-203-Conf-AnxB, ICC-01/04-02/06-203-AnxC.

<sup>13</sup> ICC-01/04-02/06-200-Conf and its 2 confidential and *ex parte* annexes and 1 confidential annex.

<sup>14</sup> Pre-Trial Chamber II, “Decision on victims’ participation at the confirmation of charges hearing and in the related proceedings”, 15 January 2014, ICC-01/04-02/06-211.

<sup>15</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, pp. 37-38.

<sup>16</sup> ICC-01/04-02/06-220-Conf.

<sup>17</sup> ICC-01/04-02/06-219-Conf.

<sup>18</sup> ICC-01/04-02/06-232-Conf-Exp.

in which the Prosecutor informs the Chamber that she has identified applicant a/01721/13 as being witness P-0100, to be relied on by the Prosecutor at the confirmation of charges hearing.<sup>19</sup> In compliance with the information redacted in the statements provided by this witness and disclosed to the Defence, the Prosecutor proposes to lift some redactions in the victim's application of a/01721/13.<sup>20</sup>

10. On 6 February 2014, the Single Judge received the "Information to the Chamber in relation to duplicate applications for participation presented by victims a/00643/13, a/00659/13 and a/00118/13"<sup>21</sup> (the "Information on Duplicates"), in which Mr. Dmytro Suprun, common legal representative of victims in Group 2, informs the Chamber that he consulted with "victims a/00643/13, a/00659/13 and a/00118/13 who confirmed that the recollection of facts as described in their applications already examined by the Single Judge is correct and that they do not wish to maintain their duplicate applications".<sup>22</sup>

## II. Applicable Law

11. The Single Judge notes articles 21(1)(a), (2) and (3), 57(3)(c), 61, 67 and 68(3) of the Rome Statute (the "Statute"), rules 85(a), 89 to 92 and 121(10) of the Rules and regulation 86 of the Regulations.

12. The Single Judge recalls that the specific scope of the present decision is to determine which victim applicants included in the Sixth Batch qualify as victims pursuant to rule 85 of the Rules, for the purposes of participating at the confirmation of charges hearing and in the related proceedings. In this respect, the Single Judge points out that any finding made in respect of the events alleged by the victim applicants in their applications for participation has no bearing on the decision to be taken by the Chamber on the basis of the confirmation of charges hearing. The proceedings leading to the admission or the rejection of the victims' application for participation, on the one hand, and the confirmation of charges hearing, on the other

<sup>19</sup> ICC-01/04-02/06-232-Conf-Exp, para. 8.

<sup>20</sup> ICC-01/04-02/06-232-Conf-Exp, para. 9.

<sup>21</sup> ICC-01/04-02/06-246-Conf.

<sup>22</sup> ICC-01/04-02/06-246-Conf, para. 11.

hand, are distinct proceedings. The latter has a specific subject matter confined to the charges presented in the DCC, namely that “[t]he Pre-Trial Chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged” (article 61(7) of the Statute).

13. The Single Judge does not deem it necessary to delve into the interpretation of the law applicable to the notion of victims under the Statute and the Rules. Therefore, the Single Judge recalls her interpretation of the definition of victim under rule 85 of the Rules as explained in paragraphs 17-33 of the 15 January 2014 Decision and incorporates them by reference in the present decision.

### **III. The Issues Raised by the Parties in their Observations on the Victims’ Applications**

14. Pursuant to rule 89(1) of the Rules, the parties have had the opportunity to submit observations on the 204 applications for victims’ participation transmitted by the Registry in the present case, as it was the case for all previous victims’ applications for participation transmitted by the Registry in the present case. The Single Judge recalls that observations to be submitted by the parties under rule 89(1) of the Rules are not mandatory and serve the purpose of assisting the Single Judge in her determination as to whether or not each victim applicant qualifies as victim pursuant to rule 85 of the Rules. The Single Judge clarifies that observations of a general nature or that pertain to a significant number of applications will be addressed in the present decision, while specific submissions with regard to certain applications are addressed more appropriately, as the case may be, in Annex A and Annex B attached to the present decision.

