



Original : English

No.: ICC-02/04
Date: 4 April 2008

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Single Judge

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

Public Document

Decision on the OPCV's Requests for leave to file a response to the Defence's Application dated 25 March 2008 and to file observations on the Prosecution's Response to such Application

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Eric McDonald, Trial Lawyer

Ad hoc Counsel for the Defence
Ms Michelyne C. St. Laurent

Office of Public Counsel for Victims
Ms Paolina Massidda

I, Judge Mauro Politi, judge at the International Criminal Court (the “Court”);

NOTING the “Decision designating a Single Judge on victims’ issues”, dated 22 November 2006,¹ whereby Pre-Trial Chamber II (the “Chamber”) designated Judge Mauro Politi as Single Judge responsible for all issues arising in connection with victims’ participation in the proceedings in respect of the situation in Uganda (the “Situation”) and in the case of *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen* (the “Case”);

NOTING the “Decision on legal representation, appointment of counsel for the defence, protective measures and time-limit for submission of observations on applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06”, dated 1 February 2007;²

NOTING the “Decision on victims’ applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06”, filed on 13 August 2007 in the record of the Situation³ and in the record of the Case;⁴

NOTING the “Decision on legal representation of victims a/0101/06 and a/0119/06”, filed on 28 August 2007 in the record of the Situation;⁵

NOTING the “Decision on legal representation of Victims a/0090/06, a/0098/06, a/0101/06, a/0112/06, a/0118/06, a/0119/06 and a/0122/06” (the “Decision on legal

¹ ICC-02/04-01/05-130.

² ICC-02/04-01/05-134.

³ ICC-02/04-100-Conf-Exp; ICC-02/04-101.

⁴ ICC-02/04-01/05-251-Conf-Exp; ICC-02/04-01/05-252.

⁵ ICC-02/04-105.

representation”), filed on 15 February 2008 in the record of the Situation⁶ and in the record of the Case;⁷

NOTING the “Decision on victims’ applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06, a/0082/06, a/0084/06 to a/0089/06, a/0091/06 to a/0097/06, a/0099/06, a/0100/06, a/0102/06 to a/0104/06, a/0111/06, a/0113/06 to a/0117/06, a/0120/06, a/0121/06 and a/0123/06 to a/0127/06” (the “Decision on victims’ applications for participation”), filed on 14 March 2008 in the record of the Situation⁸ and in the record of the Case,⁹ whereby the Single Judge *inter alia* granted Applicants a/0065/06, a/0068/06, a/0093/06, a/0096/06, a/0117/06, a/0120/06 and a/0123/06 the status of victim in the context of the Situation, and Applicants a/0094/06, a/0095/06, a/0103/06, a/0117/06, a/0120/06, a/0121/06, a/0123/06 and a/0124/06 the status of victim in the Case, and requested the Registrar to assist them in the appointment of a common legal representative;

NOTING the “Requête de la Défense sollicitant l’autorisation d’interjeter appel de la ‘Decision on victims’ applications for participation’ rendue le 14 mars 2008” (the “Defence Request”), filed on 25 March 2008 in the record of the Situation¹⁰ and in the record of the Case;¹¹

NOTING the “Prosecution’s Response to Defence’s Request for Leave to Appeal the Single Judge’s 14 March 2008 Decision on the Applications for Participation in the Proceedings” (the “Prosecution’s Response”), filed on 31 March 2008 in the record of the Situation¹² and in the record of the Case;¹³

⁶ ICC-02/04-117.

⁷ ICC-02/04-01/05-267.

⁸ ICC-02/04-124-Conf-Exp ; ICC-02/04-125.

⁹ ICC-02/04-01/05-281-Conf-Exp ; ICC-02/04-01/05-282.

¹⁰ ICC-02/04-128.

¹¹ ICC-02/04-01/05-285.

¹² ICC-02/04-129.

¹³ ICC-02/04-01/05-287.

