

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : **English**

No.: **ICC-02/04-01/05**  
Date: **11 January 2008**

**PRE-TRIAL CHAMBER II**

**Before:** Judge Mauro Politi, Single judge

**Registrar:** Mr Bruno Cathala

**SITUATION  
IN THE CASE OF  
THE PROSECUTOR**

*v. Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen*

**Confidential**

**Ex parte only available to the VPRS**

**Report of the Registry on legal representation in accordance with the Decision of  
Pre-Trial Chamber II dated 10 August 2007  
in accordance with Regulation 86 paragraph 5 of the Regulations of the Court**

1. In his Decision dated 10 August 2007<sup>1</sup>, the Single Judge requested the Registrar to assist the applicants to participate in proceedings who were granted the status of victims in the case the Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen or the situation in Uganda in appointing a common legal representative. Further, the Single Judge requested the Registrar to seek the view of applicant a/0119/06 as regards by which legal representative he should be represented.
2. On 30 and 31 of October 2007 the staff of the VPRS met with all of the victims granted the status of victims in the case or the situation. The meeting occurred in Lira town and was organized by the staff of the organisation that served as intermediary in presenting the applications to the Court. The purpose of the meeting was to explain the decision of August 10, 2007 by the Single Judge of Pre-Trial Chamber II and to assist the victims in choosing their common legal representative and to hear their views and opinions on the matter. It was not possible to hold the meeting earlier due to the floods that had affected the relevant areas of Uganda.
3. First, individual meetings were conducted with each victim privately. In each of these encounters, the victim was informed that the Single Judge of PTC II had granted them the status of victim in the situation or in the case or both. Each was explained his or her rights as victims, and what assistance the Registry could provide them in obtaining legal representation. Previously, in their applications, each had requested assistance from the Court in their organizing legal representation. To this end, a copy of the list of counsel qualified to act before the Court that is maintained by the Registry was provided, an explanation of the legal aid program and the process of application was given, and each was informed of the mandate of the Office of Public Counsel for Victims (OPCV). Moreover, each victim was updated on any other pertinent developments in the proceedings relating to the situation and the case in Uganda. Each victim was given the opportunity to ask questions and present their concerns.

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<sup>1</sup> ICC-02/04-01/05-251-Conf Exp, ICC-02/04-01

4. Second, a meeting occurred with the group as a whole in order to discuss and decide upon a common legal representative acceptable to all. The victims requested the staff of the VPRS to select from the 221 lawyers included in the list of counsel those who meet the following criteria: first, that the counsel has significant experience representing victims; second, that the counsel speaks English fluently; third, that the counsel has knowledge of the situation and work experience in that region of Africa; fourth, that ideally the counsel should reside in Africa, or in Europe if this is not possible; fifth, that the counsel has expert knowledge of the proceedings of the ICC. The staff of VPRS chose ten lawyers from the list that met at least three of these criteria, based upon the CV's provided by the lawyers. This list of ten lawyers was then provided to the victims at the meeting so that they could deliberate and decide upon a counsel.
5. The victims of the case decided to appoint a counsel of the OPCV as a common legal representative.
6. The victims in the situation decided to appoint a counsel of the OPCV as a common legal representative.
7. Both groups expressly stated their desire to exercise their right to be informed about developments in the proceedings. Moreover, they expressed the view that criminal proceedings were difficult to understand fully due to their complexity. Both groups requested that the OPCV provide a staff member who would keep them informed, conduct regular meetings with the groups, and be available to respond to their questions or concerns.
8. In his decision, the Single Judge of PTC II requested that the Registrar seek the views of applicant a/0119/06 as regards by which legal representative he should be represented. This victim declared his desire to participate as a victim both in the case and in the situation. As such, he wishes to remain in both groups. The individual asserted further that, in the event that he is required to choose between the two, his preference is to remain a victim in the case.

9. After ascertaining the wishes of the victims as regards their common legal representation, the VPRS contacted the OPCV in order to establish the availability of qualified counsel within the Office to represent the victims, and whether any conflict of interest exists that might prevent the Office from acting. The Principal Counsel of the OPCV has confirmed that her Office is available to represent the victims and that no conflict of interest would prevent the Office from so acting (See exchange of correspondence between the Principal Counsel of the OPCV and the Head of Division of Victims and Counsel appended as Annex 1).
10. The Principal Counsel has suggested that two different qualified counsel within the Office should be appointed, the first to represent the victims of the different attacks alleged in relation to the situation and the case and the second to represent former child soldiers in relation to the situation and the case. More specifically, the Principal Counsel suggested that Ms. Adesola Adeboyejo, Counsel in the OPCV, be appointed to represent victims a/0090/06, a/0098/06, a/0112/06, a/0118/06 and a/0122/06 while she herself would represent victims a/0101/06 and a/0119/06<sup>2</sup>. Such an arrangement would allow other victims to be added to both groups in the future, should other victims be recognized in the situation or the case and choose to be represented by the Office.
11. The Registrar would like to support this recommendation to establish two different groups, which he believes is prudent in order to protect against any possible future conflict of interest that may develop between the victims that have been recognized in the situation or in the case.
12. The Registrar believes that the appointment of qualified counsel from the OPCV is appropriate at this point in the proceedings relating to the situation in Uganda and the case the Prosecutor v. Joseph Kony *et al.* In making this recommendation, the

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<sup>2</sup> It should be noted that pending the appointment of a common legal representative the Principal Counsel of the OPCV was appointed legal representative of victims a/0101/06 and a/0119/06 to file a response to the Prosecutor's application for leave to appeal 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. See "Decision on legal representation of victims a/0101/06 and a/0119/06, No. ICC-02-04-105, 28 August 2007.

Registrar has taken into account the choice expressed by the victims, the limitations of the legal aid budget for 2008, and the current status of the proceedings. The Registrar therefore recommends that the members of the OPCV should be appointed as described in paragraph 10 above, under regulation 80 of the Regulations of the Court, until such time as either the victims or the Court decide to appoint an external common legal representative.

13. While the Registry is aware that the question of whether or not the OPCV can be chosen and appointed directly by victims, if necessary with the assistance of the Registry in accordance with rule 90 paragraph 2 of the Rules of Procedure and Evidence, or only upon a decision of a Chamber in accordance with regulation 80 of the Regulations of the Court has not yet been clarified, in any event it is recommended in this instance that the Chamber appoints the OPCV in accordance with the terms proposed in paragraph 10, in the interests of justice in order to avoid delay.
14. Finally, the Registrar would like to inform the Chamber that it has not yet been possible to contact all of the applicants for whom a decision has been deferred due to deficiencies affecting proof of their identity, in order to inform them of the need to submit proper proof of identity. However the VPRS is in the process of carrying out this task which it expects to be able to complete in February 2008.

**For Bruno Cathala**  
**Registrar**



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**Didier Daniel Preira**  
**Head, Division of Victims and Counsel**

Dated this 11 January 2008

At The Hague