## 1. The Prosecutor's Observations

15. In her observations, the Prosecutor submits that all victim applicants should be granted authorisation to participate as victims in the proceedings with the exception of applicant a/01289/13.<sup>23</sup>

16. In relation to the dates of the crimes, the Prosecutor notes that some victim applicants indicate that the events took place during the operation "Shika na Mukono" and specify a temporal framework, *inter alia*, at the beginning of 2003, in February 2003, between January and February 2003, between February and March 2003 or in 2003 more generally.<sup>24</sup> Other applicants provide February 2003 or February and March 2003, without mentioning the operation "Shika na Mukono", as temporal framework of the events recollected.<sup>25</sup> According to the Prosecutor, "this term was used by the UPC to designate the UPC attacks on Lipri, Bambu, Kobu and surrounding villages during the period of 17 February to 2 March 2003".<sup>26</sup> Therefore, the Prosecutor submits that "it has been sufficiently established that the crimes alleged have occurred within the relevant time frame of the charges."<sup>27</sup>

17. With regard to applicant a/01289/13, the Prosecutor submits that she is not able to confirm the location referred to by this applicant.<sup>28</sup>

## 2. The Defence Observations

18. The Defence exercised its right not to submit observations specifically on the 204 application for victims' participation included in the Sixth Batch. However, the Defence refers to its previous observations on the first five batches of applications for participation received.<sup>29</sup> These observations have been taken into account by the

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<sup>23</sup> ICC-01/04-02/06-220-Conf, para. 36.

<sup>24</sup> ICC-01/04-02/06-220-Conf, para. 25.

<sup>25</sup> ICC-01/04-02/06-220-Conf, para. 26.

<sup>26</sup> ICC-01/04-02/06-220-Conf, para. 25.

<sup>27</sup> ICC-01/04-02/06-220-Conf, para. 25.

<sup>28</sup> ICC-01/04-02/06-220-Conf, para. 29.

<sup>29</sup> ICC-01/04-02/06-219-Conf, paras 8-11.



Single Judge when assessing each application for victim's participation in the Sixth Batch.

#### IV. Determination by the Single Judge

19. The Single Judge has assessed all victims' applications for participation in the Sixth Batch on the basis of the requirements dictated by the legal texts of the Court, as recalled in the 15 January 2014 Decision, and taking into due consideration the observations submitted by the parties and the submissions of the VPRS in its report under regulation 86(5) of the Regulations concerning the Sixth Batch. With regard to Group 1, the Single Judge has decided to accept 43 victim applicants as victims and to reject none. With regard to Group 2, the Single Judge has decided to accept 155 victim applicants, to reject 4 applications and to defer 2 applications, pending additional information to be obtained by the VPRS. In this respect, the Single Judge recalls that, pursuant to rule 89(2) of the Rules "a victim whose application has been rejected may file a new application later in the proceedings." The individual assessment of each application is contained in Annex A (Group 1) and Annex B (Group 2) to the present decision, which are classified as "confidential", *ex parte*, only available to the Prosecutor, the VPRS and the respective common legal representative, because they contain personal information concerning the victim applicants.

20. However, the Single Judge considers it appropriate, as a minimum, to share publicly the main grounds on which some applications have been rejected or deferred as well as to make some clarifications on the approach adopted in respect of certain issues.

21. At first, the Single Judge recalls that in order to qualify as victim within the meaning of rule 85(a) of the Rules, it suffices that an applicant had suffered *at least one* of the recognized harms (physical, psychological or material harm)<sup>30</sup> as a result of *at least one* crime with which Mr. Ntaganda is charged. The status of victim in the

<sup>30</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, para. 28.

present proceedings does not differ in nature between victim applicants who have suffered only *one* harm as a consequence of *one* of the crimes allegedly committed by the suspect and victim applicants who have suffered multiple harms resulting from the commission of *more than one* crime with which the suspect is charged.<sup>31</sup> Once admitted, all applicants are equally considered as victims participating in the present case. However, to the extent possible, in her individual assessment of each application for participation, the Single Judge has attempted to reflect the full range of victimization suffered by the victim applicants, provided that they have furnished sufficient information to this effect.

