

Table of Cases

ECCC

Case 001, xi, 15, 22, 60, 64, 68, 72, 76, 123, 189, 255, 256, 272, 275, 277, 279, 303, 349, 360, 396, 398, 402, 424, 436, 440

Case 002, 20, 35, 37, 64, 68, 72, 77, 123, 256, 272, 276, 278, 303, 349, 359, 363, 377, 393, 398, 436, 440

Case 004, 210

ICC

Abu Garda, 56, 63, 125, 214, 309

Al Mahdi, 216, 224

Banda, 57, 63, 66, 75, 125, 133, 138, 146, 148, 214, 215, 224, 229, 238, 257, 288, 445, 454

Banda and Jerbo. *See* Banda

Bemba, 54, 59, 62, 63, 65, 70–72, 119, 129, 135, 160, 189, 198, 214, 215, 233, 238, 246, 251, 254, 261, 263, 266, 267, 269, 275, 277, 285–288, 290, 291, 293–97, 299, 305, 307, 309, 310, 312, 313, 423, 441, 445, 454

Darfur situation, 53, 54

DRC Situation, 65, 67

Gbagbo (Laurent) and/or Blé Goudé, 17, 48, 63, 161, 215, 216, 224, 239, 248, 252, 305–307, 370, 373, 374

Georgia Situation, 3

Ivory Coast Situation, 3

Katanga, 54, 62, 75, 89, 125, 127, 130, 144, 153, 163, 182, 189, 194, 215, 217, 221, 222, 233–235, 239, 240, 245, 246, 251, 252, 257, 259, 261, 263, 267, 270, 274, 277, 280, 296, 299, 301, 305, 310, 380, 393, 417, 420, 422, 428

Kenya Situation, 3

Kenyatta, 17, 100, 167, 252, 390, 391, 441, 442, 447, 448

Kenyatta Muthaura and Ali. *See* Kenyatta

Kony et al. , 75, 121, 150, 185

Kony et al., *see also* Ongwen

Lubanga, 20, 52, 53, 56–59, 63, 65, 66, 68, 82, 89, 99–100, 123, 125, 126, 129, 172, 175, 185, 191, 195, 196, 214, 224, 225, 234, 236, 238, 245, 246, 250, 252, 254, 256, 259, 266, 269, 273, 277, 280, 286, 287, 289, 291, 293, 296, 299, 304–309, 312, 329, 364, 365, 378, 379, 381, 383, 394, 395, 399–406, 425, 428, 429, 446, 454

Mbarushimana, 4, 62, 214, 218

Ngudjolo, 189, *see also* Katanga

Ntaganda, 17, 19, 30, 62, 63, 125, 130, 138, 157, 161, 166, 216, 224, 225, 248, 292, 305–307, 309, 323, 423, 441

Ongwen, 17, 30, 119, 126, 150, 158, 159, 214, 222–224, 228, 234, 238, 239, 245, 249, 255, 283, 305–307

Ruto, 17, 100, 115, 145, 148, 165, 220, 234, 252, 307, 309, 417, 418, 442, 447, 448

Ruto Kosgey and Sang case, 417

STL

Al Akhbar and Al Amin, 191

Ayyash, xii, 22, 30, 35, 39, 40, 57, 60, 64, 73, 124, 134, 144, 160, 186, 191, 212, 230, 236, 240, 246, 250, 253, 254, 256, 258, 273, 276, 278–280, 286, 300, 302, 310, 313, 349, 351, 352, 355, 361, 362, 371, 381, 424, 430, 438, 439, 443, 446, 449, 452, 461

Index

A

Access

- by LRVs to confidential case file, [6](#), [162](#), [207](#), [211–219](#)
- by LRVs to disclosed material, [162](#), [208](#), [219–228](#)
- by LRVs to public documents, [211](#)
- by LRVs to redacted application forms, [218](#)
- by LRVs to transcripts, [208](#)
- by victims and civil parties themselves, [6](#), [189](#), [206](#), [207](#)

