

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

No.: ICC-02/05

Date: 30 August 2007

PRE-TRIAL CHAMBER I

Before: Judge Anita Ušacka, Single Judge

Registrar: Mr Bruno Cathala

SITUATION IN DARFUR, SUDAN

Public Document

Notification to the Single Judge of the Prosecutor's intention to file a consolidated response to the OPCD's

"Request for the Single Judge to order the production of relevant supporting documentation pursuant to Regulation 86(2)(e)" and,

"Request for the Single Judge to order the Prosecutor to disclose exculpatory materials"

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Mrs Fatou Bensouda, Deputy Prosecutor
Mr Ade Omofade, Trial Lawyer

Office of the Public Counsel for the Defence

Mr Xavier-Jean Keïta

Legal Representatives of the Applicants

Ms Wanda M. Akin
Mr Raymond M. Brown

Procedural History

1. On 10 July 2007, applicants a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 ("the Applicants")¹ filed confidential, *ex parte*, applications, ("the Applications") seeking recognition of their right to participate as victims in the proceedings in the Situation in Darfur, the Sudan.
2. On 23 July 2007, the Single Judge rendered the "Decision Authorising 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"² ("the 23 July Decision"), inviting the Prosecution and the Office of the Public Counsel for the Defence ("the OPCD") to submit observations on the Applications within 30 days of receiving notification thereof from the Registry.
3. On 31 July 2007, the OPCD filed a "Request for Access to the Report of the Registry, and an Extension of Page Limit",³ seeking an order of the Single Judge for the Registry to transmit its Report under Regulation 86(5) of the Regulations of the Court ("the Report") to the OPCD.
4. On 2 August 2007, the Single Judge rendered the "Decision suspending the time limit for the submission of observations on applications for participation in the proceedings".⁴
5. On 8 August 2007, the Legal Representatives of the Applicants ("the Legal Representatives") filed a "Request on Behalf of Applicants a/0021/07, a/0023/07 to a/0033/07, and a/0035/07 to a/0038/07"⁵ ("the Request of the Legal Representatives"), seeking an order that the Report not be transmitted to the Prosecution or the OPCD or, alternatively, that a redacted version of the Report be transmitted.
6. On 16 August 2007, Pre-Trial Chamber I appointed a single judge ("the Single Judge") to carry out the functions of the Pre-Trial Chamber concerning the Situation in Darfur, the Sudan from 18 August 2007 until 16 September 2006, inclusively.⁶

¹ ICC-02/05-84-Conf-Exp-Anx 1-18.

² ICC-02/05-85.

³ ICC-02/05-87-Conf.

⁴ ICC-02/05-88.

⁵ ICC-02/05-90.

⁶ ICC-02/05-92.

7. On 21 August 2007, the Single Judge issued the "Decision on the Requests of the OPCD and the Legal Representatives of the Applicants Regarding the Transmission of the Report of the Registry under Rule 89 of the Rules of Evidence and Procedure",⁷ rejecting the requests that the Report be transmitted to the OPCD and the Legal Representatives. Also on 21 August 2007, the OPCD filed the "Request for the Single Judge to order the production of relevant supporting documentation pursuant to Regulation 86(2)(e)"⁸ ("the 21 August Request").
8. On 22 August 2007, the Single Judge issued the "Decision on the time limit to submit observations on applications for participation as victims a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 and on the extension of page limit",⁹ rejecting the request for an extension of the page limit and granting the Prosecution and the OPCD 30 days within which to submit their observations on the Applications.
9. On 24 August 2007, the OPCD filed the "Request for the Single Judge to order the Prosecutor to disclose exculpatory materials"¹⁰ ("the 24 August Request").

Notification of intention to file a consolidated response to both requests of the OPCD

10. In the 21 August Request, the OPCD sought an order of the Single Judge under Regulation 86(7) of the Regulations of the Court ("the Regulations") for the Legal Representatives to disclose certain information identified as relevant for the purpose of filing observations on the Applications. The OPCD further submitted that in the event that such information is not disclosed, the Applications should be dismissed pursuant to Rule 89(2) of the Rules of Procedure and Evidence for failing to meet the requirements of Regulation 86(2) of the Regulations.¹¹
11. In the 24 August Request, the OPCD sought an order of the Single Judge for the Prosecutor to search for and disclose to the OPCD any material falling within the ambit of Article 67(2) of the Rome Statute, and in particular, the information listed in the request.¹² Alternatively, the OPCD requested a dismissal of the Applications in light of the prejudice to the rights of the defence and the principle of equality of arms.¹³

⁷ ICC-02/05-93.

⁸ ICC-02/05-95.

⁹ ICC-02/05-96.

¹⁰ ICC-02/05-97.

¹¹ ICC-02/05-95 at para. 5.

¹² ICC-02/05-97 at para. 45.

¹³ *Ibid* at para. 46.