22. The Single Judge underlines that, unless otherwise stated in her individual assessment contained in Annex A and Annex B,<sup>32</sup> she has considered minor inconsistencies in the information provided by the victim applicants as not affecting the establishment of their identity as natural persons. Consistent with what has been stated in the 15 January 2014 Decision, by “minor inconsistencies” the Single Judge means, for example, discrepancies in the spelling of the first and/or last name or the date of birth of the victim applicant between the identification documents provided and the Simplified Form,<sup>33</sup> or any missing information not capable, by itself, to cast doubts on the identity of the victim applicants (such as the gender, the date or place of birth, the ethnicity of the victim applicants or the name of the local authority attesting the identity of the victim applicants).<sup>34</sup> The same holds true for the establishment of the identity of a family member in respect of whom the victim applicant claims to have indirectly suffered personal harm as a result of the crimes charged.<sup>35</sup>

23. A number of applications have been rejected in part as the victim applicants failed to demonstrate either the identity of or the kinship with the family members in

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<sup>31</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, paras 27, 33.

<sup>32</sup> See for example applicant a/01342/13.

<sup>33</sup> See for example applicant a/00892/13, a/00809/13, a/00611/13, a/01345/13 and a/01348/13.

<sup>34</sup> See for example applicant a/00121/13, a/01328/13, a/01334/13, a/01335/13 and a/01368/13.

<sup>35</sup> See for example applicant a/01353/13.

respect of whom they claim to have indirectly suffered personal harm as a result of the crimes charged,<sup>36</sup> or they otherwise did not establish the sufficient degree of kinship for these family members to be considered as “immediate”. In this respect, the Single Judge recalls that a victim applicant may participate as victim in the proceedings if he or she has suffered personal harm as a result of a crime committed against an immediate family member.<sup>37</sup> The Single Judge considers that immediate family members of a victim applicant are, in principle, parents, children, siblings and spouses.

24. As stated in the 15 January 2014 Decision, with regard to other members of the family, such as uncles, aunts, nephews, nieces or grandparents:

“[...] it would be arbitrary to assume that they are automatically excluded from the notion of “immediate family” on account of their second degree familiarisation with the victim applicant. However, in order to claim victim status within the meaning of rule 85(a) of the Rules, the victim applicant must establish that at the time of the victimization, a sufficient proximity existed between him or herself and the family member(s) who directly suffered harm as a result of one or more crimes with which the suspect is charged.<sup>38</sup>

25. The Single Judge considers that such proximity necessarily depends on the particular circumstances of each case and may, for instance, be the case where the victim applicant grew up with the family member in question or where he or she raised such a family member. Conversely, instances where the victim applicant was assisting the family member or *vice versa* in economic activities will not suffice as such to demonstrate the required kinship between them. By the same token, stating that the victim applicant considered his or her family members in question as a father will not be sufficient, in the absence of further information as to the reason of such perception by the victim applicant.

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<sup>36</sup> See for example victim applicant a/00241/13; a/01478/13; a/01502/13; a/00346/13; a/01481/13; a/00264/13 and a/01469/13.

<sup>37</sup> See Pre-Trial Chamber II, ICC-01/04-02/06-211, paras 31-32, 48.

<sup>38</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, para. 49.

26. However, in most of these cases, the victim applicants who claim harm in respect of non-immediate family members also directly suffered personal harm as a result of crimes with which the suspect is charged. Accordingly, they qualify as victims and are entitled to participate in the proceedings of the present case.

27. Moreover, a few applications have been rejected, in whole or in part, because the victim applicants provided an account of events that fall outside either the temporal scope<sup>39</sup> or the geographical scope of the case presented by the Prosecutor in the DCC;<sup>40</sup> or because the Single Judge did not dispose of sufficient information to assess whether the events described by the applicant amount to any of the crimes with which Mr. Ntaganda is charged.<sup>41</sup> With regard to those applicants who provide a more general temporal framework of the events in comparison with other applicants, the Single Judge considers this to be the natural consequence of the recollection of traumatic events that took place more than ten years ago.<sup>42</sup> Moreover, as recalled in the 15 January 2014 Decision, notwithstanding that the determination of each application for participation under rule 85(a) of the Rules remains necessarily individual, all the applications transmitted by the VPRS have been grouped according to appropriate criteria, mostly based on the victimization suffered and the incidents in which the victim applicants were involved.<sup>43</sup>

28. In this respect, the Single Judge observes that the narrative of victim applicants who provided less precise temporal references is consistent with the description of facts given by several victim applicants belonging to the same group, who provided specific dates falling precisely within the temporal parameters of the charges in the DCC. In light of all the foregoing considerations, the Single Judge assessed the applications of those persons referring to more general temporal indicators as falling within the temporal parameters of the charges against the suspect.

