

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-02/05
Date: 8 August 2007

PRE-TRIAL CHAMBER I

Before: Judge Akua Kuenyehia, Single judge

Registrar: Mr Bruno Cathala

**SITUATION
DARFUR, SUDAN**

Public Document

Request on behalf of applicants
a/0021/07, a/0023/07 to a/0033/07, and a/0035/07 to a/0038/07

The Office of the Prosecutor
Mr Luis Moreno Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor
Mr Ade Omofade, Trial Lawyer

Legal Representatives of the Applicants
Ms Wanda M. Akin
Mr Raymond M. Brown

Office of Public Counsel for the
Defence
Mr Xavier-Jean Keita

Office of Public Counsel for Victims
Ms Paolina Massidda

Noting the "Decision authorizing the filing of observations on application a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 for participation in the proceedings"¹, issued by the Single Judge on 23 July 2007, giving the Office of the Prosecutor ("the OTP") and the Office of Public Counsel for the Defence ("the OPCD") the opportunity to submit their observations under rule 89-1 of the Rules of Procedure and Evidence ("the Rules");

Noting the "Request for Access to the Report of the Registry, and an Extension of Page Limit"², filed by the OPCD on 1 August 2007 ("the OPCD's request"), requesting the Single Judge, *inter alia*, to order the Registry to transmit to the OPCD the Report submitted by the Registry under regulation 86-5 of the Regulations of the Court ("the Report");

Noting the "Decision suspending the time limit for the submission of observations on applications for participation in the proceedings"³, issued by the Single Judge on 2 August 2007;

Noting articles 57-3-c and 68 of the Rome Statute, rules 86 and 89 of the Rules, regulation 86 of the Regulations of the Court and regulation 109 of the Regulations of the Registry;

The Legal Representatives of applicants a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 respectfully submit the following observations:

¹ See the "Decision authorizing the filing of observations on application a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 for participation in the proceedings", No. ICC-02/05-85, 23 July 2007

² See the "Request for Access to the Report of the Registry, and an Extension of Page Limit", No. ICC-02/05-87-Conf, 31 July 2007

³ See the "Decision suspending the time limit for the submission of observations on applications for participation in the proceedings", No. ICC-02/05-88, 2 August 2007

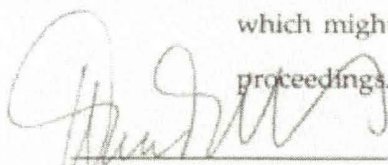
1. The Legal Representatives note that the Report provided for in regulation 86-5 of the Regulations of the Court is normally filed as confidential and *ex parte* document.
2. The Legal Representatives recall their submissions concerning the protection and safety of the applicants as expressed in their previous filing dated 31 May 2007⁴. The Report may contain information which might have an impact on the security of the applicants, therefore, the Legal Representatives submit that the transmission of the Report is not appropriate.
3. Furthermore, the Legal Representatives note that the Report could contain sensitive information which do not directly pertain to the applicants, or which concern third persons not directly involved in the application process, and which consequently should not be disclosed to the OTP and the OPCD.
4. The Legal Representatives also note that the argument put forward by the OPCD according to which the information contained in the Report might be exculpatory or of material evidence to its ability to prepare its observations is not circumstantiated and irrelevant. In fact, at this stage of the proceedings, the OTP and the OPCD are requested only to submit their observations for the purpose of the recognition of the status of victims in the Darfur situation. At this end, the information contained in the application form suffice.
5. Finally, the Legal Representatives note that the OPCD's concern in relation to the completeness of the information, can be solved in providing the OTP and the OPCD with the application forms and with any additional information, if

⁴ See the "Request on behalf of applicants a/0011/06, a/0012/06, a/0013/06, a/0014/06, a/0015/06", No. ICC-02/05-75, 31 May 2007

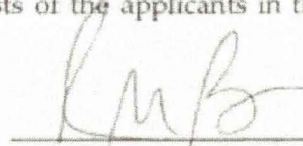
any, provided by the Legal Representatives to the Victims Participation and Reparations Section ("the VPRS"), pursuant to regulation 86-4 of the Regulations of the Court, and regulation 109-3 of the Regulations of the Registry.

For these reasons, the Legal Representatives respectfully request the Single Judge

- (a) to order that the Report of the Registry filed in accordance with regulation 86-5 of the Regulations of the Court not be transmitted to the OTP and to the OPCD. In the alternative, that the Report be transmitted in redacted version, expurgated of all information which might have an impact on the security of the applicants; and
- (b) to order the Registrar to transmit to the Legal Representatives the unredacted copy of the Report. In the absence of such transmission, the Legal Representatives will not be in the position to adequately represent and defend the interests of the applicants since the OTP and the OPCD will have access to information not available to them and which might have an impact on the interests of the applicants in the proceedings.



Wanda M. Akin



Raymond M. Brown

Done in English

Dated this 8th day of August 2007

At The Hague and Newark

The Netherlands and the United States of America