Ad Hoc Tribunals

- See also* International Criminal Tribunal for Rwanda (ICTR) *See also* International Criminal Tribunal for the former Yugoslavia (ICTY)

Admissibility proceedings, victim participation in, [3](#)

Appeals, [7](#), [357](#), [358](#)

- from acquittals or convictions, [375–381](#)
- of decisions not to investigate, [4](#), [5](#)
- from decisions on applications for participation, [36–38](#), [40–42](#), [120](#), [121](#), [143](#)
- from decisions terminating participation, [424](#), [426](#)
- final, [357](#)
- interlocutory
 - LRVs' participation in, [362–371](#)
 - procedure, [372–375](#)
 - request by LRVs, [359–362](#)
- on legal aid, [143](#), [162](#)
- on legal representation, [143–148](#)
- reparations. *See* reparations, appeals on sentence, [381](#)

Appearance of victims in person, [283–313](#)

- categories, [285](#)
- risks, [311](#), [312](#) *See also* views and concerns, in-person presentation of; dual status victims

Application forms, [16–19](#)

- parties' access to, [34](#), [35](#)

Application for participation

- appeals from decisions on. *See* appeals from decisions on applications for participation

- Assistance to applicants, [19](#), [20](#) *See also* third parties, assisting with application forms

- forms. *See* application forms

- legal representation during, [13](#), [20](#), [119–122](#)

- observations of parties on, [28–31](#)
- protection during, [31–35](#), [175](#), [176](#)
- required information, [24](#), [25](#), [49](#)
- standard of proof, [66–69](#), [426–429](#)
- time limits, [20–23](#)

- withdrawal, [415](#), [416](#) *See also* termination of participation

assistance and support for victims. *See* reparations, assistance and support

Attendance of proceedings, [341–356](#)

- inside courtroom, [348–352](#)
- logistical support, [353](#), [354](#)
- private gallery, [352](#)
- protective measures, [348](#), [350](#), [352](#), [353](#), [355](#)
- public gallery, [347](#), [348](#)

B

- Barriers to testimony, 315–337
 - composite narrative, 331–333
 - contamination, 333–336
 - post-traumatic stress disorder, 317, 330
 - sexual violence, 317, 318, 320–322, 328, 331, 336
 - shame, 319, 320
 - trauma, 323–328
 - type of abuse suffered, 318, 319 *See also* barriers to communication
- Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 46, 58, 396

C

- Calling evidence, 230, 240, 244, 259–273, 280, 298, 310, 313, 362, 397
- Challenging evidence, 244, 256–259, 279, 280
- Civil party lawyers, 9, 15, 38, 92, 113, 116, 118, 120, 128, 129, 151, 168, 227, 237, 239, 399, 440, 441, 449
- Civil Party Lead Co-Lawyers (CPLCL), 9, 92, 113, 116, 118, 124, 128, 134, 145, 151, 168, 227, 449
- Classification of documents, 208
- Closing submissions, 273–276
- Common legal representation, 6, 13, 118, 119, 122–143
 - conflict of interest among victims, 128–133, 144, 147, 163, 164
 - grouping of victims for, 128–133
 - key features, 122, 123
 - rationale, 123, 124
 - selection of legal representative, 134–143
 - time for arrangement, 124–128 *See also* legal representation
- Communication with dual status victims. *See* dual status victims, Communication
- Communication with victims, 176, 434–462
 - active listening, 451, 456–458, 462
 - barriers to communication *See also* barriers to testimony
 - check-list for first contact, 439
 - consulting victims about communication, 445–447
 - consulting victims on views and concerns, 447–450

- goals, 436–442
- group meetings, 335, 336, 442
- informing victims, 442–444
- legal aid for, 160
- LRVs' professional obligations, 163
- non-verbal communication, 451, 457, 458, 464
- role of third parties, 86, 92 *See also* secondary traumatisation
- Complaints to Prosecutor, 3, 5, 47
- Confidential documents, 217
- Counsel, 9, 112
 - disciplinary regimes, 164
 - minimum qualifications, 116, 117, 134
 - obligations, 86, 160, 162–164, 227, 429, 430, 434, 435 *See also* legal representation