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<sup>39</sup> See for example victim applicant a/00473/13, a/00241/13 and a/01289/13.

<sup>40</sup> See for example victim applicant a/01289/13.

<sup>41</sup> See for example victim applicant a/00336/13 and a/00845/13.

<sup>42</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, para. 53.

29. As for the geographical scope of the events encompassed in the charges, the Single Judge recalls that in the DCC, the Prosecutor charged Mr. Ntaganda with crimes committed in “various locations in Banyali-Kilo *collectivité*, including Pluto, Nzebi, Mongbwalu, Sayo and Kilo”<sup>44</sup> and “in over 40 villages in the Walendu-Djatsi *collectivité* including but not limited to Lipri, Kobu and Bambu”.<sup>45</sup> Accordingly, based on the information available, the Single Judge has assessed whether the events described by the victim applicants were committed in the geographical area identified by the Prosecutor in her DCC. An application for participation is rejected because the events described fall outside the geographical scope of the charges if, for example, the Single Judge does not have sufficient information to determine the location of the village where the crimes allegedly took place.<sup>46</sup>

#### V. Duplicate Applications and Related Issues

30. The Single Judge underlines that the existence of duplicate applications in the present case has been a cause of concern and it resulted in difficulties to identify the applicants who filled in more than one application for participation. In the Sixth Batch, the Single Judge notes 7 applicants who have submitted more than one application, either in the present case or in other cases or in situations open before the Court.<sup>47</sup> Among them, the Single Judge must distinguish between applicant a/00351/13 and applicant a/00199/13 – who submitted a duplicate application form linked to the present case – and applicants a/00883/13, a/01718/13, a/00121/13, a/01325/13 and a/01326/13, who previously submitted applications for participation or reparation in other cases before the Court or at the situation level. In the view of

<sup>44</sup> ICC-01/04-02/06-203-AnxA, para. 63.

<sup>45</sup> ICC-01/04-02/06-203-AnxA, para. 77.

<sup>46</sup> See for example victim applicant a/01289/13.

<sup>47</sup> Applications a/00883/13 (duplicate of a/0160/07, never filed in the record of any situation or case); a/01718/13 (duplicate of a/0134/06 filed in the record of the *Prosecutor v. Thomas Lubanga*); a/00199/13 (duplicate of a/01275/13); a/00121/13 (duplicate of a/0147/06 filed in the record of the Situation in the Democratic Republic of the Congo); a/00351/13 (duplicate of a/01482/13); a/1325/13 (duplicate of a/2919/11, filed in the reparation proceedings in the case of the *Prosecutor v. Thomas Lubanga*) and a/1326/13 (duplicate of a/2926/11, filed in the reparation proceedings in the case of the *Prosecutor v. Thomas Lubanga*).

the Single Judge, applicants falling in the latter category may not be considered to have submitted “duplicate” applications.

31. In light of the above the Single Judge considers it appropriate, consistent with the 15 January 2014 Decision, to defer the assessment of all duplicate applications collected by the VPRS for the purposes of the present case, “pending the collection of additional information from the victim applicants concerned as to which application form they intend to submit and which information they wish to include therein”.<sup>48</sup> Conversely, the Single Judge has assessed all applications submitted by those applicants who have presented another application for participation or reparation at the situation level or in other cases before the Court.

32. Accordingly, the Single Judge has decided to defer the assessment of applications a/00199/13 (duplicate of a/01275/13) and a/00351/13 (duplicate of a/01482/13) pending the collection of additional information from the victim applicants concerned, as to which application form they intend to submit and which information they wish to include therein. The VPRS is thus instructed to contact those victim applicants, obtain the additional information required and transmit one Simplified Form for each victim applicant to the Prosecutor, in unredacted copy, and to the Defence with redactions, if need be, in order to enable the parties to submit observations under rule 89(1) of the Rules.