NOTING the “Request for leave to file a response to the ‘Requête de la Défense sollicitant l’autorisation d’interjeter appel de la ‘Decision on victims’ applications for participation’ rendue le 14 mars 2008”, filed by the Office of Public Counsel for Victims (the “OPCV”) in the record of the Situation¹⁴ and in the record of the Case¹⁵ on 31 March 2008, in which the OPCV requested to be appointed “as legal representative for the victims authorised to participate in the case *The Prosecutor v. Joseph Kony et al.* until a common legal representative is chosen by the victims and to grant her leave to file a response to the Defence’s Application in a time limit indicated by the Single Judge” (the “OPCV’s First Request”);

NOTING the “Request for leave to file observations to the ‘Prosecution’s Response to Defence’s Request for Leave to Appeal the Single Judge’s 14 March 2008 Decision on the Applications for Participation in the Proceedings’”, filed by the OPCV in the record of the Situation¹⁶ and in the record of the Case¹⁷ on 2 April 2008, in which the OPCV requested to be appointed “as legal representative for the victims authorised to participate in the situation until a common legal representative is chosen by the victims and to grant her leave to file observations on the Prosecution’s Response in a time limit indicated by the Single Judge” (the “OPCV’s Second Request”);

NOTING regulation 65(3) of the Regulations of the Court (the “Regulations”), which entitles participants in the proceedings to file a response to an application for leave to appeal under article 82(1)(d) of the Rome Statute within three days of notification of such application, unless the Pre-Trial or the Trial Chamber concerned orders an immediate hearing of the application;

NOTING regulation 24(2) of the Regulations, which allows victims or their legal representatives to “file a response to any document when they are permitted to

¹⁴ ICC-02/04-130.

¹⁵ ICC-02/04-01/05-288.

¹⁶ ICC-02/04-131.

¹⁷ ICC-02/04-01/05-289.

participate in the proceedings in accordance with article 68, paragraph 3, and rule 89, sub-rule 1, subject to any order of the Chamber”;

CONSIDERING that, at the time when the OPCV’s First and Second Requests were filed, no common legal representative for those who have been granted the status of victims had been appointed in accordance with the Decision on victims’ applications for participation;

CONSIDERING therefore that at this stage it is in the interest of justice to provide Victims in the context of the Situation a/0065/06, a/0068/06, a/0093/06, a/0096/06, a/0117/06, a/0120/06 and a/0123/06, as well as Victims in the Case a/0094/06, a/0095/06, a/0103/06, a/0117/06, a/0120/06, a/0121/06, a/0123/06 and a/0124/06 with a legal representative, pending the appointment of a common legal representative pursuant to the Decision on victims’ applications for participation, and in order to effectively enable them to exercise their right to file a response to the Defence Request as well as to file observations on the Prosecution’s Response;¹⁸

CONSIDERING further that pursuant to regulation 80(2) of the Regulations, counsel from the OPCV may be appointed by the Chamber as legal representative of victims;

FOR THESE REASONS,

APPOINT the Principal Counsel of the OPCV, Ms Paolina Massidda, or a counsel from the OPCV designated by her, as legal representative of Victims a/0094/06, a/0095/06, a/0103/06, a/0117/06, a/0120/06, a/0121/06, a/0123/06 and a/0124/06, pending the appointment of a common legal representative in accordance with the Decision on victims’ applications for participation, and for the purpose of effectively enabling her or the designated counsel to file a response to the Defence Request;

¹⁸ ICC-02/04-105

GRANT the Principal Counsel of the OPCV or a counsel designated by her as appointed by this decision, three days, starting from the notification of this decision, to file a response to the Defence Request;

APPOINT the Principal Counsel of the OPCV, Ms Paolina Massidda, or a counsel from the OPCV designated by her, as a legal representative of Victims a/0065/06, a/0068/06, a/0093/06, a/0096/06, a/0117/06, a/0120/06 and a/0123/06, pending the appointment of a common legal representative in accordance with the Decision on victims' applications for participation, and for the purpose of effectively enabling her or the designated counsel to file observations on the Prosecution's Response;

GRANT the Principal Counsel of the OPCV or a counsel designated by her as appointed by this decision, three days, starting from the notification of this decision, to file observations on the Prosecution's Response.

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



Judge Mauro Politi
Single Judge

Dated this Friday, 4 April 2008

At The Hague, The Netherlands