D

- Death of participating victims, 420–424
 - resumption of participation, 55, 420–424
- Declaration of Basic Principles of Justice for Victims of Crime, 46, 78
- Defence rights, consistency of participation with, 116, 266, 267, 269, 300, 420
- Disclosure obligations of LRVs, 227–230, 240, 295, 310, 313
- Disclosure of victims' applications, by prosecution, 308–310
- Dual status
 - access by LRVs to material, 223
 - definition, 285
- Dual status victims
 - communication, 305–308
 - disclosure or notification of application forms, 230, 308–310
 - evidential value, 301–303
 - identifying, 305
 - pre-conditions, 298–301
 - protective measures, 310–311

H

- Harm
 - causation, 50, 61–66, 78
 - collective, 57
 - definition, 56
 - direct and indirect, 58–60 *See also* victim, direct and indirect material, 47, 56–58, 74, 78, 409
 - physical, 55–58

- psychological, 47, 55–60, 74, 76–79, 245, 246
 - social standing, 56
 - substantial impairment of fundamental rights, 56
 - types, 55–58 *See also* application for participation, standard of proof
- I**
- Identity
- person acting on behalf of a victim, 51–53
 - victim, 50, 51, 69 *See also* proof, identity
- Incapacity. *See* victim, child; victim, disabled
- Intermediaries
- compensation of, 104
 - conflicts of interest, 105
 - disclosure of identities, 99, 102
 - duties, 102, 104
 - formalised relationship, 102
 - in general. *See* third parties
 - ICC Code of Conduct, 101, 102, 105
 - ICC Guidelines, 98, 100–106
 - multiple functions. *See* intermediaries, conflicts of interest
 - protection, 99, 103
 - selection of, 101, 104, 106
 - support from the ICC, 102
 - Trust Fund for Victims, 87–90
- International anti-corruption, 162
- International Criminal Tribunal for Rwanda (ICTR), 112, 117, 178, 191, 408
- International Criminal Tribunal for the former Yugoslavia (ICTY), 112, 117, 178, 191, 342, 345, 408
- Investigations, participation in. *See* situations, participation in
- L**
- Legal aid, 92, 113–114, 150–162, 168, 461, appeals. *See* appeals, on legal aid entitlements *See also* legal aid, indigence indigence, 143, 154–158, 162, 168
- outside common legal representation, 158, 159
 - in practice, 160–162
 - scope of resourcing, 159–162
- Legal representation, 111–169
- appeals. *See* appeals, on legal representation at application stage. *See* application for participation, legal representation during compulsory, 115–116, 151
 - consultation of victims, 119, 134–135
 - duration, 164–167 *See also* termination of legal representation duty counsel, 143–145
 - funding. *See* legal aid intermediaries' support to, 86, 87, 92, 103
 - internal and external, 6, 13, 20, 87, 113, 114, 118, 120, 135, 136, 150–152, 168
 - monitoring, 164
 - right to choose, 117–119
 - self-representation, 115, 116
 - termination
 - See* termination of legal representation
 - See also* legal representation, duration
 - See also* common legal representation counsel; Office of Public Counsel for Victims (OPCV)
- N**
- Notification of documents to LRVs, 209–211
- Notification of victims, termination of participation, 429, 430
- O**
- Observational attendance. *See* attendance of proceedings
- Office of Public Counsel for Victims (OPCV), 13, 14, 86, 87, 114, 115, 118, 120–122, 136, 144, 150–152, 161, 166, 168, 441, 445, 461
- (in)ability of victims to appoint, 118
 - roles, 114 *See also* legal representation, internal and external
 - opening of situation *proprio motu*, victims' representations, 3
- Opening statements, 244–247
- P**
- Participating victims' status and role, 4, 5
- Personal interests, 4
- meaning and content, 287
 - meaning or content, 232, 258, 266, 367, 368, 371, 422, 452
 - when relevant, 31, 216, 223, 230, 232–234, 240, 241, 248, 251, 252, 257, 260, 265, 269, 279, 280, 290, 291, 305,