33. In addition, in its report under regulation 86(5) of the Regulations on the Sixth Batch, the VPRS informed the Single Judge of the existence of other “3 duplicates of applications previously transmitted to the Single Judge and the parties” in the first batch (applicant a/01484/13, duplicate of a/00118/13) and in the third batch (applicant a/01136/13, duplicate of a/00643/13; and applicant a/01365/13, duplicate of a/00659/13).<sup>49</sup> The Single Judge has assessed and admitted the applications submitted by applicants a/00118/13, a/00643/13 and a/00659/13 in the 15 January 2014

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<sup>48</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, para. 69.

<sup>49</sup> ICC-01/04-02/06-200-Conf, para. 12.

Decision.<sup>50</sup> The Single Judge further notes that the VPRS has not included the duplicate of the above three applications in the Sixth Batch.<sup>51</sup>

34. In the Information of Duplicates submitted by the common legal representative of victims in Group 1, the Single Judge notes that applicants a/00118/13, a/00643/13 and a/00659/13 confirmed that “the recollection of facts as described in their applications already examined by the Single Judge is correct and that they do not wish to maintain their duplicate applications”.<sup>52</sup> In light of the clarifications provided by these three applicants, the Single Judge considers that their duplicate applications in the possession of the VPRS shall be disregarded. As a consequence, the applications assessed and admitted by the Single Judge in the 15 January 2014 Decision are the authoritative ones and the ruling of the Single Judge in their respect remains valid.

35. Furthermore, the Single Judge notes that application a/01171/13 was assessed and accepted in the 15 January 2014 Decision.<sup>53</sup> However, the Single Judge observes that this applicant has submitted a duplicate application form in the same case registered as a/00064/13. Under these circumstances, in order to ensure consistency in the approach taken with regard to duplicates linked to the present case, the Single Judge considers it appropriate to resort to her power provided in rule 91(1) of the Rules to “modify a previous ruling under rule 89 of the Rules”. Accordingly, the Single Judge is of the view that application a/01171/13 (duplicate of a/00064/13) shall be deferred pending the collection of additional information from the victim applicant concerned, as to which application form he intends to submit and which information he wishes to include therein. As a consequence, the Single Judge clarifies that Mr. Dmytro Suprun may no longer represent the interests of applicant a/01171/13 (duplicate of a/00064/13) in the confirmation of charges hearing and in the related proceedings.

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<sup>50</sup> ICC-01/04-02/06-211-Conf-Exp-AnxB, pp. 16-17, 407, 414.

<sup>51</sup> ICC-01/04-02/06-200-Conf, para. 12.

<sup>52</sup> ICC-01/04-02/06-246-Conf, para. 11.

<sup>53</sup> ICC-01/04-02/06-211-Conf-Exp-AnxB, pp. 485-486.

36. Finally, the Single Judge stresses that, with a view to avoiding problematic issues such as duplicate applications and any other issues that may cause delays and impediments in the efficient management of the applications for participation in the case, it is imperative that the VPRS “raise with the Single Judge, if need be and on a continuous basis, any issues that may arise in regard to the collection and processing of the applications, in order to readily address and resolve such issues before the transmission of the applications to the Chamber”.<sup>54</sup>

#### **VI. Issues Related to Application a/00219/13**

37. The Single Judge notes that the application for participation submitted by applicant a/00219/13 was originally put by the VPRS in Group 2, having the applicant claimed to have suffered harm as a result of the alleged killing of his son and brother.<sup>55</sup> The application was rejected in the 15 January 2014 Decision, on the basis that the events as alleged by the applicant took place at a time that is not reflected in the charges in the DCC.<sup>56</sup> Upon review of the application form, the Single Judge came across the information that the applicant also claimed to have suffered harm as a result of his son being allegedly enlisted and conscripted in the UPC in 2003. The Single Judge, however, observes that in the identification document provided by the applicant neither the age nor the date of birth of the applicant’s son are mentioned. Therefore, the Single Judge does not have sufficient information to establish whether the applicant’s son was, at the time of the alleged enlistment and conscription in the UPC, under the age of fifteen years, so as to qualify as child soldier within the meaning of article 8(2)(e)(vii) of the Statute. Thus, the application for participation of applicant a/00219/13 is rejected.

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<sup>54</sup> Pre-Trial Chamber II, ICC-01/04-02/06-67, para. 32.

<sup>55</sup> ICC-01/04-02/06-132-Conf-Red-AnxB-43.

<sup>56</sup> ICC-01/04-02/06-211-Conf-Exp-AnxB, p. 361.



