



Original : English

No.: ICC-02/05
Date: 15 February 2007

PRE-TRIAL CHAMBER I

Before: Judge Claude Jorda, Presiding Judge
Judge Akua Kuenyehia
Judge Sylvia Steiner

Registrar: Mr Bruno Cathala

SITUATION IN DARFUR, SUDAN

Public Document

Request that the Pre-Trial Chamber Disregard the Corrigendum to «REQUETE SOLLICITANT L'AUTORISATION D'INTERJETER APPEL A L'ENCONTRE DE LA DECISION RENDUE LA 02/02/2007 SUR LA REQUETE DEPOSEE PAR LA DEFENSE SOLLICITANT "la présence et la participation du conseil ad hoc pour la défense dans la procédure qui sera entamée par le Bureau du Procureur sur le territoire soudanais"»

The Office of the Prosecutor
Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Andrew Cayley, Senior Trial Lawyer

Counsel for the Defence
Mr Hadi Shalluf
Other Participants
Mr Antonio Cassese
Ms Louise Arbour

Introduction

1. On 2 February 2007, Pre-Trial Chamber I issued its “Decision on the *ad hoc* Counsel for Defence Request of 18 December 2006” (“the Decision”).¹
2. On 4 February 2007, Ad Hoc Counsel requested leave to appeal the Decision in his «Requête sollicitant l’autorisation d’interjeter appel à l’encontre de la décision rendue le 02/02/2007 sur la requête sollicitant “la présence et la participation du conseil *ad hoc* pour la défense dans la procédure qui sera entamée par le Bureau du Procureur sur le territoire soudanais”» (“the Request for Leave”).²
3. On 8 February 2007, the Prosecution filed its response to the Request for Leave.³
4. On 14 February 2007, Ad Hoc Counsel filed a corrigendum to its Request for Leave.⁴
5. The Prosecution submits that the purported corrigendum to the Request for Leave is invalid, as it goes beyond the legitimate purposes of a corrigendum and was not filed in compliance with any Article, Rule or Regulation. The Prosecution therefore requests that the Chamber disregard the corrigendum.

Discussion

6. The purported corrigendum to the Request for Leave adds an entirely new ground for seeking leave to appeal the Decision,⁵ and attaches a new piece of evidence as an annex in support of this additional ground.⁶

¹ ICC-02/05-47.

² ICC-02/05-48.

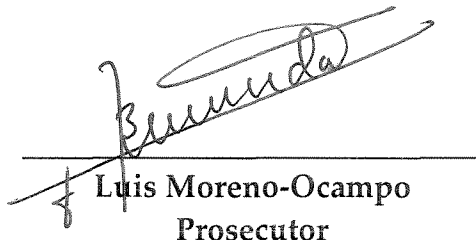
³ ICC-02/05-49.

⁴ ICC-02/05-48-Corr.

⁵ “6 – Autre motif additionnel concernant le droit de la défense et le système de l’aide juridictionnelle”, ICC-02/05-48-Corr, pp. 11-13.

⁶ ICC-01/05-48-Corr-Anx.

7. The Prosecution submits that this is an inappropriate use of a corrigendum, which goes well beyond its legitimate purposes. The filing of a corrigendum is a process which allows a participant, or a Chamber, to correct an error in a document, e.g. a clerical error.⁷ In contrast to correcting an error or ambiguity in a document, corrigenda may not be used to substantively amend or supplement a document.⁸
8. In the present case, Ad Hoc Counsel has not sought leave of the Chamber to amend or supplement his Request for Leave. Nor has he set out the reasons justifying the amendments, which have been made well after the expiration of the time limit for filing the Request for Leave and after the filing of the Prosecution's Response.
9. For the reasons set out above, the Prosecution respectfully requests that the Pre-Trial Chamber disregard the corrigendum to the Request for Leave.



Luis Moreno-Ocampo
Prosecutor

Dated this 15th of February 2007
At The Hague, The Netherlands

⁷ *Prosecutor v Mejkic et al*, IT-02-65-AR11bis.1, Decision on Joint Defense Motion for Enlargement of Time to File Appellants' Brief, 30 August 2005 (<http://www.un.org/icty/mejakic/appeal/decision-e/050830.htm>). See also, for example, *Prosecutor v. Seselj*, IT-03-67-PT, Corrigendum to Decision on the Accused's Motion to Re-Examine the Decision to Assign Standby Counsel, 11 March 2005 (<http://www.un.org/icty/seselj/trialc/decision-e/050311.htm>).

In certain circumstances, a corrigendum might also be appropriate to clarify an ambiguity in a document: see for example *Prosecutor v Mrskic et al*, IT-95-13/1-PT, Corrigendum to Decision on Form of Consolidated Amended Indictment and on Prosecution Application to Amend, 26 January 2004 (<http://www.un.org/icty/mrksic/trialc/decision-e/040126.htm>).

⁸ *Prosecutor v Mejkic et al*, IT-02-65-AR11bis.1, Decision on Joint Defense Motion for Enlargement of Time to File Appellants' Brief, 30 August 2005 (<http://www.un.org/icty/mejakic/appeal/decision-e/050830.htm>).