- 354, 362, 364, 366, 371, 374, 375, 378, 379, 381
- Proof**
 harm, 72, 77
 identity, 51, 69–72
 kinship, 52, 69, 421
 legal guardianship, 52, 421 *See also*
 application for participation,
 standard of proof
- Protection program.** *See* protective measures,
 relocation
- Protective measures, 171–201**
 anonymity, 6, 187–190
 in-court, 187, 190–193
 initial response system (IRS), 195
 operational protective measures, 178,
 194–197, 201
 relocation, 196, 197, 202
 risk assessment, 175, 187
 variation of protective measures, 193, 194
- Q**
- Questioning witnesses, 247–256**
 by chamber on behalf of LRVs or party,
 249, 250
 length of time for, 254–256
 LRV witnesses, 270, 271
 mode of questioning, 253, 254
 order, 249, 250
 requirement for request, 247–250
 scope of questioning, 250–253
- R**
- Reparations, 385–410**
 appeals, 381, 382, 402–404
 applications and determinations, 397–402
 assistance and support, 385, 386, 407–409
 collective, symbolic and/or moral, 7, 93,
 227, 388, 397, 398, 400, 401, 407
 eligible beneficiaries, 392–396
 enforcement of awards, 392, 403–407
 individual, 397, 400–402, 404
 preventive measures regarding assets,
 389–392
 relationship to participation, 396, 397 *See also*
 Trust fund for Victims
- Reparations proceedings, 73, 89, 219, 395,
 397**
- Replies by LRVs.** *See* submissions by LRVs
- Responses by LRVs.** *See* submissions by
 LRVs
- Resumption of participation following death**
See death of participating victims
 resumption of participation
- Review.** *See* appeals
- review of decision not to investigate, victim
 participation, 3, 4**
- Resumption of participation, 55, 420–424**
- S**
- Screening of hearings, 352**
- Situations, participation in, 5**
- Submissions by LRVs, 232–238**
 closing statements. *See* opening statements
 opening statements. *See* opening
 statements
 on sentencing, 277, 278
- T**
- Termination of legal representation, 164–167,
 169, 429**
- Termination of participation, 413, 431**
 on death. *See* death of participating victims
 by narrowing of charges, 416, 424, 429,
 431
 obligations following, 429, 430
 revocation by chamber, 424–429
 by voluntary withdrawal, 415–420, 431
- Third parties, 6, 8, 13, 15, 18, 19, 81–107,
 123, 142, 175, 176, 315, 319, 322,
 417, 436, 437, 446**
 advantages, 94, 95
 assisting with application forms, 13, 15,
 18–20, 38, 85, 86, 91, 100
 challenges, 95–97, 103–106
 outreach, 85, 86, 91
 support to LRVs, 86, 87
 terminology, 83
- Traumatization, secondary, 434, 462–465**
- Trust fund for victims**
 implementation plan, 89
 implementing partners. *See* intermediaries,
 Trust Fund for Victims
 “other resources of;”, 402, 406, 407
 role in reparations award, 388, 391, 395,
 399–402, 404, 406
 second mandate. *See* reparations assistance
 and support

V

Victim

- appearing in person before the court. *See* appearance of victims in person
 - child, 49, 51–53
 - deceased, 53–55, 420–424
 - definition, 46, 47 *See also* harm; identity
 - direct and indirect, 46–54, 58–60, 64, 73–79, 395, 396, 440 *See also* harm, direct and indirect
 - disabled, 53
 - person acting on behalf of, 51–53
- Views and concerns, in-person presentation of, 285–298
- content, 286, 287

- disclosure obligations, 295 *See also* disclosure obligations of

LRVs

- distinguished from evidence, 286, 287, 298
- exceptionality, 287, 288
- procedure, 294, 297, 298
- protective measures, 295–297

W

- Withdrawal of participation. *See* termination of participation, by voluntary withdrawal
- Witness examination. *See* questioning witnesses