## VII. Dual Status Victim-Witness Individuals

38. In her Request to Lift Redactions, the Prosecutor informs the Single Judge that victim applicant a/01721/13 is witness P-0100.<sup>57</sup> The Prosecutor proposes to lift redactions applied to his victim application with regard to his identity, signature and date of birth, as this information has been provided to the Defence in the witness statement disclosed to it.<sup>58</sup> The Prosecutor seeks to maintain all other redactions applied in his victim application in order to protect the family members mentioned in the application form as well as the ongoing activities of the VPRS on the field, as the case may be.<sup>59</sup>

39. The Single Judge recalls that she has granted authorization, pursuant to article 68(1) of the Statute in conjunction with rule 81(4) of the Rules, to redact certain information in the evidence provided by applicant a/01721/13 as witness P-0100.<sup>60</sup> Consistent with what has been done in relation to three other individuals having the dual status of victim and witness in the case,<sup>61</sup> the Single Judge considers it appropriate to ensure that the same information is redacted in the victim's application submitted by this individual, while ensuring that information that has already been revealed to the Defence in the course of the disclosure process is equally available to the suspect in the victim's application presented by applicant a/01721/13.

40. The Single Judge observes that the redactions to the application a/01721/13 were applied by the VPRS, which subsequently transmitted it to the Defence.<sup>62</sup> Therefore, the Single Judge orders the VPRS to prepare a new version of the Simplified Form submitted by victim applicant a/01721/13, lifting the redactions to the information

<sup>57</sup> ICC-01/04-02/06-232-Conf-Exp, para. 8.

<sup>58</sup> ICC-01/04-02/06-232-Conf-Exp, para. 9.

<sup>59</sup> ICC-01/04-02/06-232-Conf-Exp, para. 11.

<sup>60</sup> Pre-Trial Chamber II, "First Decision on the Prosecutor's Request for Redactions", 1 October 2013, ICC-01/04-02/06-117-Conf-Red and ICC-01/04-02/06-117-Conf-Exp-AnxII, pp. 142 and ff.

<sup>61</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, para. 74.

<sup>62</sup> See ICC-01/04-02/06-200-Conf-AnxB-199.

referred to by the Prosecutor in her submissions and to transmit it anew to the Defence as soon as practicable.

### **VIII. Common Legal Representation of Victims**

41. The Single Judge recalls that in the 15 January 2014 Decision, she decided to appoint Ms. Sarah Pellet as common legal representative of the victims admitted to participate and falling within Group 1, and Mr. Dmytro Suprun as common legal representative of the victims admitted to participate and falling within Group 2.<sup>63</sup> In addition, the Single Judge granted a series of participatory rights to the two common legal representatives, to be exercised on behalf of the victims that they represent.<sup>64</sup>

42. The Single Judge specifies that the appointment of Ms. Sarah Pellet and Mr. Dmytro Suprun extends to the victims hereby admitted to participate by the present decision and falling in their respective groups. The same holds true for the participatory rights to be exercised by the common legal representatives at the confirmation of charges hearing and in the related proceedings. Accordingly, the Single Judge does not consider it necessary to enumerate the participatory rights afforded to the victims admitted in the present decision but recalls them by reference to paragraphs 81-96 of the 15 January 2014 Decision.

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<sup>63</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, p. 37.

<sup>64</sup> Pre-Trial Chamber II, ICC-01/04-02/06-211, p. 37.

**FOR THESE REASONS, THE SINGLE JUDGE HEREBY**

**a) decides** to admit as victim participants in Group 1 applicants: a/00731/13, a/00735/13, a/00736/13, a/00737/13, a/00711/13, a/00714/13, a/00688/13, a/00694/13, a/00573/13, a/00713/13, a/00705/13, a/00715/13, a/00708/13, a/00583/13, a/00587/13, a/00574/13, a/00576/13, a/01378/13, a/01379/13, a/01374/13, a/01380/13, a/01375/13, a/01376/13, a/01377/13, a/00720/13, a/00612/13, a/01385/13, a/01381/13, a/01397/13, a/01386/13, a/01393/13, a/01382/13, a/01387/13, a/01399/13, a/01383/13, a/01384/13, a/01391/13, a/01392/13, a/01394/13, a/01395/13, a/01396/13, a/01325/13, a/01326/13;

