



Original : French

No.: ICC-02/04-01/05
Date: 21 February 2007

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Single Judge

Registrar: Mr Bruno Cathala

**SITUATION IN UGANDA
IN THE CASE OF
*THE PROSECUTOR v. JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO,
RASKA LUKWIYA, DOMINIC ONGWEN***

Public Document

Defence Application for an extension to the time limit to respond to the “Defence Observations on the Applications for Participation in the Proceedings 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”

Office of the Prosecutor
Mr Luis Moreno Ocampo
Ms Fatou Bensouda
Ms Christine Chung

Ad Hoc Counsel for the Defence
Ms Michelyne St-Laurent

FACTS

1. On 2 February 2007, the Applicant received a Decision dated 1 February 2007 entitled “Decision on legal representation, appointment of counsel for the defence, protective measures and time-limit for submission of observations on application 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” (*“Decision of 1 February 2007”*).
2. The said *Decision of 1 February 2007* decrees the following:

ORDER the Registrar to transmit the Applications to the OPCV by Wednesday 7 February 2007, for the purposes of support and assistance as set out in paragraph 13;

APPOINT Ms Michelyne C. St-Laurent as counsel for the Defence, entrusted with representing and protecting the interests of the defence within the context and for the purposes of the proceedings on the Applications for participation in the situation in Uganda and in the case *The Prosecutor vs. Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya and Dominic Ongwen*, pursuant to rule 89 of the Rules;

ORDER the Registrar to provide the Prosecutor and the counsel for the Defence, by Monday 12 February 2007, with a redacted copy of the Applications, in accordance with paragraphs 21 and 22 of this decision;

GRANT the Prosecutor and the Defence until Monday 26 February 2007 to submit their observations on the Applications.

3. On 6 February 2007, the Prosecutor filed an “Application to Lift Redactions from Applications for Victims’ Participation to be Provided to the OTP”.
4. On 14 February 2007, *Court Management – Court Records* sent the Applicant an email notification of the “Redacted Applications of Victims” proceedings. In the notification, *Court Management – Court Records* stated that the Applicant would receive the “Redacted Applications of Victims” documents in the post some days later.
5. On 15 February 2007, the Prosecutor filed the “Prosecution’s further submissions supplementing its ‘Application to Lift Redactions from Applications for Victims’ Participation to be Provided to the OTP’”.
6. On 19 February 2007, the Applicant received notification of the document entitled “Redacted Applications of Victims”.
7. The Applicant informs the Honourable Judge Politi of her intention to respond to the submissions filed by the Prosecutor and to file her “Defence Observations on the Applications for Participation in the Proceedings 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” (*“Defence Observations”*).
8. The Applicant respectfully requests the Honourable Judge Politi to grant an extension of the time limit to file the *Defence Observations on the Applications for Participation in the Proceedings* and to respond the submission filed by the Prosecutor, entitled “Application to Lift Redactions from Applications for Victims’ Participation to be Provided to the OTP”.

9. The Applicant presents the following submissions:

IN LAW

10. This application is presented pursuant to regulation 35 of the *Regulations of the Court*, which stipulates:

Regulation 35

Variation of time limits

1. Applications to extend or reduce any time limit as prescribed in these Regulations or as ordered by the Chamber shall be made in writing or orally to the Chamber seized of the matter setting out the grounds on which the variation is sought.
2. The Chamber may extend or reduce a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard. After the lapse of a time limit, an extension of time may only be granted if the participant seeking the extension can demonstrate that he or she was unable to file the application within the time limit for reasons outside his or her control.

11. Regulation 33 of the *Regulations of the Court* states the following, which is appropriate to the application:

Regulation 33

Calculation of time limits

1. The calculation of time for the purposes of any proceedings before the Court shall be made as follows:
 - a) Days shall be understood as calendar days. When the last day of a time period falls upon a Saturday, a Sunday or an official holiday of the Court, the next working day of the Court shall be considered the last day;
 - b) Days shall only be understood as 'full days', the day of notification of a document or the day of filing of a response or a reply by a participant to that document not being taken into consideration for the calculation of the time period available to file a document.
2. Documents shall be filed with the Registry between 9am and 4pm The Hague time or the time of such other place as designated by the Registrar.

12. Article 50 of the Rome Statute of the International Criminal Court stipulates:

Article 50

Official and working languages

1. The official languages of the Court shall be Arabic, Chinese, English, French, Russian and Spanish. The judgements of the Court, as well as other decisions resolving fundamental issues before the Court, shall be published in the official languages. The Presidency shall, in accordance with the criteria established by the Rules of Procedure and Evidence, determine which decisions may be considered as resolving fundamental issues for the purposes of this paragraph.

2. The working languages of the Court shall be English and French. The Rules of Procedure and Evidence shall determine the cases in which other official languages may be used as working languages.

3. At the request of any party to a proceeding or a State allowed to intervene in a proceeding, the Court shall authorize a language other than English or French to be used by such a party or State, provided that the Court considers such authorization to be adequately justified.

Article 67

Rights of the accused

1. In the determination of any charge, the accused shall be entitled to a public hearing, having regard to the provisions of this Statute, to a fair hearing conducted impartially, and to the following minimum guarantees, in full equity:

a) To be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks;

b) To have adequate time and facilities for the preparation of the defence and to communicate freely with counsel of the accused's choosing in confidence;

[...]

f) To have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness, if any of the proceedings or documents presented to the Court are not in a language which the accused fully understands and speaks;

[...]

13. The Defence's right to file its submissions in the working language used by counsel is recognised before the *ad hoc* tribunals.

14. The Appeals Chamber of the International Criminal Tribunal for Rwanda held that the working language used by the said applicant, French, was good cause for granting the requested extension to the time limit.¹

15. Furthermore, the right was recognised by the International Criminal Court, in its decision of 16 June 2006, where Pre-Trial Chamber I granted the *ad hoc* counsel for the Defence's application for an extension to the time limit on grounds similar to those in this application.²

SUBMISSIONS

16. The Applicant was appointed to represent and protect the interests of the Defence in all matters concerning the application for victims' participation in the proceedings within the instant case.

17. The Applicant's mother tongue and working language is French and her knowledge of English is not sufficient for dealing appropriately with the documents filed in English.

18. The Applicant submits that, to be able to respond appropriately to the decisions of the Chamber, applications, interventions, observations and any other document filed by the Prosecutor or the Victims, it is necessary for her to be able to properly understand the written submissions.

¹ In the Appeal Chamber, International Criminal Tribunal for Rwanda, The Prosecutor v. Casimir Bizimungu et al., *Decision on Casimir Bizimungu's motion for an extension of time*, 20 November 2003.

² ICC-01/04, Situation in the Democratic Republic of the Congo, *Décision relative à la requête aux fins de prorogation du délai de réponse introduit par le conseil ad hoc de la Défense*, rendered on 16 June 2006 by Pre-Trial Chamber I.

19. The Applicant is currently in Arusha, Tanzania.

20. The Applicant received the document entitled “Redacted Applications of Victims” in the late afternoon of 19 February 2007, which was sent by the Registry in The Hague by DHL.

21. After briefly checking the document entitled “Redacted Applications of Victims” and so as not to delay the ongoing proceedings, the Defence affirms that it will be able to file its observations, but requests that the time limit accorded in the *Decision of February 1 2007* begin to run as of 19 February 2007, the date on which the document was received, that is, 14 days from the notification of the document, in other words, until 6 March 2007.

22. Accordingly, the Applicant requests that the time limit for responding to the Prosecutor’s application entitled “Application to Lift Redactions from Applications for Victims’ Participation to be Provided to the OTP” begin to run on the date on which the application was received in French.

23. Furthermore, the Applicant requests that the time limits begin to run on the date on which any document is received in French.

FOR THESE REASONS,

MAY IT PLEASE PRE-TRIAL CHAMBER II,

TO GRANT this application;

TO GRANT the Applicant the right to file her *Defence Observations on the Applications for Participation in the Proceedings 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* on 6 March 2007;

TO GRANT the Applicant the right to file her response to the “Application to Lift Redactions from Applications for Victims’ Participation to be Provided to the OTP” after receiving the submissions in French;

TO ORDER the Registrar to take the necessary measures to provide the *Ad Hoc* Counsel for the Defence with a French translation of any document filed in English in the proceedings relating to the applications for participation in the proceedings 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;

TO AUTHORISE the Applicant’s time limits for filing observations or responses to the applications to begin to run only as of the date on which the documents are notified in French.

Respectfully submitted,

[signed]

Michelyne ST-LAURENT

Counsel for the Defence

Done on 21 February 2007

At Arusha, Tanzania