**b) decides** to admit as victim participants in Group 2 applicants: a/01315/13, a/01314/13, a/01317/13, a/00878/13, a/00908/13, a/01720/13, a/00892/13, a/00883/13, a/00809/13, a/00828/13, a/00568/13; a/01316/13, a/00792/13, a/00783/13, a/00611/13, a/00759/13, a/00786/13, a/00778/13, a/00781/13, a/00782/13, a/00789/13, a/00613/13, a/00614/13, a/00616/13, a/00560/13; a/00995/13, a/01018/13, a/01020/13, a/00352/13, a/00954/13, a/01047/13, a/00916/13, a/01475/13, a/01476/13, a/01485/13, a/01480/13, a/01481/13, a/00121/13, a/01496/13, a/01489/13, a/01508/13, a/01509/13, a/01717/13, a/01719/13, a/01716/13, a/00264/13; a/00011/13, a/00018/13, a/01119/13, a/00241/13, a/01090/13, a/01478/13, a/01342/13, a/01343/13, a/01344/13, a/01345/13, a/01346/13, a/01347/13, a/01348/13, a/01349/13, a/01350/13, a/01351/13, a/01352/13, a/01723/13, a/00006/13, a/01477/13, a/01467/13, a/01466/13, a/01490/13, a/01510/13, a/01502/13, a/01722/13, a/01721/13, a/00165/13, a/00314/13, a/00346/13, a/01718/13; a/01479/13, a/01463/13, a/01486/13, a/01464/13, a/01468/13, a/01469/13, a/01465/13, a/01471/13, a/01472/13, a/01473/13, a/01474/13, a/01500/13, a/01493/13, a/01494/13, a/01487/13, a/01498/13, a/01497/13, a/01501/13, a/01488/13, a/01499/13, a/01491/13, a/01492/13, a/01328/13, a/01335/13, a/01329/13, a/01336/13, a/01330/13, a/01332/13, a/01331/13, a/01333/13, a/01334/13, a/01337/13, a/01338/13, a/01339/13, a/01340/13, a/01341/13, a/01505/13, a/01291/13, a/01506/13, a/01507/13, a/01293/13, a/01513/13, a/01288/13, a/01503/13, a/01364/13, a/01356/13, a/01353/13, a/01357/13, a/01360/13, a/01354/13, a/01361/13, a/01358/13, a/01713/13, a/01362/13, a/01355/13, a/01363/13, a/01359/13,

a/01714/13, a/01372/13, a/01373/13, a/01366/13, a/01239/13, a/01724/13, a/01278/13, a/01725/13, a/01367/13, a/01715/13, a/01368/13, a/01369/13, a/01370/13, a/01371/13, a/00298/13, a/00261/13, a/00270/13, a/00324/13, a/00326/13, a/00323/13, a/01482/13;

**c) decides** to reject the following applications for participation submitted by the victim applicants falling in Group 2: a/00336/13, a/00473/13, a/00845/13, and a/01289/13 and a/00219/13;

**d) decides** to defer the following applications for participation submitted by the victim applicants falling in Group 2: a/00199/13 and a/00351/13;

**e) decides** to modify her previous ruling in respect of victim a/01171/13 and to defer the application for participation submitted by this applicant;

**f) decides** that the appointment of Ms. Sarah Pellet and Mr. Dmytro Surpun as common legal representatives of victims in Group 1 and victims in Group 2, respectively, shall extend to the victims hereby admitted by the present decision;

**g) decides** that Ms. Sarah Pellet and Mr. Dmytro Suprun may exercise, in respect of the victims hereby admitted by the present decision, the participatory rights specified in section IX of the 15 January 2014 Decision;

**g) orders** the Registrar to provide Ms. Sarah Pellet and Mr. Dmytro Suprun with access to the relevant application forms of victims admitted in Group 1 and victims admitted in Group 2, respectively; and

**h) orders** the VPRS to prepare a new version of the Simplified Form submitted by victim applicant a/01721/13, a, lifting the redactions to the information mentioned by the Prosecutor in her Request to Lift Redactions and to transmit it anew to the Defence.

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



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Judge Ekaterina Trendafilova  
Single Judge

Dated this Friday, 7 February 2014

At The Hague, The Netherlands